EXTENSIONS OF REMARKS

STATEMENT TO THE PEOPLE OF VIRGINIA

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to insert as extension of remarks a statement by me to the people of Virginia on March 17, 1970.

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

STATEMENT BY U.S. SENATOR HARRY F. BYRD, JR., MARCH 17, 1970

My dear fellow-Virginians: I would like to think out loud with those whom I have the high honor—and the great responsibility—to represent in the Senate of the United States.

I love Virginia. I love every area of Virginia—every mountain, every valley, every seashore. And I love her people.

Our people are, I feel, forward looking, responsible and moderate. We realize, too, that those of us representing the public must be attuned to the 1970's. We realize that times and conditions change—but that fundamental principles do not.

As you know, I have spent most of my adult life serving the people of Virginia to the best of my capabilities. For 18 years I served in the Senate of Virginia. I am now in my fifth year in the Senate of the United States.

During the past four sessions of the Congress, I have cast more than 1,000 recorded votes. My votes, my speeches, my views are a matter of record. This is available to all.

I cannot change that record. I would not change it if I could. I realize that no one will agree with every vote, but in each of them I have voted my convictions.

I have fought for the programs of the President—Democrat or Republican—when I thought he was right. I have fought against the programs of the President—Democrat or Republican—when I thought he was wrong.

I have acted independently of party lines. But I feel I have acted in the best interests of Virginia and of our nation. I have maintained that independence because I believe Virginians are independent, free-thinking people.

My term as United States Senator expires next January. This coming November, Virginians will vote to determine whom they wish to represent them in the United States Senate for the following six years.

I have given considerable thought as to how I can best submit my record to the voters of Virginia for their approval or disapproval.

The problems which face our nation are immense—both at home and abroad. The war. Inflation. Civil Unrest. Crime. Pollution of air and water. Unrestrained government spending. Heavy taxation.

There is no Democratic solution to these problems; there is no Republican solution.

Party labels mean less and less to Virginians—and, indeed, to most Americans. They know that it is principle, rather than labels, upon which this nation was built.

In this modern age, more and more Virginians are thinking in terms of the general election. Fewer and fewer are participating in primaries. The best evidence of this was last year's gubernatorial primary. It drew fewer than one-fourth of the qualified voters.

Another important factor must be taken into consideration.

During 1969, the various candidates for Governor spent a total of $3 million. This is a staggering sum. Never before in Virginia have such huge sums been spent to achieve public office.

This is a deplorable trend. It discourages many from seeking public office. It could lead to undue influence.

Virginia, long noted for its integrity in high office, must not go the way of other states where elections are decided by wild spending.

Obviously, two election campaigns—a Primary followed by a General Election—would be twice as expensive as one campaign. Is this in the best interests of the people of Virginia?

I have listed two factors in my thinking.

Now we come to the most important.

Last month the Democratic State Central Committee took an unprecedented step. For the first time in 40 years, a Virginia Senator, if he is to seek re-election in the Democratic Primary, will be required to sign an oath that he will support for President whoever is selected by the Democratic National Convention.

Veteran political writer John F. Daffron reported for The Associated Press the actions of the committee in these words:

"RICHMOND.—The Virginia Democratic Party agreed yesterday to require candidates for office to pledge support of all Democratic nominees from the courthouse to the White House."

The Committee is within its rights to require such an oath. I do not contest its action.

But this action has made it impossible for me to file in the Democratic Primary.

I cannot, and will not, sign an oath to vote for and support an individual whose identity I do not know and whose principles and policies are thus unknown.

To sign such a blank check would be, I feel, the height of irresponsibility and unworthy of a member of the United States Senate.

I have given this matter a great deal of thought since the Committee action three weeks ago.

I am told that I could sign such an oath and forget it.

Perhaps there is a technicality behind which I could hide, but the intent of the Committee requirement is clear.

Whatever I do, I want to do in good faith.

One reason Americans, and especially our young people, have become cynical about persons in public life is because too many politicians have become cynical, saying one thing prior to election and feeling free to do something else after election.

No one knows today who will be the Democratic nominee for President in 1972—nor who will be the Republican nominee. No one knows what philosophy they will advocate.

The year 1972 will be a crucial one for our nation.

Before making a decision as to whom I shall support for President, I want to know the alternatives—and just where each candidate stands on the dominant issues.

To forfeit now my right to do this is to me unthinkable.

I had thought that this matter of a loyalty oath had been settled 18 years ago when Virginia's Governor John S. Battle told the 1952 Democratic National Convention in these words . . . "We in Virginia are not going to sign any pledge or any commitment which will prevent freedom of thought and freedom of action."

Governor Battle made this statement in the convention four days before a presidential candidate was chosen. I would be required to subscribe to an oath two years before a candidate is chosen.

I am anxious to serve the people of Virginia in the United States Senate. I love our country, and I feel I can continue to make a contribution to Virginia and to the nation as a United States Senator.

Occasionally there comes a time when one must break with precedent, when one must do the unusual.

For me, such a time has come.

I shall take a fresh approach—to some, perhaps, a bold approach.

At this particular time—in this particular situation—in this particular election—I feel I can best serve Virginia by taking my record directly to all of the people of Virginia in November.

Now is not the time—it is too early—to announce my candidacy for the Senate. But being an independent Democrat I shall, at the appropriate time, file as an Independent in order to preserve my freedom of action.

I realize full well the difficulties I face in this decision, the course I am taking is an uncharted one.

But I would rather be a free man than a captive Senator.

I want and need the support of all Virginians—Democrats, Republicans, Independents.

At a later date—between now and November—I shall discuss in detail my Senate record, and I shall continue to make known my views on the great issues facing our nation.

I have been independent in casting my votes in Washington, and I shall take only one oath—and that to the people of Virginia: To conscientiously and impartially serve all the people of our great state.

SHOE INDUSTRY FACING EXTINCTION

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, may I again call to the attention of the Members of the U.S. Congress the growing problem of the domestic footwear industry caused by accelerating imports. The enclosed report by the American Footwear Manufacturers Association reveals in a very graphic manner why the footwear industry is suffering, why shoe factories are closing, and why thousands of shoe workers in the United States are losing their jobs. Indeed, no single industry has been called upon to make the sacrifices now being made by the footwear industry. No group of Americans have lost their jobs as a result of a failure by the Government to give them a minimum of protection—this is the least that the shoe workers could expect. While American dollars are being invested in shoe plants in foreign countries where labor is exploited, unemployment rates in the shoe industry here at home continue to climb. Our unemployment compensation funds are being drained—local communities lose tax producing properties, the tax

revenues of the home State and the Nation are reduced and the shoe industry is being eroded and is facing extinction. I trust this problem will be dealt with in the coming months.

A meeting was held at the White House on September 23, 1969, with President Richard M. Nixon, members of the Congressional Footwear Committee and representatives of the American Shoe Industry to urge President Nixon to offer domestic footwear manufacturers relief from steadily increasing import injury through voluntary quotas.

Present were Congressman JAMES A. BURKE of Massachusetts, Congressman LOUIS C. WYMAN of Maine, Congressman HERMAN T. SCHNEEBELI of Pennsylvania, Congressman PHIL LANDRUM of Georgia, Congressman HASTINGS KEITH of Massachusetts, Congressman MELVIN PRICE of Illinois, Senator MARGARET CHASE SMITH of Maine, Senator THOMAS J. MCINTYRE of New Hampshire, Senator EDMUND S. MUSKIE of Maine, Senator NORRIS COTTON of New Hampshire, Senator EDWARD W. BROOKE of Massachusetts, Senator HUGH SCOTT of Pennsylvania.

Members of the shoe industry who were present included George Fecteau, president, United Shoe Workers of America, AFL–CIO; William Scanlon, Boot and Shoe Workers of America; F. Keats Boyd, president, B. A. Corbin & Son, Co., Marlboro, Mass.; Hadley Griffin, president, Brown Shoe Co., St. Louis, Mo.; Alan Goldstein, Plymouth Shoe Co., Middleboro, Mass.; Robert S. Lockridge, Craddock-Terry Shoe Co., Lynchburg, Va.; Mark Richardson, president, National Footwear Manufacturers Association, William Sheskey, president, Commonwealth Shoe & Leather Co., Whitman, Mass.; A. Meyer, president, Gutmann & Co., Chicago, Ill.

I include for the RECORD the associations' March 13, 1970, report:

AMERICAN FOOTWEAR MANUFACTURERS ASSOCIATION,
New York, N.Y., March 13, 1970.

REVIEW OF A DECADE—AND BEYOND

LEATHER AND VINYL FOOTWEAR

The years 1968 and 1969 represent the end of a dramatic decade favoring imports at the expense of U.S. production. From 1968 to 1969 production decreased in the six age-sex categories, some drastically, with the greatest drop in women's (−17.1%), while imports substantially increased. For all types, production decreased by −9.3%, while imports rose 11.6%. The largest percentage change in imports occured in men's, juvenile and athletic shoe categories, thus portending a replay in these types similar to women's imports over the decade (Table I)

Among the nine types footwear, the trend of production during the Sixties showed either no growth or a decline (except in Men's and Slippers). Therefore, total production showed no growth in these 10 years. (Table II)

On the other hand, imports for the decade rose substantially or phenomenally for the six age-sex categories. (Table III)

The impact of imports is shown in the penetration tables where imports are taken as percentages of production (Table IV) and of market supply (Table V). Although all six age-sex types were deeply penetrated, women's footwear was hit the hardest.

What does the future hold for domestic production? The outlook is bleak! If the January, 1970, volume of imported footwear of 21.4 million pairs is 36.9% ahead of the average month of 1969. The January, 1970, price (F.O.B.) per pair is $1.90 or 13.6% less than the $2.20 per pair figure of 1969. This means that more imports are coming in at cheaper prices.

TABLE I.—DOMESTIC PRODUCTION VERSUS IMPORTS OF LEATHER AND VINYL FOOTWEAR COMPARING PERCENTAGES OF CHANGE IN PAIRAGE BY TYPES BETWEEN 1968 AND 1969

Type of footwear	Percentage of increase or decrease in pairs (1969–1968)	
	Domestic production	Imports
Men's	−3.4	+34.1
Youths' and boys'	+.4	+25.0
Women's	−17.1	+6.5
Misses'	−13.0	+32.1
Children's	−11.4	+14.3
Infants' and babies'	−10.5	+15.4
Athletic	+1.2	+47.1
Slippers	+3.4	−37.9
Other	−19.1	−35.7
Total, all types	−9.3	+11.6

Note: This table is based on tables II and III, respectively Domestic Production of Leather and Vinyl Footwear by Types and Imports of Leather and Vinyl Footwear by Types.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE II.—DOMESTIC PRODUCTION OF LEATHER AND VINYL FOOTWEAR BY TYPES

[In millions of pairs]

Year	Men's	Youths' and Boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	100.6	24.1	279.8	40.2	32.7	36.6	7.0	73.5	5.5	600.0
1961	103.3	24.2	273.4	39.2	31.7	35.8	6.6	72.6	6.1	592.9
1962	112.7	25.6	288.2	36.8	32.5	37.0	10.1	83.0	7.4	633.2
1963	110.7	24.0	275.2	35.5	30.7	33.5	9.8	77.6	7.2	604.3
1964	119.9	25.4	271.1	37.0	30.4	32.8	6.9	78.9	10.3	612.8
1965	118.2	25.6	279.9	36.5	33.5	32.5	7.0	90.2	[1] 2.8	626.2
1966	126.9	24.6	284.2	35.9	33.6	32.5	7.3	93.8	2.9	641.7
1967	123.7	25.3	258.0	27.6	30.7	30.0	6.9	95.6	2.0	600.0
1968 [2]	126.3	23.5	283.7	33.0	31.4	28.7	8.3	105.4	2.1	642.4
1969 [3]	122.0	23.6	235.2	28.7	27.8	25.7	8.4	109.0	1.7	582.1

[1] Not comparable to previous years due to Government changes in definition of "Other" type of footwear.
[2] Latest revised Department of Commerce figures for 1968.
[3] Preliminary estimates of 1969 production made by the American Footwear Manufacturers Association are based on the 1st 11 months of Department of Commerce data. These estimates are most likely slightly too high due to expected seasonal drop in December domestic production.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE III.—IMPORTS OF LEATHER AND VINYL FOOTWEAR BY TYPES

[In millions of pairs]

Year	Men's	Youths' and boys'	Women's [1]	Misses'	Children's	Infants' and babies'	Athletic	Slippers [2]	Other	Total
1960	6.4	0.8	14.0	0.4	0.4	0.5	----	4.1	----	26.6
1961	8.1	1.0	21.3	.6	.6	.8	----	4.3	----	36.7
1962	13.1	1.6	36.6	1.1	1.2	1.5	----	7.9	----	63.0
1963	12.4	1.5	37.9	1.1	1.1	1.4	----	7.4	----	62.8
1964	13.5	1.6	49.6	1.5	2.3	2.8	----	4.1	----	75.4
1965	15.2	2.0	52.3	1.5	2.5	3.4	1.1	8.6	1.1	87.6
1966	15.9	2.2	63.7	2.4	3.2	3.0	1.2	3.6	1.0	96.1
1967	19.6	3.0	90.4	3.2	4.7	2.8	1.4	3.1	.9	129.1
1968	26.1	3.6	124.9	5.3	7.0	2.6	1.7	2.9	1.4	175.4
1969 [3]	35.0	4.5	133.0	7.0	8.0	3.0	2.5	1.8	.9	195.7

[1] Women's footwear prior to 1965 included some slippers.
[2] Slippers include soft-type moccasins, slippers, soft soles, and wool felt footwear.
[3] Preliminary estimates of 1969 imports were made by the American Footwear Manufacturers Association. These estimates were based on data provided by the Department of Commerce.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE IV.—IMPORT PENETRATION OF LEATHER AND VINYL FOOTWEAR BY TYPES, IMPORTS AS A PERCENTAGE OF DOMESTIC PRODUCTION

Year	Men's	Youths' and boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	6.4	3.3	5.0	1.0	1.2	1.4	----------	4.8	----------	4.4
1961	7.8	4.1	7.8	1.5	1.9	2.2	----------	5.0	----------	6.2
1962	11.6	6.3	12.7	3.0	3.7	4.1	----------	7.9	----------	9.9
1963	11.2	6.3	13.8	3.1	3.6	4.2	----------	7.8	----------	10.4
1964	11.3	6.3	18.3	4.1	7.6	8.5	----------	4.3	----------	12.3
1965	12.9	7.8	18.7	4.1	7.5	10.5	15.7	9.5	39.3	14.0
1966	12.5	8.9	22.4	6.7	9.5	9.2	16.4	3.8	34.5	15.0
1967	15.8	11.9	35.0	11.6	15.3	9.3	20.3	3.2	45.0	21.5
1968	20.7	15.3	44.0	16.1	22.3	9.1	20.5	2.8	66.7	27.3
1969	28.6	19.2	56.3	24.3	28.9	11.7	30.1	1.6	52.9	33.6

Note: This table is based on tables II and III, respectively, Domestic Production of Leather and Vinyl Footwear by Types, and Imports of Leather and Vinyl Footwear by Types.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE V.—IMPORT PENETRATION OF LEATHER AND VINYL FOOTWEAR BY TYPES, IMPORTS AS A PERCENTAGE OF MARKET SUPPLY

Year	Men's	Youths' and boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	6.0	3.2	4.8	1.0	1.2	1.3	----------	4.6	----------	4.2
1961	7.3	4.0	7.2	1.5	1.9	2.2	----------	4.8	----------	5.8
1962	10.4	5.9	11.3	2.9	3.6	3.9	----------	7.3	----------	9.0
1963	10.1	5.9	12.1	3.0	3.5	4.0	----------	7.3	----------	9.4
1964	10.1	5.9	15.5	3.9	7.0	7.9	----------	4.1	----------	11.0
1965	11.4	7.2	15.7	3.9	6.9	9.5	13.6	8.7	28.2	12.3
1966	11.1	8.2	18.3	6.3	8.7	8.6	14.1	3.7	25.6	13.0
1967	13.7	10.6	25.9	10.4	13.3	8.5	16.9	3.1	31.0	17.7
1968	17.1	13.3	30.5	13.8	18.2	8.3	17.0	2.7	40.0	21.4
1969	22.3	16.1	36.0	19.6	22.4	10.5	23.1	1.6	34.6	25.0

[1] Market supply=Domestic production plus imports. Exports of domestic footwear are disregarded due to the insignificant number of pairs shipped. Inclusion of export figures to determine the exact market supply quantities would virtually cause little or no change in the percentages of this table.

Note: This table is based on tables II and III.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

U.S. FOOTWEAR IMPORTS, JANUARY 1970

January unloaded 22 million more pairs of leather and vinyl footwear or more than 37% more than the average month last year, and 153% more than January when the dock strike was on. Leather and vinyl imports were 50% of an estimated domestic production of 44 million pairs.

LEATHER AND VINYL IMPORTS

	Millions of pairs			Percent change	Percent change
	1967	1968	1969	1968–1967	1969–1968
January	10.3	17.9	[1] 8.8	+74	[1] −51
February	10.9	17.0	[1] 15.9	+56	[1] −6
March	13.7	17.2	[1] 19.8	+26	[1] +15
April	11.9	17.0	[1] 27.1	+43	[1] +59
May	12.0	16.2	20.7	+35	+28
June	11.4	11.7	16.0	+3	+37
6 months average	(11.7)	(16.1)	([1] 18.1)	(+38)	([1] +12)
July	9.2	13.2	16.8	+43	+27
August	9.2	12.0	13.9	+30	+16
September	8.2	10.7	13.1	+30	+22
October	9.2	12.5	14.6	+36	+17
November	11.4	13.7	13.1	+20	−4
December	11.7	16.4	15.8	+40	−4
12 months average	(10.8)	(14.6)	(16.3)	(+35)	(+12)
Total year	129.1	175.4	195.7	+36	+12

[1] 1st 4 months 1969 totals affected by dock strike.

Note: Details may not add up due to rounding.

Enclosed with this report is an analysis of footwear imports from 33 nations that shows a powerful surge of imports from many sources of footwear.

The message is clear: as major sources of foreign shoes level off, new entries are exporting to the American Market with great zeal and vigor. Who said imports will taper off? It doesn't look that way.

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

[Pairs and dollars in thousands]

Type of footwear	January 1970			Average monthly 1969		
	Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value	Average dollar value per pair
Leather and vinyl, total	21,425.2	41,439.8	1.93	15,616.1	34,986.7	2.24
Leather excluding slippers	10,074.5	32,480.8	3.22	8,041.2	28,689.3	3.57
Men's, youths', boys'	2,392.5	10,102.8	4.22	2,411.5	10,602.0	4.40
Women's, misses'	6,767.6	20,838.7	3.08	4,971.5	16,261.1	3.27
Children's, infants'	629.3	896.9	1.43	429.3	683.3	1.59
Moccasins	39.2	44.9	1.15	52.0	62.7	1.21
Other leather (including work and athletic)	245.9	597.5	2.43	176.9	1,080.2	6.11

Footnotes at end of speech.

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR—Continued

[Pairs and dollars in thousands]

Type of footwear	January 1970			Average monthly 1969		
	Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value	Average dollar value per pair
Leather and vinyl—Continued						
Slippers	7.6	19.7	2.59	29.8	63.9	2.14
Vinyl-supported uppers	11,343.1	8,939.3	.79	7,545.1	6,233.5	.83
Men's and boys'	1,253.6	1,496.5	1.19	812.0	1,024.5	1.26
Women's and misses'	9,059.7	6,771.7	.75	5,914.1	4,653.4	.79
Children's and infants'	914.6	605.0	.66	675.9	479.4	.71
Soft soles	115.2	66.1	.57	143.1	76.2	.53
Other nonrubber types, total	897.4	947.9	1.06	690.0	807.1	1.17
Wood	253.2	575.3	2.27	127.0	315.9	2.49
Fabric uppers	596.7	312.5	.52	490.6	392.9	.80
Other n.e.s.	47.5	60.1	1.27	72.4	98.3	1.36
Nonrubber footwear, total	22,322.6	42,387.7	1.90	16,306.1	35,793.9	2.20
Rubber soled fabric upper	2,299.6	2,208.8	.96	3,709.4	2,767.0	.75
Grand total, all types	24,622.2	44,596.5	1.81.	20,015.5	38,560.9	1.93

Note: Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories, and slipper socks. Rubber soled fabric upper footwear includes non-American selling price types.

U.S. LEATHER AND VINYL FOOTWEAR IMPORTS, BY COUNTRY OF ORIGIN

Shoes and slippers (leather and vinyl)	1969 quantity (thousand pairs)	Percentage change, 1969/68	1969 value (thousand dollars)	Percentage change in dollar value, 1969/68
From:				
Japan	63,655	−2.3	55,196	17.6
Italy	60,535	+2.6	195,786	24.7
Spain	20,690	+45.2	73,424	54.2
China (Taiwan)	24,320	+58.8	13,526	73.5
France	2,508	−4.3	9,214	14.0
Hong Kong	3,356	+45.9	2,495	36.8
United Kingdom	3,117	+12.3	20,814	28.9
Mexico	2,396	−2.9	5,144	19.6
India	2,096	+8.9	2,108	4.7
Canada	1,976	+14.2	6,862	31.6
West Germany	1,913	+98.9	10,622	60.9
Sweden	539	+956.9	1,731	846.1
Brazil	377	+1,539.1	1,191	469.0
Denmark	294	+539.1	823	430.1
Greece	228	+174.7	2,042	221.2
Yugoslavia	186	+39.8	1,100	76.0
Ireland	168	+95.3	1,107	109.1
Poland	85	+1,600.0	174	4,032.6
Israel	73	+9.0	410	117.5
Argentina	59	+293.3	220	103.5
Finland	49	+145.0	483	111.7
Panama	33	+3,200.0	31	6,551.2
Philippine Republic	28	+300.0	34	143.3
Norway	27	+285.7	125	197.2
Uruguay	21	+162.5	43	270.5
Turkey	15	+650.0	35	920.8
Venezuela	9	+200.0	79	189.8
Malta	6	+50.0	19	50.5
Lebanon	4	+100.0	13	59.8
East Germany	4	+300.0	21	698.0
Guinea	3	+200.0	5	15.3
Colombia	1	[1] +261.5	7	120.9
U.S.S.R.	1	([2])	3	71.2
Total	188,779	+11.7	404,887	31.9
Other countries	6,894	+8.0	24,639	14.6
Total, all countries	195,673	+11.5	429,526	30.7

[1] Colombia 1968 pairage less than 500.

[2] Not calculated.

DECEPTIVE UTILITY ADVERTISING INCREASES CONSUMER COSTS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. METCALF. Mr. President, millions of Americans face a costly summer because of deceptive advertising by the Nation's largest industry, electric power.

Utility officials have already announced that entire areas may be blacked out this summer. Utility advertising departments, which created a power shortage by overselling their product, are now busy preparing for the emergency by promoting electric heating, rather than electric cooling.

The advertising department is much more important to a utility than its research and development branch. Advertising and public relations are, after all, the means by which utilities keep the public uninformed and the press docile. Advertisements and other public relations devices are now being used to delude the public regarding protection of consumers and the environment, industry regulation, and taxation.

I do not believe the public is being properly prepared for the forthcoming brownout, either by industry or Government. In power matters, I would add, it is often difficult to tell the difference between industry and Government.

I have recently received a report from a reputable, national engineering firm which deals with the costly problems faced by consumers, including businesses, when a brownout forces a voltage reduction. The report, by R. W. Beck and Associates to the Massachusetts Consumers Council, states that voltage reduction heats induction motors, reduces visibility on TV sets, degrades radio reception, shortens the life of some lighting fixtures, and dims others.

I ask unanimous consent to insert the Beck report at this point in my remarks.

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

R. W. BECK AND ASSOCIATES,
February 17, 1970.

Mr. DERMOT SHEA,
Executive Secretary, Consumers Council, Boston, Mass.

DEAR MR. SHEA: This is in reply to your letter of February 17th regarding the effects of voltage variation and specifically voltage reduction to electric appliances and equipment normally found in homes and modernized commercial establishments.

Electric utilities have, in the past, been identified as maintaining a high level of service to their customers, and normally have been guided by two main criteria: service continuity and voltage level. Service continuity being identified as always having power available without even momentary interruption, and voltage level being identified as a voltage which had very little fluxuation.

The power companies in the New England area have recently found themselves in a very changed condition because of insufficient generating and transmission capacity to supply the electric power requirements of their consumers. Various articles have appeared in recent months, pointing out this critical power supply situation, and the industry itself is more than just a little concerned as to how they can meet these power

supply demands. It has been interesting to note that very little information has been included in these articles on the effects the ultimate power consumer will see as a result of the power companies' failure to supply their consumers' requirements. Therefore, it was of great interest to me to see that your organization is investigating this area and pointing out some of the effects which will be felt by the individual home owner and business operator.

This lack of available electrical capacity has led to the electric utility companies' adoption of a program of voltage reduction which, in some areas of the country, is now being referred to as "load conservation". This, in effect, is a reduction in the voltage level of the power supply facilities which, in turn, reduces the overall load the companies are required to supply. Remembering our high school physics formula, power is the product of voltage potential and current flow, the power companies have utilized this basic formula to reduce their loads by reducing the voltage levels in amounts which have been identified to range up to 10 percent. Normally, the voltage regulation equipment located throughout the utilities' service area reinstate the desired voltage level when normal load variations cause this voltage to fluctuate and, in the past, this equipment has always provided a fairly constant voltage supply to each consumer. However, the present practice of the utilities of reducing this voltage during high load periods is amplified by the inability of this normally used voltage control equipment to handle these planned variations, and in some cases, can cause voltage variations at individual consumer homes in the range of 15 percent.

Some of the effects that the consumer will feel when the voltage level to his residence or business is reduced by 10 percent is (1) a 30 percent reduction in the light intensity from his incandescent lights, (2) heating equipment will have a near 20 percent reduction in output, (3) induction motors utilized in many types of appliances will have a near 20 percent reduction in their starting ability and an approximate 12 percent rise in their operating temperature, (4) fluorescent lamps now found in many homes and most commercial establishments will have their life cut by 20 percent besides having unsatisfactory starting and (5) electronic devices such as radios and television sets which are very sensitive to voltage fluctuation, will have a noticeable reduction in picture brilliance and sensitivity.

In summary, it can be said that the individual customer will receive a much less satisfactory operation of his electrical appliances under low voltage conditions and will be subject to earlier replacement because of shortened life.

The industrial consumer who has a large investment in automatic control equipment of the computer type and who utilizes electrical and automatic equipment to produce his product sees the effect of voltage reduction quickly and in some cases dramatically, when a substantial voltage variation occurs. Most of his equipment probably would have protective features to adjust for slight or, what can be considered in the past, normal variations in power supply voltage, but many of these facilities were not designed to handle large voltage variations. A momentary outage or severe voltage change causes most electrical equipment to either shut down or otherwise become inoperable. It is quite common for industries with highly mechanized equipment to look closely at the dependability and continuity of power supply service before locating their facilities. Many of the industries that are in the New England area can be identified as this type of industry.

I hope this information will be helpful to you and I would be happy to supply you with a list of references of publications and documents which substantiate the information discussed above.

If there is any other information which I can supply you in this regard, please contact me.

Very truly yours,

ROBERT G. TAYLOR,
Partner and Manager, Northeast Regional Office.

Mr. METCALF. Although practically no one is giving utility customers information about the costly effects of brownouts on them, the utilities have increased their efforts to mislead the public and public officials. Some of you will recall a particularly vicious series of national advertisement by power companies early in the 1960's. Seven long years ago John F. Kennedy shamed them into dropping these ads, which were designed to sow mistrust and fear. Recently this theme has reappeared. I refer specifically to an advertisement carried by Time, Newsweek, Broadcasting, Editor and Publisher, American Press, and U.S. News & World Reports in recent issues—perhaps other media carried it as well.

I shall briefly discuss this ad, headlined "How does it feel to pay more than your share of Federal taxes?" and ask unanimous consent that the text of the ad appear at this point in the RECORD.

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

HOW DOES IT FEEL TO PAY MORE THAN YOUR SHARE OF FEDERAL TAXES?

Perhaps it's news to you that many people do.

This is happening because government is in the electric power business in a very big way.

On the one-hand, investor-owned electric light and power companies serve about 80% of electric users in the U.S.A. and are among the largest payers of federal taxes in the nation.

Government power projects, on the other hand, though they sell hundreds of millions of dollars worth of electricity that goes to millions of residential, commercial and industrial users, do not yield any tax revenue to our national treasury. For example, from 1953 to 1968, more than $4,411,000,000 in federal tax revenues were lost through this situation.

This is because consumers who use government electric power are not required to pay in their electric bills the same taxes that other Americans pay. Obviously, everyone else has to make up the difference. That is one reason why so many people are paying more than their share of federal taxes.

What is suggested is that government electric power businesses assume federal tax-paying responsibility, as do the investor-owned electric power companies. This would spread the federal tax more fairly among electric users and open an added source of revenue to help meet the costs of government.

Mr. METCALF. It does not feel good to pay more than your share of Federal taxes. Electric utilities do not know how it feels, however, because they operate on a cost-plus system, with taxes, advertising, research and development and all other expenses included in the before-profit costs.

Furthermore, many utilities collect more for taxes than they turn over to government. The Federal surtax was reduced at the beginning of this year, and will soon be removed entirely. Can anyone cite an example of a utility which reduced rates to reflect the reduction in this tax? I know of none. In summary, no utilities are taxpayers and many of them are taxkeepers. I have dealt with that point before and it need not be belabored here.

I would, however, like to note the thesis of this ad, that "Government is in the electric power business in a very big way."

I doubt that the copywriter got mixed up on that ad. But actually, it should be stated the other way around. The Government is not in the electric power business in a very big way. Actually, the electric power industry is in the Government business in a very big way—from the White House to the schoolhouse, through Budget Bureau advisory committees, the Congress, and Federal Power Commission, State utility commissions and legislatures, and on to county, city, and school officials who are dined and duped by utility dukedoms or their emissaries.

This powerful utility influence is at the expense of the public, which is neither informed about nor represented in this insidious, pervasive system.

Recently I was favored, as I assume other Members were, with a brochure entitled "Some Basic Convictions About Advertising." It was prepared by Procter and Gamble and distributed by the American Advertising Federation. This booklet states that advertising lowers costs to consumers, forces competition, spurs continual product improvement, and complements scientific research.

The brochure is incorrect on all of those points, insofar as utility advertising goes. The record, much of it in the hearings on S. 607, the utility consumers counsel bill, and in the CONGRESSIONAL RECORD, shows that utility advertising increases consumer costs, decreases competition, and supplants expenditures which should be made on research and development.

Mr. President, this era will be known as the scandalous 1970's if the press decides to investigate, rather than profit, from, utilities. Tax policy, industry-government relations, environmental, and consumer protection, as regard utilities, are subjects far too important to be taught by the utilities themselves, through their deceptive advertising and public relations programs.

At the least, regulatory commissions should disallow advertising as a utility operating expense, borne by the customers. I am not optimistic about this being accomplished to a significant degree, without the corporate disclosure and public counsel provisions in S. 607 and without studied attention to utility affairs by inquisitive reporters backed by publishers willing to be snubbed at the club.

What a salutary event it would be were the news media simply to declare a moratorium on electric utility advertising. This decision could not be made lightly by some small publishers, whose large and regular advertising mats from the local power company provide enough income to keep the son and heir in college. Our morning newspaper—and its associated magazine, radio station, and television station—could afford to pioneer in

this field. Several publishing and broadcasting empires could well afford to divert a portion of the handsome revenues they have obtained from utilities into investigation of malpractice by public service corporations. The public's right to know—and much more—are vitally involved.

Mr. President, I ask unanimous consent to insert at this point in the RECORD an article from the Washington Post regarding Potomac Electric Power's "spring sales campaign" and the increased sale of air conditioners and an article from the New York Times regarding power shortages.

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

[From the Washington Post, Mar. 19, 1970]

PEPCO TAILORS ADS TO POSSIBLE SUMMER POWER SHORTAGE

(By Stephen Neary)

Potomac Electric Power Company's spring sales campaign will be concentrated this year on electric heating and cooking utensils instead of air conditioners, apparently because of fears that there will not be enough electricity available this summer to power more cooling units. In Baltimore William O. Doub, chairman of the Maryland Public Service Commission, has formally requested utility companies there to take the same course and to promote conservative use of electric appliances instead of ask customers to purchase more. Yesterday the combine of electric companies supplying a five-state area that includes the District of Columbia was forced twice to reduce its electricity flow despite temperatures that went only into the low 40s. And officials in the Washington area and also the East Coast, are fearful that the unseasonable power reductions portend even greater problems this summer than have occurred in the past.

Charles F. Luce, the chairman of the New York area's Consolidated Edison Company announced Monday that his company may be forced to black out entire residential areas in a few months when the demand for electricity hits its annual peak. These moves are all symptoms of the same problem, one of supply and demand. The demand is growing two-fold as the number of electricity-using customers increases, and each customer uses more and more appliances. Statistics compiled by the Air Conditioning and Refrigeration Institute, a national trade association, show that about $631 million worth of the cooling machines were sold in 1960. In 1968, the most recent year for which figures are available, sales totaled nearly $2 billion. At a meeting in December of the 12 utility companies that make up PJM interconnection, the combine that serves Maryland, Washington, Delaware, New Jersey and Pennsylvania, George Avery, chairman of the District of Columbia's Public Service Commission, called upon the companies to tone down their promotional campaigns for air conditioner sales.

Recalling last summer's "brownout," when Pepco called upon its customers to restrict their electric power usage voluntarily during a two-day period, Avery yesterday predicted "a strong possibility" of more power reductions and requests for voluntary cutbacks again this year. Both Avery and Maryland's Doub said that the utility companies are operating with a reserve capacity estimated at only 9 per cent to 12 per cent. The Public Service Commissions believe a 20 per cent capacity is needed. Working with such a thin reserve, the two chairmen said, requires that when a piece of apparatus breaks down or when customer demand becomes heavy, the utility companies are forced to cut back their output.

Norman Belt, the chief engineer for the Virginia Corporation Commission, pointed out that in addition to increased air conditioner sales and inaccurate market estimates, the electric power industry has been plagued by mechanical failures in its newer and larger power generating installations. Yesterday's reductions here were caused by demands on Pepco resources from utilities in other states serviced by the combine. Such reductions are the first step in controlling over-demand; if necessary, they are followed by pleas to industrial customers to curtail use voluntarily, then by general public appeals for curtailed use, and finally by shutting off entire consumer areas.

[From the New York Times, Mar. 15, 1970]

UTILITIES FACE POSSIBILITY OF FORCED POWER OUTAGES THIS SUMMER

(By Gene Smith)

It's late Friday afternoon in early July. Another hot, humid day . . . the third in a row with the temperature in the high 90's. The air-conditioner is belching out cooled air and half the office has fled early for the beaches and the Catskills. Across the Hudson in New Jersey the thunderheads are piling up. And, all at once, the lights flicker. They bounce on and off and then off completely! The air conditioner grinds to a halt! Outside, the theater marquees disappear. Blackout! That's the prospect facing millions of persons in this area this summer. It might not happen, but then, again, it might. And, in their private conversations, the top executives of many—if not most—of the major electric utilities in the Northeast have their fingers crossed against the possibilities of a total blackout . . . a repeat of that nightmare of Nov. 9, 1965, when the lights went off in the Northeast. That most famous of all power blackouts was the direct result of an almost improbable sequence of circumstances that only pointed up the fact that the improbable can really happen. Since then, the utility industry has worked hard to correct the glaring weaknesses that precipitated the 1965 blackout. Only last week the weekly economic highlights published by American International College in Springfield, Mass., acknowledged that the electric utilities have generally performed quite well since the night of that blackout.

But, the fact remains, the most logical time for a power blackout—or brownout, if not quite as severe—is during a prolonged heat wave, coupled with high power demand for rapid transit services, as just before a week-end, and with a severe thunderstorm tossed in. William G. Kuhns, president of the General Public Utilities Corporation, a utility holding company whose operating subsidiaries serve an area from the Atlantic Ocean in New Jersey to Lake Erie in Pennsylvania, said in an interview last week that his power reserves were much better than a year ago. "We had a negative reserve last summer," he continued. "This summer we should have a 14 per cent reserve."

Mr. Kuhns was quick to point out that last year the Pennsylvania-New Jersey-Maryland power pool had only a 4.7 per cent margin but was expected to have "a little over 12 per cent" this summer. This same power pool of which his system is a vital part has been described by Senator Lee Metcalf, Democrat of Montana, as "one of the most fragile transmission systems" in the United States. Yet, its operation at full power levels could prove vital in preventing blackouts along the Atlantic Coast anywhere from Washington to New England. Senator Metcalf, in a recent attack on the large amounts utilities spend on advertising as contrasted with the lesser expenditures on research and development, charged that the nation's electric power supply was "neither adequate nor reliable." An imponderable in the power supply situation is the after-effect of the strike against the General Electric Company. General Public Utilities, for example, was not too dependent on an order for a gas turbine from G.E., but locally the Consolidated Edison Company had some 130,000 kilowatts of gas turbine orders with G.E. due for operation by June 1. It transferred 96,000 k.w. to the Westinghouse Electric Corporation and expects to have these in service in late summer and still hopes to get four G.E. units in operation by mid-June.

Arthur Hauspurg, vice president for electrical system and project engineering, predicted Con Edison's reserve at the beginning of June would be about 1,376,000 kilowatts, or a 17.8 per cent margin. A month later it should rise to 18.6 per cent, to 23.1 per cent Aug. 1 and 24.7 per cent Sept. 1, assuming all equipment on order is delivered and installed on schedule. "In other words we'll start the summer in about the same condition as last year. If we have hot spells early, there'll probably be some repetition of last year's brownouts. If they come in late summer it looks as if we can get by," Mr. Hauspurg said.

COLUMBUS, IND., DESCRIBED AS ARCHITECTURAL OASIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following article from the Sunday, March 27 edition of the New York Times which outlines the new architecture of Columbus, Ind.

The writer, Mr. Bill Thomas, describes this Midwestern city in the Ninth Congressional District of Indiana as an architectural oasis. Since the Cummins Engine Foundation began, in 1954, to finance the architect's fees for public and religious buildings, the community has gained an international reputation as the "Athens of the Prairie."

The article, describing Columbus' excellent program, reads as follows:

THE ATHENS OF THE PRAIRIE IS A RARE ARCHITECTURAL OASIS

(By Bill Thomas)

COLUMBUS, IND.—This small country town of 30,000 in southeastern Indiana calls itself "The Athens of the Prairie"—and with good reason. Seldom, if ever, has so small a community contained so many examples of innovative architectural achievements.

Columbus has averaged two masterpieces a year since 1954, according to an eight-page review in The Architectural Forum; 20 buildings, including churches, schools, a country club and business concerns, were praised for "an exceptionally high level of first-rate contemporary building design."

All are the accomplishments of men such as I. M. Pei, designer of the John Fitzgerald Kennedy Library in Cambridge, Mass.; Robert Trent Jones, known the world over for his golf courses; Eliel Saarinen, co-designer of the national museum in Helsinki, and many others.

Columbus, 40 miles south of Indianapolis on busy Interstate 65, was initially an agricultural town and largely dependent on the surrounding countryside. That has changed. As an indication of the community's transition, the 1964 census showed 1,029 farms in Bartholomew County, of which Columbus is a part. This was a drop of 213 farms from 1959 and a loss of 536 farms since 1954, when there were 1,565 farms in the county.

The transformation began in the late 1930's under the leadership of the Irwin family, founders of the Cummins Engine Company in Columbus, the world's largest producer of diesel engines. Irwin Miller, the grandson of an Irwin daughter, is present board chairman of Cummins.

Miller's first concrete interest in the redevelopment of Columbus came in 1940, when Eliel Saarinen designed the Tabernacle Church of Christ, now known as the First Christian Church, to which the Irwin family contributed generously.

POSTWAR ACTIVITIES

World War II interrupted any new additions in Columbus' building program, but in the early fifties Miller commissioned a building of his own. He selected Eero Saarinen—Eliel's son and a former classmate—to design the Irwin Union Bank.

In designing the bank, Saarinen began with two major considerations: To provide an efficiently functioning structure for present-day banking that would still reflect a friendly old-fashioned atmosphere, and to create a new building that would not clash with its neighboring structures of 1910 vintage.

The solution was found in a low, entirely glass-walled building in the middle of a tree-filled square reminiscent of the small plazas in Seville, Spain. The trees were conceived as part of the architecture, and common materials like brick, glass and concrete were used.

Shallow concrete domes gives variety to the ceiling height and add a simple dignity to the structure. The bank and drive-in facilities are blended into groups of trees and flowers.

About the time the bank was built, the town completed its new high school, and Miller decided that better things could be done. He implemented his architectural plans by establishing the Cummins Engine Foundation in 1954. Through it, he offered to pay the architect's fee for any new school building if the Board of Education would select the architect from a list compiled by experts in the field

Each architect chosen would have total responsibility for the planning and design of that particular building, and would be allowed 12 months to draw up his project. Each new structure would also have a different architect.

So far, five schools have been built according to these ground rules, and a sixth is under way. The schools turned out to be less costly than more standardly conceived ones, and a valuable aid in attracting teachers and administrators.

The Lillian Schmitt Elementary School, designed by Harry Weese of Chicago—his credits include the United States Embassy in Ghana—was the first school to be designed and built under the Cummins Foundation program in 1956. It is impressive for its use of large picture windows and a pleasant feeling of contact with the outdoors.

McDowell Elementary School, designed by John Carl Warnecke and built in 1960, is an example of what the foundation has fostered. McDowell is a cluster of separate buildings resembling a futuristic pagoda.

CLASSROOMS IN FOUR CLUSTERS

Classrooms are in four clusters of three rooms, each group forming the corner of a rectangle. In the center of the rectangle are two larger buildings. These are linked with the classroom clusters by canopied walkways that flank the courtyards.

Or take the W. D. Richards Elementary School (1965), a product of the imagination of Edward Barnes. It has bold, sloping roofs forming angular silhouettes, which complement the First Baptist Church across the street. The saw-toothed skylights provide studio-type lighting and leave the walls free for work space.

Or Lincoln School (1966), designed by Gunnar Birkerts, who also conceived the Fisher Administration Building at the University of Detroit. The center of the school is a freestanding multipurpose room surrounded on three sides (on the second floor on four sides) by a wide corridor. During a regular day, the stage is removed and the room is used as a special classroom.

A grass path separates the street and play areas, and a depressed circular amphitheater provides seating around a huge tree. The classrooms are all carpeted, reducing floor-care costs and also improving the acoustics.

The efforts of the Irwin and Miller families have mushroomed into a townwide undertaking by industry to promote Columbus's architectural well-being. Attempts are being made to preserve the downtown commercial core against the competition of the edge-of-town shopping centers.

Cummins has helped to keep the area lively by transforming an old hotel—it was forced to close because of the success of new highway-oriented motels—into its international corporate headquarters. At present, Columbus has eight motels with a total of 380 rooms.

The most exciting effort to keep the town's main street busy is a storefront renovation project, the effect of which is strikingly visible in the first of 17 blockfronts to be completed. This facelifting—it was directed by Alexander Girard, who designed the Fonda del Sol restaurant in New York's Time-Life Building—capitalizes on the one big architectural asset of downtown Columbus; its wealth of Victorian detail.

LINKED BY CANOPY

On this first blockfront, Girard eliminated a mass of competing signs and stretched a neutral canopy across all the fronts. Each building has received a different color treatment to emphasize the differences in detail, and every store has a new porcelain-enamel sign designed by Girard.

The secondary purpose of this project is to encourage the owners of other old buildings to take pride in them. Its influence can already be seen in some freshly painted structures on nearby blocks. Their owners have avoided soft pastel shades, relying instead on sharp blacks and whites, grays and vivid colors.

This spontaneous action is one more sign—along with the town's policies on schools, parks and redevelopment—that Miller's 10 years of active support for architecture have begun to bear fruit.

Perhaps the most striking and impressive example of contemporary architecture in Columbus is the North Christian Church, its spiral pinnacle piercing the sky from an open field on the north side of town.

This was Eero Saarinen's last design, completed only a short time before his death and built in 1964. "I want to solve [this design]," he said, "so that as an architect, when I face St. Peter, I am able to say that out of the buildings I did during my lifetime, one of the best was this little church . . . that speaks forth to all Christians as a witness to their faith."

The hexagonal shape of the church is a symbolic reminder of the Star of David and the church's roots in the Jewish faith; the cross atop the 192-foot spire proclaims Christian faith to the world.

The church rises alongside U.S. 31 where that road enters town from the north. The church stands isolated from the "ranch houses" of the neighborhood. Its self-contained form is unencumbered by wings, the worldly necessities of offices and classrooms being hidden beneath the stadium seating of the church itself and sheltered by its all-encompassing roof.

FOCAL POINT AMONG RESIDENCES

The First Baptist Church, designed by Weese and built in 1965, is the focal point in a residential area. The congregation wisely chose a low knoll on the northeast frontier of town, across the street from a new elementary school. Together, the two buildings, with their violently angular silhouettes, look like an expressionist miniature of a medieval village; even the pointed evergreens nearby contribute to the effect.

The form of the church is an attempt to integrate the liturgical functions and educational requirements of the modern church. The sanctuary seats 500 on both sides of an off-center aisle that focuses on the communion table and cross.

The greatest contribution of Columbus's first modern building, the First Christian Church, is a well-designed public open space near the center of town. This church is as much a series of well-contained gardens as it is of serene building forms.

The Saarinens placed the church itself on the eastern edge of the block, leaving most of the site for a sunken garden. The larger portion of the garden serves to offset the dour old City Hall across the street.

GIFT OF GOLF COURSE

Other community services have been provided, too. Otter Creek, a public golf course, was designed by Robert Trent Jones, completed in 1964 and donated to the city by the Cummins company. The par-72, 7,115-yard layout has been the site of the Indiana amateur tournament since 1966.

Jones is the designer of some of America's most beautiful courses, including Spyglass Hill in Pebble Beach, Calif., and the Firestone Country Club in Akron, Ohio. Adjoining the Otter Creek layout is a Weese-designed clubhouse.

The Cleo Rogers Memorial County Library, designed by I. M. Pei and built in 1968 at a cost of $2.2-million, includes a brick pavilion whose east and west walls and cornice rise from a brick plaza. Courtyards out of the plaza bring daylight to the lower level. The library has a capacity of 175,000 volumes.

Columbus certainly has enough fine buildings already to make a visit worthwhile, but the future looks even brighter. A study of the town's "design potentials" by graduate students at the University of Illinois indicated some things that might eventually be done to the downtown core of the town. It proposes creation of four superblocks by converting existing streets to malls.

PLAN FOR BACKYARD

The westernmost block—now the backyard of the main commercial district—would be completely rebuilt, with attractive apartment units over stores and parking structures along the main access roads. A new tower would join the existing courthouse and church tower in defining a triangular center of activity.

"The future of Columbus," Miller acknowledges, "depends on the attitudes of its people. The impact of these buildings on them is very subtle; it may take 100 years to show." For the present, he is sure that "there is less opposition to modern architecture than ever before."

A 32-page brochure on the city's architecture, including a suggested tour route and map, is available from the Columbus Area Chamber of Commerce, Columbus, Ind. 47201 (50 cents each to cover shipping and handling).

In that brochure, Sir Winston Churchill is quoted: "First we shape our buildings, then our buildings shape us."

THE 18-YEAR-OLD VOTE: STATUTE OR AMENDMENT?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks an editorial from the Washington Post, dated March 14, 1970, entitled, "The 18-Year-Old Vote: Statute or Amendment?"

I concur with the editorial's assertion that "when basic changes of this kind are to be made—the proper procedure is a constitutional amendment."

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

[From the Washington Post, Mar. 14, 1970]

THE 18-YEAR-OLD VOTE: STATUTE OR AMENDMENT?

The Senate's 64–17 vote to lower the voting age to 18 reflects a widespread demand for greater youth participation in the processes of government. It is a salutary trend. This newspaper is fully sympathetic with the objective, but the attempt to attain it by means of a statute instead of a constitutional amendment seems to us highly dubious.

The reasoning that statute alone will suffice is based largely on the Supreme Court's opinion in *Katzenbach* v. *Morgan* and the subsequent projection of the reasoning in that opinion to voting-age requirements by former Solicitor General Archibald Cox. The court, in that case, upset a New York law which made ability to read English prerequisite for voting. The state requirement was in conflict with the Voting Rights Act of 1965 which provided that no person may be denied the right to vote because of inability to read or write English if he had successfully completed the sixth grade in a Puerto Rican school where the instruction was in Spanish. The Supreme Court gave preference to the federal statute because it could "perceive a basis" on which Congress might view the denial of the vote to Spanish-speaking Puerto Ricans "an invidious discrimination in violation of the equal protection clause" of the Fourteenth Amendment.

Mr. Cox and some other constitutional authorities have concluded that Congress is now free to say that the denial of the vote to citizens between 18 and 21, on the ground that they lack the maturity to vote, is also invidious discrimination. It is a long leap, however, from striking down a discriminatory language requirement to fixing an age limit at which voting may begin. In the New York case there was actual discrimination against Puerto Ricans seeking to vote in that state despite the seeming general applicability of the statutory language. But where is the denial of equal protection in a voting-age requirement that is applied without discrimination to citizens of all nationalities, races and so forth? If it is invidious discrimination to deny the vote to 18-, 19- and 20-year-olds, would it not be equally unconstitutional to deny it to 17-year-olds?

The founding fathers unquestionably intended to leave voting-age requirements to the states. This is evident in the provision that voters in congressional elections "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." The effect of the Senate's 18-year-old voting amendment to the voting rights bill would be to transfer to Congress this authority to fix voting requirements, in state as well as federal elections. We agree that the voting age should be lowered, but there are powerful arguments on grounds of policy as well as constitutional law for using the amendment process.

Sponsors of the change by statute, Senators Mansfield, Kennedy and Magnuson, think they have adequately guarded against inconclusive elections under the bill by expediting a test of its constitutionality. Certainly that is a wise precaution. But when basic changes of this kind are to be made (46 states now impose the 21-year-old voting requirement) the proper procedure is a constitutional amendment. Now that senators have had an opportunity to vote for a popular measure, they could logically agree to rest the reform on more secure ground.

TAX REVOLT?

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. GROSS. Mr. Speaker, the warning signals are out that at least some of the citizens of this country are fed up with public spending that fails to take into account governmental income and the sources from which it is derived.

Operators of family farms in Iowa are up in arms and, while their demands are for tax revision on the State and local level, this issue stems from the tax burdens that are being laid upon them by every level of government—Federal, State, and local.

Underway in Iowa is the beginning of a tax revolt through the withholding of the payment of the first half taxes to the State and county in an effort to compel the State legislature and Governor through nonviolent means, to revise the property tax laws.

The following is what might be called a "program for action" which is being widely distributed in Iowa:

PROGRAM FOR ACTION

Today in Iowa we are faced with 20th Century inflation. We are faced with 19th Century tax laws and as far as the earning power of property, farm property in particular, we don't know what Century.

In Winnebago County we do not have a tax association, but we are organized. We have from 2 to 20 people in each township who will go out and ask property owners to withhold their first half taxes. We had a large meeting in Forest City. From a standing count better than 2 out of 3 who attended will withhold.

We did not charter because:

1. There is no time at present.
2. We do not want to become the object of injunctions and or lawsuits.
3. There is the Farm Bureau, N.F.D., Farmers Union, Beef, Hog, Soybean, Corngrowers all active in our county and we all need property tax revision.
4. By not chartering we can use all the leadership in the above organizations with no conflict of interest and also prove that when the family farm is endangered all farm property owners will stand together.

THINGS WE WILL NOT DO

1. Take a large group to Des Moines. Someone will get rough.
2. Picket or march to our county courthouse.
3. We will not intimidate our legislators, they are the only ones who can change the present outdated property laws. We need them.

THINGS WE WILL DO

1. Have 2 or more people visit legislators in Des Moines two or more times per week.
2. Write the Governor. All property owners if they will, and explain their problems.
3. Conduct ourselves at all times as men of honor but also men of determination.
4. Ask for tax revision not tax relief.
5. Withhold first half taxes.

WHY WITHHOLD

1. We must provide a mandate for our Governor and legislators that we are determined but not violent on tax revision.
2. We are getting tired of talking with our mouth; now let's talk with our money.
3. There is no other way to inform all Iowans of the problem facing the Family Farm.

LET US FACE UP TO THE FACTS

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. LANGEN. Mr. Speaker, during this last generation the American people have witnessed an unprecedented proliferation of the magnitude, scope, and cost of government. Given this situation increasing numbers are feeling the anxiety and frustration of being "swallowed up" by the Establishment, that is, the hopelessness of being trapped in a regimented system of high taxes, court edicts, Government guidelines, and the like.

Most frustrating of all has been the impact of war. And while there are a few who have profited, and there are others who acclaim the virtues of wartime prosperity, these are in the minority and unfortunately, self-deluded. Most of the American people are tired of war, tired of being strung along by false promises of easy victory, and most important disquieted by the terrible economic, moral, and social hardships that have accompanied our involvement.

Sometimes the truth hurts, but I believe we must level with the American people, we must tell them the alternatives, the costs, and the effects of the decisions being made by our national leaders.

A most sobering article which has just come to my attention tells it like it is—a straight-from-the-shoulder no nonsense assessment of the cost of war. May the Vietnam "hawks" and "doves" alike be alerted as I have been.

From "Our Mortgaged Future," by Mr. James Clayton, Playboy, April 1970, has extracted the following:

OUR MORTGAGED FUTURE

Next to the loss of life, the most permanent consequence of war in our history has been the veteran's pension. Although some economists would not include these pensions as a war cost, because over the years they have become more like welfare payments, nothing in the history of U.S. public expenditures has been more costly than veterans' benefits. The original direct cost—major national-security expenditures—of all of America's wars prior to Vietnam was approximately 372 billion dollars. This figure is about ten times higher than our second most expensive purchase—public education. Veterans' benefits for these same wars—when finally paid—will amount to nearly

500 billion dollars, even if the rates and extent of coverage were frozen as of today, which, of course, they won't be.

Veterans' benefits for our first five major wars are now virtually paid out. They have increased the cost of those wars an average of almost four times the original cost, primarily because it takes such a long time to pay out funds to veterans and their dependents. In the case of the War of 1812, veterans' benefits rose for 68 years after the war was over and were not fully paid out until 1946, 131 years after the fighting stopped. In no case have veterans' benefits from past wars lasted less than 113 years.

The main reason these benefits are so long-lived is that most are paid out to dependents, rather than to ex-soldiers, and most have nothing to do with a Service-connected injury but, rather, are a form of welfare assistance. Moreover, benefit rolls tend to become more inclusive and payments tend to increase with time. More than 90 percent of Spanish-American War and 50 percent of World War One veterans are now receiving some kind of compensation. Also rising rapidly is the percentage of those using their GI Bill education benefits. In 1964, 34,000 men were using their GI benefits; today, more than 500,000.

If veterans' benefits for the Vietnam war are anything like those for previous wars, we may expect them to increase annually (after a small initial spurt and decline immediately following the war) until about the year 2020. Then they will fall gradually until near the end of the 21st Century, when they will cease altogether. Assuming no change in present laws, the total cost of Vietnam veterans' pensions will be about 220 billion dollars. Since costs always increase with time, the final bill will undoubtedly be much higher.

After veterans' benefits, the interest on war loans is probably the most significant long-range financial cost of war. It is difficult to measure interest costs, because the interest on war loans is not separated from other interest costs in the national accounts. Interest costs for war debts prior to the Civil War were probably less than 20 percent of original war costs. During the Civil War era, however, interest on the public debt jumped from less than $4,000,000 in 1861 to $144,000,000 in 1867. For the next 25 years, interest payments gradually fell, until they finally leveled off at about $30,000,000. These payments, which are attributable to the Civil War, raised the cost of that conflict by about one third.

The rate of interest costs of recent wars is comparable. The noted economist John M. Clark, using Treasury Department data, once calculated the interest costs of World War One to 1929 at 9.5 billion dollars, or about 37 percent of the original cost of that war to that date. Henry C. Murphy, in his book National Debt in War and Transition, has shown that the Government borrowed 215 billion dollars to finance World War Two. That debt is still on the books and has cost us about 200 billion dollars in interest to date. This interest cost is now 70 percent of the original cost of World War Two.

Although we have reduced our debt after every war prior to 1945, no serious effort has ever been made to reduce the debt from World War Two or from subsequent wars. The Korean War probably added an additional ten billion dollars to the already swollen war-debt ledger. If the principal for the Korean War is not paid off any faster than that for World War Two, the additional interest by 1978 will be about 20 percent of the original cost. If interest costs continue to climb and attitudes toward public debt do not change substantially, it is conceivable that interest costs for World War Two and the Korean War eventually may actually exceed the original cost of those wars.

The amount of indebtedness for the Vietnam war is unknown. Since the war escalation of 1965, however, the public debt has risen almost 70 billion dollars. If this debt is treated like the Korean War debt—i.e., if no more than half of it is attributed directly to the war in Vietnam—then, by 1990, the interest costs on the Vietnam war debt will be 35 billion dollars (at four percent per annum—a conservative estimate rate), with the entire principal still outstanding.

Increased taxes have been an enduring consequence of war because of increased Federal borrowing. Income taxes began in this country as emergency war taxes. The Civil War made them a permanent feature of our Governmental system. By 1911, the high costs of financing the Spanish-American War, which required doubling tax receipts, pushed income from internal revenue above receipts from Customs duties. World War One increased internal-revenue receipts more than fourteenfold, from $380,000,000 in 1914 to 5.4 billion dollars in 1920. Per capita taxes increased nine times during that war. World War Two increased per capita taxes an additional seven times. If neither of these wars had occurred, our per-capita tax rate would have been about one tenth of what it actually was in 1946, assuming no inflation—which is primarily caused by war, as we shall see.

For this reason, it is misleading to view the present surtax either as temporary (as former President Johnson promised and as President Nixon still promises) or as the ultimate tax cost of the Vietnam war. From 1965 to 1967, the most recent date of available data, our per-capita taxes increased 27 percent. This is partly the result of an increase in military-retirement pay, which is now increasing $200,000,000 per year independently of other Department of Defense activities. Obviously, our taxes must go higher yet. The long-range taxation consequences of the Vietnam war are more likely to be an additional and permanent burden on top of an already large tax structure (itself mostly the result of past wars) rather than anything unique or presently unforeseen.

Traditionally, much of the cost of war has been met through inflation. We have had four periods of extreme inflation and deflation since 1800—all produced by war. The Civil War and World War One each doubled prices. World War Two increased prices by 50 percent. The Korean War further increased the cost of living by about ten percent.

Following the Napoleonic Wars, the previous upward surge of inflation tapered off during the 19th Century—a century of relative peace in Europe. Prices generally fell for 100 years. But the 20th Century has been a century of war and the price trend is sharply up. Prices are now five times higher than they were in 1900. If wars continue in the coming decades, the upward trend will continue and prices could be four times higher in the year 2000 than they are now.

Despite the extreme steps being taken by the Nixon Administration, the inflationary effect of Vietnam will probably result ultimately in a ten percent reduction in the standard of living of the average American. Since 1964, the consumer price index has increased 16 percent. If only half of that increase is attributable to the Vietnam war—a conservative estimate—then the inflationary cost of the Vietnam war to our G.N.P. to the first quarter of 1969 has been about 17 billion dollars in only four years. In the past, it has taken 10 to 20 years of peace to erase this war-caused inflation. If peace were to come this year, therefore, we could expect the inflationary effects of the Vietnam war to last at least until 1980 and cost a minimum of 30 billion dollars.

Over the centuries, war has tended to centralize Government; and during all major American wars, the power of the Federal Government has markedly increased. As economist Herman Krooss has shown, each of our three major wars has cost ten and a half times more than the previous one. With new financial obligations and new powers brought on by the war emergency, the Federal Government more than doubled in size during each of the last two major wars. The Vietnam war will continue, if not accelerate, this trend.

It is widely assumed, especially among economists, that the generation that fights the war is the generation upon which the burden of the war falls. For those who are killed and maimed, this is absolutely true. But, as we have seen, many burdens, such as veterans' pensions, last for several generations. These pensions irrevocably commit future funds that might have been used for other, more pressing purposes. Over several decades, these pensions, along with our war-generated graduated-income-tax system, also have tended somewhat to improve the social status of veterans. Partly because of a generous educational subsidy, veterans are better educated than nonveterans; their income is higher, their job security tighter and their rate of unemployment lower. The incidence of poverty among veterans, moreover, is less than that of nonveterans.

The burden of national debt, contrary to the views of some economists, may also have lasting influence. It can, for example, reduce the lifetime income of future generations if they decide, unlike this generation, to pay off the national war debt. In any event, we have been frustrated by the unwillingness of past generations to pay for their own wars, which has led to current inflation and the devaluation of the dollar. May not a future generation also be frustrated by our unwillingness to pay the full costs of the Vietnam war? Millions of people today are living on relatively fixed sources of income. As the cost of living continues to rise because of the war, not only do these individuals suffer decreased purchasing power but their children may fall to the next lower economic class unless the inflationary cycle is broken.

The Vietnam war has unquestionably lowered the standard of living of this generation. It has also lessened our willingness and that of future generations to take enterprising risks, because taxes remain high. It has materially lessened the supply of natural resources available to our children and shifted even further the balance of military vs. civilian priorities—a shift that is now going into its second generation.

Contrary to popular opinion, the Vietnam war will also probably decrease the G.N.P. in the long run. It is true that we have solved the problem of unemployment only in time of war, but this fact has misled many into believing that war means economic progress. Even with the enormous expenditures of the Cold War, our annual rate of increase in the G.N.P. has been less than three percent for the past generation. Historian John Nef, in his book War and Human Progress, looking back to the 15 Century, found that economic progress was faster in times of peace than in times of war and greater in countries less inclined than in those more inclined to war. John J. Clark, in his recent book The New Economics of National Defense, which focuses on the Cold War era, agrees with Nef. In the long run, decisions to continue the Cold War or to delay getting out of Vietnam, based on the alleged necessity of keeping people working and keeping the economy healthy, are at odds with historical experience.

The main reason many people feel that a war economy enhances the G.N.P. rate of growth is an excessive belief in the problem-solving powers of technology and in the generative force of research. Syllogistically, their reasoning runs something like this:

1. Modern war requires enormous amounts of research.

2. Research leads to new technological knowledge.

3. Technological knowledge leads to innovations and makes our economy run more efficiently.

4. Hence, war accelerates economic growth and brings prosperity.

For many, this now seems self-evident truth. But, as economist Robert A. Solo has shown in the Harvard Business Review for November and December, 1962, rising expenditures on research and development may actually be reducing the rate of economic growth in the United States. There is a negative relationship, he shows, between Cold War research expenditures and output per man-hour, inventive activity and the rate of increase of the G.N.P. Nor is the spin-off from defense projects substantial. We must realize that money spent for war is largely lost to other purposes. War—including research for war—depletes society's ability to solve nonwar problems. One can either fight, which is essentially destructive, or one can build. At no time in the past has a nation been able to do both. . . .

BEYOND THE MAIL STRIKE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DERWINSKI. Mr. Speaker, as a member of the House Post Office Committee who supported postal reform throughout our long deliberation, I take note of the sound and emphatic editorial in the Chicago Daily News weekend edition of March 21–22 which properly emphasizes the procedure that we should follow now that the strike is over. I insert the editorial at this point:

BEYOND THE MAIL STRIKE

Thanks in large part to Congress' overwhelming aversion to ruffling important voter blocs, the rule of law is working at a shamefully and dangerously low level of effectiveness. The mail carriers' strike provides the most immediate example. There are others.

Congress let the mail strike happen, while others who should have known better actually encouraged it. Congress has been playing footsie with both fellow politicians and the unions over President Nixon's postal reform bill, which would work efficiencies and open the way for higher pay for postal workers. At the same time Congress has been haggling for months over just how much the postal workers should be boosted over their present miserably inadequate pay scale, and whether it should be retroactive to last Oct. 1.

When the mailmen decided to strike, and to break their own oaths and the federal law in the process, they felt emboldened by Congress' senseless procrastination and also by the fact that everybody else and his brother has been defying the law and getting away with it. While this was the first strike at the federal level, the difference was not so obvious to a mailman trudging about the streets of New York. When his fellow service workers—policemen, firemen, garbagemen, teachers, motormen—struck in defiance of the law, they all won their strikes and were excused for their trespasses in the bargain. "Why not us?" the mailmen figured.

There are, of course, some good reasons for "why not us." Strikes violating state laws were one thing; strikes against the federal government put the whole nation in the shadow of anarchy. If the rule of law breaks down at the federal level, the American system of government has failed.

The law must be upheld and the public's vital welfare must be served: That is the executive branch's clear responsibility.

Congress' obligation goes beyond that.

When civilians must forfeit the right to strike they do not also forfeit the right to equitable treatment; the case for such treatment becomes all the more imperative.

Congress has the urgent obligation of enacting a fair rate of compensation for the postal workers, and of dating it far enough back to offset the damage caused by its own procrastination.

Congress must also look forward to some related problems that are bearing down upon it, and which it appears sadly unprepared to meet. The latest 37-day delay of the nationwide railroad strike expires on April 11. Now a nationwide trucking paralysis is threatened for April 1 or shortly thereafter. There are other, equally devastating nationwide stoppages in prospect.

In spite of fierce union pressure, Congress must come down to the grim business of outlawing strikes and lockouts that threaten nationwide catastrophe. It must define and proscribe such stoppages and it must set up machinery that will assure that the economic and other interests of the workers will be scrupulously protected in return for surrender of the strike right.

These are imperatives of these drastically changed and changing times.

COMMUNISM—THE NEW LEFT

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. ICHORD. Mr. Speaker, at a time when there are increasing efforts by the New Left to disrupt the harmony and stability of our society, I invite the attention of my colleagues to an excellent article by the commander in chief of the Veterans of Foreign Wars, Ray Gallagher, on the subject of "Communism—The New Left."

During Mr. Gallagher's tenure as commander in chief of that splendid organization, he has provided sustained and inspiring leadership in freedom's cause. My colleagues will recall the program he initiated last fall called "Operation Speak Out." This was one of the most effective nationwide efforts to enlist the voice of the silent majority to support the President in Vietnam.

I commend Mr. Gallagher on this comprehensive article regarding the New Left. I am sure all of my colleagues who voted for the Defense Facilities and Industrial Securities Act of 1970 will find Mr. Gallagher's support of this act most encouraging.

The article follows:

[From the Stars and Stripes, Mar. 5, 1970]

COMMUNISM—THE NEW LEFT EXPLORED BY VFW HEAD

(By Ray Gallagher)

Within a few short months the vocabulary of the average American has been expanded considerably. Words like "flower children," "happenings," "restructuring of the social order," "transformation of the establishment," "yippies," "murderous pigs," "SDS," and "the new mobe" have come in like a whirlwind—almost from nowhere.

At first most of us thought such new words were like fads—and like most things—would soon pass. Only they haven't. The fact is that the protest movement in America is not dead. How much of it is yet alive remains to be seen as we slip into the decade of the seventies.

The fact is there exists in America today a certain traitorous specimen of revolutionary young people, still relatively small in number, but fierce in commitment, who, for a variety of reasons, bitterly oppose our democratic system. The fact is these young people are set to restructure our free society—and many of them are willing to use force and violence to achieve their aims.

What is this new conspiracy? Who are they—these offspring of our generation who mock American heroes, who disparage American history, who contemptuously call our generation corrupt, evil and malignant; who say our American ideals, values and standards are sick and irrelevant to the times; who hiss and boo our elected officials, who scorn their elders and those in authority, who burn their draft cards; who praise Castro, and the recently departed Ho Chi Minh; who quote their revolutionary ideology from Karl Marx; who claim our schools are choking, stifling and stunting the brains of the young, who take and peddle drugs, wallow in filth, riot, burn and kill; denounce and desecrate the flag and never offer anything constructive to replace the system they aim to destroy. Who are they? What is their ultimate purpose? What is their vision?

MANY VARIETIES

I am speaking of the New Left in America, much of which is Marxist-Leninist (communist) dominated. The New Left tells us, "We have within our ranks communists of at least a half dozen varieties, we have leftists, socialists of all sorts, three or four different kinds of anarchists . . . nihilists . . . libertarian capitalists . . . and the articulate vanguard of the psychedelic liberation front."

We hear a great deal of nonsensical chatter from these groups but their underlying theme is deadly serious. The New Left aims to destroy our society. They offer in its place, a parallel governmental authority whose aim is the seizure of political power and the liquidation of constitutional authority.

It just so happens that the aims of America's New Left coincide with the historic aims of the system of the old left. And it just so happens that when the New Left protests in America, the old left also protests in numerous other countries—and for the same reasons and the same ideological causes.

It is also significant that during early February, 1970, some 300 communists party delegates met in Chicago to map out and coordinate new programs and objectives for the youth movement in America. Their objective is to bring the old hard line communists and the fierce new left into confidence.

In 1966 a new book "The New Program of the Communist Party U.S.A." was published. This new book outlines the overall plan for making the transition from capitalism to socialism. It is the Communist's plan of action for the 70's. It provides specific guidance to black power groups, youth groups, urban middle class groups, the intellectual community, minority groups and small businessmen. It tells each of these categories how to carry on the class struggle, how to oppose and eventually destroy the capitalistic system and how to make the transition to the new system of Marxist-Leninist control. There is one sentence in the book which is most interesting for those who say the New Left is something different than the communists of earlier decades. The book says, quote "In reality there is one left, new and old . . ." This new book stresses the fact that the actual contact is between classes and social forces. The communists are using the

younger generation because they are less burdened with old dogmas, more receptive to ideas and change, responsive to the promptings of their teachers and prone to radicalism.

The time has come for enlightened Americans in positions of responsibility to take those actions which will promote unity and domestic harmony at home and increase the possibility of enjoying a few years of liberty's blessings during our lifetime.

NEW LAW NEEDED

A good example of responsible leadership recently occurred in the House of Representatives. By an overwhelming majority the House of Representatives approved in late January of this year the Defense Facilities bill, H.R. 14864. Thus far, the Defense Facilities bill has attracted little press or public attention.

In terms of strengthening the security of the United States, this bill is most important. It is vital to our national interests. Unless and until the bill passes the United States Senate and is signed into law by the President, the Executive Branch has no legal device for keeping subversives out of sensitive positions in our defense facilities. Our defense industries are extremely vulnerable to any type of subversive efforts when they lack the means of self protection.

How many Americans know it is legal for communists and other subversives to work in sensitive defense industries, in such places for instance as missile factories and nuclear weapons plants? In this environment is it any wonder that Soviet leaders have learned so many of our innermost secrets, on military hardware? Is it any wonder that many of the Soviet Union planes, missiles and warships have achieved technical supremacy during a relatively brief span of years?

The Defense Facilities and Industrial Security Act of 1970 empowers the executive branch to establish a screening program for access to sensitive positions in defense facilities. But this new legislation does more than make it possible to weed out subversives, the bill provides a statutory basis for a continuation of the proctection of classified information. Beyond this, the bill revitalizes a screening program so that subversives can be excluded from waterfront facilities and merchant vessels.

I wish to commend the 274 members of the House of Representatives who passed this important bill. At the same time I urge the United States Senate to act swiftly and favorably on the bill.

Our nation simply cannot afford loopholes in our security laws at this time, particularly when we have in our midst a number of trained traitors and subversives who are actively trying to destroy our society and replace it with the Marxist-Leninist concept commonly called Communism.

Communism is an ideological and operational conspiracy, which the leaders, as a small group, use to get complete power over open societies and their social economic systems in order to, and using communist words, restructure or transform the capitalistic system into party controlled socialist systems.

Let us look at some communist achievements.

The murder of between 60 and 84 million people in the U.S.S.R. and the nation states of Eastern Europe.

Destruction of the Russian Empire and the cultures, economies and wealth of all satellite nations—over 500 million people.

The establishment of perpetual class war, revolution and chaos in most of the world.

Spread of the clouds of intrigue, ideological and semantic warfare, degeneration and destruction of the open societies throughout the world.

Establishment and expansion of a worldwide war on Christianity and other faiths.

Liquidation of the capitalist open market economy.

These are the aims of the Marxist-Leninists and their idealistic partisans, "the New Left."

Why has communism lasted for 53 years if it is without a scintilla of justification? The answer is that, because of half-baked education and naivete, it represents a package of plausible sophistries, used to exploit the weaknesses and yearnings of the masses. It provides a smoke screen behind which a limited few can carry on incredible conspiracy for seizure of worldwide open societies and incorporation into the world socialist system. And, unarmed people cannot argue with the business end of a gun.

Therefore, Communism explains why we had World War I, World War II, Korea and Vietnam, and now, the Middle East war. The hidden hand strives to perpetuate disarray, exacerbate hostilities and frictions until they are ready to seize political power.

Responsible forces, despite election results and changes in leadership, have been swept along and have been unable to change the course. Deception, semantic subversion, infiltration and penetration of the thought-control systems have made it possible to brain wash great numbers of people. Skillful exploitation of that basic deficiency of the Anglo-Saxon mind, its inability to comprehend intrigue, has kept many lawyers and naive business leaders from real opposition to communism. In fact, a great many have been so bemused by it as to act like collaborationists in arrangements for their own funeral.

When the Soviet diplomat offers a cocktail, he has hidden in his pocket an undertaker's contract to bury our system of democracy.

Therefore, Americans should know more about the New Left and what these young people aim to achieve, the origin of their inspiration and viewpoint, their tactics, what threat they pose to our country. In recent months, more evidence is accumulating of the tactical and semantic cooperation within the SDS complex, the black power complex and the socialist-communist youth complex.

As part of the adult generation we have an obligation to do everything possible to maintain a dialogue with our youth—to know what they are thinking. Many young people have legitimate complaints. Our society is not perfect. We need to listen to their ideas about the problems facing us. We have a capable, intelligent and sophisticated young generation. We should listen to them.

The vast majority of America's young people seek to take advantage of educational opportunities. They respect the law. They seek changes within the framework of law and order. These young people deserve the best which we as a Nation can give them.

TRIBUTE TO "TIC" FORRESTER

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mr. WHITTEN. Mr. Speaker, I join with my colleagues in paying tribute to the life in service of our late friend, E. L. "Tic" Forrester.

Tic, as everyone who knew him was aware, was a sincere man and a rugged fighter, a fine citizen and outstanding Member of Congress. We all treasure our memories of our association with him here. The benefits which flowed to his district and Nation as a result of his work in the Congress will long be felt.

To his loved ones we extend our deepest sympathy on his loss.

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1970

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MAHON. Mr. Speaker, I include a release highlighting the February 1970 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1970

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of February was 2,928,473 as compared with 2,929,564 in the preceding month of January. This was a net decrease of 1,091.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of February totaled 2,892,469. This was a net decrease of 1,124 as compared with employment reported in the preceding month of January. Employment by months in fiscal year 1970, which began July 1, 1969, follows:

Month	Employment	Increase	Decrease
July 1969	3,049,502	+9,140	
August	3,015,864		−33,638
September	2,945,752		−70,112
October	2,927,741		−18,011
November	2,913,598		−14,143
December	2,912,661		−937
January 1970	2,893,593		−19,068
February	2,892,469		−1,124

Total employment in civilian agencies of the Executive Branch for the month of February was 1,652,451, an increase of 10,939 as compared with the January total of 1,641,512. Total civilian employment in the military agencies in February was 1,240,018, a decrease of 12,063 as compared with 1,252,081 in January.

Civilian agencies of the Executive Branch reporting the largest increases were Treasury Department with 6,507 and Commerce Department with 2,996. These changes were largely seasonal.

In the Department of Defense the largest decreases in civilian employment were reported by the Army with 4,997, Navy with 3,896 and Air Force with 2,521.

Total Executive Branch employment inside the United States in February was 2,658,563, an increase of 4,346 as compared with January. Total employment outside the United States in February was 233,906, a decrease of 5,470 as compared with January.

The total of 2,892,469 civilian employees of the Executive Branch reported for the month of February 1970 includes 2,581,237 full-time employees in permanent positions. This represents a decrease of 8,254 in such employment from the preceding month of January. These figures are shown in Table 2 of the accompanying report.

The total of 2,892,469 civilian employees certified to the Committee by the Executive Branch agencies in their regular monthly personnel reports includes some foreign nationals employed in U.S. Government activities abroad but in addition to these there were 108,253 foreign nationals working for U.S. agencies overseas during February who were not counted in the usual personnel reports. The number in January was 108,598.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in the month of February totaled 29,182, an

increase of 7 as compared with the preceding month of January. Employment in the Judicial Branch in the month of February totaled 6,822, an increase of 26 as compared with January.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the joint committee report, on personnel employed full time in permanent positions by executive branch agencies during February 1970, showing comparisons with June 1969 and the budget estimates for June 1970:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1969	January 1970	February 1970	Estimated June 30, 1970 [1]
Agriculture	83,425	81,946	81,853	83,000
Commerce	25,364	25,166	25,222	25,060
Defense:				
Civil functions	31,214	30,368	30,227	30,700
Military functions	1,225,877	1,182,908	1,172,008	1,165,900
Health, Education, and Welfare	102,941	100,515	101,068	102,500
Housing and Urban Development	14,307	14,244	14,301	14,900
Interior	58,156	59,085	59,284	59,300
Justice	35,106	36,090	36,497	37,600
Labor	9,723	9,795	9,775	10,300
Post Office	562,381	562,981	563,538	567,000
State	24,658	24,103	24,057	23,900
Agency for International Development	15,753	14,838	15,109	15,000
Transportation	60,386	60,819	61,240	53,600
Treasury	79,982	84,820	85,249	86,700
Atomic Energy Commission	7,047	6,983	6,990	7,000
Civil Service Commission	4,970	4,957	5,007	5,300
General Services Administration	36,176	35,979	36,173	36,400
National Aeronautics and Space Administration	31,733	31,533	31,489	31,400
Office of Economic Opportunity	2,856	2,057	2,097	2,400
Panama Canal	14,731	14,679	14,641	14,700
Selective Service System	6,584	6,583	6,624	6,600
Small Business Administration	4,099	4,032	4,030	4,100
Tennessee Valley Authority	11,987	12,281	12,347	12,300
U.S. Unformation Agency	10,500	10,249	10,208	10,200
Veterans' Administration	147,606	146,182	146,291	148,500
All other agencies	26,200	26,298	25,912	27,800
Contingencies				10,000
Total	2,633,762	2,589,491	2,581,237	2,602,800

[1] Source: 1971 Budget Document; figures rounded to nearest hundred.

FEDERAL TELECOMMUNICATIONS SERVICES FOR STATE SURPLUS AGENCIES

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, I am happy to state that it will soon be possible for the Federal donable property program to benefit from State use of the vast network of the Federal telecommunications system.

The donation program, authorized by subsection 203(j) of the Federal Property Act, permits surplus property from Federal agencies to be made available to States for educational, public health, and civil defense purposes. In fiscal year 1969, personal property which originally cost the Government $292 million and which later became surplus to Federal needs was distributed to the States. To do this required processing over 80,000 applications for property representing 260,000 line items.

Making this program work at the State level are 52 surplus property agencies which the Federal Property Act requires to be established. These agencies represent the 50 States as well as the District of Columbia and Puerto Rico. The donable property program has long been an outstanding example of intergovernmental cooperation at its best.

When the Congress approved the Intergovernmental Cooperation Act of 1968, it provided under title III that specialized or technical services could be made available on a reimbursable basis to State and local governments and units thereof. Pursuant to the act, the Bureau of the Budget issued detailed instructions as to the types of services to be rendered to States and the procedures to be followed. Telecommunications services were among those specified in the Bureau of the Budget Circular A-97, dated August 29, 1969.

The potential of increased savings and efficiency through use by the State surplus property agencies of the Federal telecommunications system was immediately apparent. Each State agency must follow many steps relating to the acquisition, distribution, and control of surplus property items. Long-distance calls to Federal installations holding surplus property, to HEW and GSA regional offices, and to other State agencies must regularly and frequently be made in order that donation program operations can be coordinated and expedited.

The Special Studies Subcommittee of the House Government Operations Committee has jurisdiction over the donable property program. As subcommittee chairman, therefore, I wrote to the Secretary of Health, Education, and Welfare and the Administrator of General Services asking that they take action toward making Federal telecommunications system services available to the State agencies. Both HEW and GSA have been considering the matter. GSA, of course, manages the Federal telecommunications system and hence must make the main decisions.

Through GSA's cooperation, substantial progress has now been made and I am pleased to have received the following letter from the Administrator:

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., March 18, 1970.

Hon. JOHN S. MONAGAN,
Chairman, Subcommittee on Special Studies, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. MONAGAN: This is in reply to your letter of February 18, 1970, concerning Federal Telecommunications System service to State agencies for surplus property.

We have determined, in cases where existing facilities and personnel are sufficient to meet requirements for the additional service, that FTS service can be made available for State surplus property agencies established in accordance with the requirements of the Federal Property Act.

Requests for FTS service will have to be handled on an individual basis from the State agencies concerned, and we would require each State to establish a single coordinating point to process requests for service and serve as a billing point.

Your interest in this matter is greatly appreciated.

Sincerely,

ROBERT L. KUNZIG,
Administrator.

Each State agency now has the opportunity before it. I believe that each can use the service effectually and responsibly. I urge both State and Federal agencies concerned to work together promptly and earnestly so that this benefit to the program can be realized as soon as possible.

A PRISONER OF THE SYSTEM

HON. WILLIAM H. AYRES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. AYRES. Mr. Speaker, the March 25, 1970, edition of the Wall Street Journal carried an article entitled "A Prisoner of the System."

This timely editorial represents a succinct and, in my judgment, valid assessment of what is perhaps the key factor that continues to affect adversely the Interstate Commerce Commission generally but especially in its relationship with the Nation's railroad system.

Since I earnestly believe that this commentary will be of special interest to many of my colleagues, Mr. Speaker, I would like to include in the RECORD at this time the complete text of "A Prisoner of the System":

A PRISONER OF THE SYSTEM

Railroad regulation is such a mess that it's easy to get angry with the Interstate Commerce Commission, the agency that administers the confusion. Yet it's well to remember that the ICC is, by and large, only the prisoner of the foolish laws it must enforce.

When the ICC sees an opening, it often opts for common sense. Certainly that's true of its decision on the railroad's request for higher rates to haul fresh vegetables and melons from Arizona and California to the East.

Of course the ICC's approval of the in-

creases took time; the laws require that. The railroads asked for the boosts last summer and they were finally cleared by the agency only this month. Food chains and others objected not only to the size of the increases but to the fact that the railroads agreed to pay penalties to shippers if the vegetables and melons were delayed so long that they spoiled.

Opponents claim that the penalties would be illegal kickbacks, but that's really pretty silly. As the ICC said, the payments would be justified compensation for the railroad's failure to deliver promised services.

The case still may be far from settled. Under the law the opponents appealed to a Federal court which has held up everything with an injunction.

No one likes to be hit by higher prices and costs, and it's obviously true that at least part of the higher shipping costs will be passed along to consumers. It's also true that relatively low value commodities have always carried relatively low rail rates. Competition would permit a more accurate setting of rates, but national transportation policy isn't really geared for that sort of thing.

As the late President Kennedy said in 1962, "A chaotic patchwork of inconsistent and often obsolete legislation and regulation has evolved from a history of specific actions addressed to specific problems of specific industries at specific times. This patchwork does not reflect either the dramatic changes in technology of the past half century or the parallel changes in the structure of competition.

Though Mr. Kennedy proposed reasonable changes in the systems he got nowhere at all. The blame for that belongs not to the ICC but to Congress.

CHICAGO POLICE SUPERINTENDENT CONLISK ENDORSES HANDGUN CONTROL EFFORTS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MIKVA. Mr. Speaker, on March 3, 1970, I introduced H.R. 16250, the Handgun Control Act of 1970. This bill would ban the importation, manufacture, transfer, sale, or transportation of handguns in the United States except by military or law enforcement personnel or certain persons and pistol clubs licensed by the Secretary of the Treasury. In light of the already high and increasing predominance of handguns in criminal violence in America, this bill attempts to limit the huge traffic in handguns which now exists in our country.

One of the most gratifying responses I have received to H.R. 16250 is from a group which has much to gain from effective handgun control: The Nation's law enforcement officers. These men—who are daily on the front lines of the fight against crime—have first-hand knowledge of how important the easy availability of handguns is to the criminal population. One such endorsement of handgun control which is especially gratifying is that from the superintendent of the Chicago Police Department, James B. Conlisk. In response to a letter from me requesting statistics on the use of handguns in Chicago crime and in the murder of Chicago policemen in the line of duty, Superintendent Conlisk wrote a most gracious reply. I quote from the last paragraphs of his letter:

According to the National Commission on the Causes and Prevention of Violence, the manufacture, importation and sale of handguns show a spiraling increase during the past decades. This increase roughly parallels the burgeoning rise in violent crime by use of handguns throughout the United States. Undoubtedly, there is a correlation between violent crime increase and the availability of firearms. Social reformation conceptualized as crime-reducing will be significantly hindered if non-military, non-law enforcement non-sports involved, crime-prone individuals are allowed, through lack of adequate restrictions, to possess and carry handguns for unlawful use. Unfortunately, too many handguns are in plentiful supply and readily acquired by individuals inclined toward crime. We, in law enforcement, applaud your efforts to reduce violent crime through additional handgun control.

I hope that the foregoing statistics, which do not fully or adequately portray the tragic ramifications of violent crime committed by the unlawful use of firearms, mainly handguns, will assist you in your crime prevention efforts.

I insert the full text of Superintendent Conlisk's letter at this point in the RECORD for the benefit of my colleagues.

DEPARTMENT OF POLICE,
Chicago, Ill., March 12, 1970.

Hon. ABNER J. MIKVA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MIKVA: This is in response to your letter of March 5 addressed to Mr. Paul Quinn of this office. The following data regarding unlawful firearms usage is being submitted to you in compliance with your request.

Estimated number of handguns in private (non-law enforcement) hands in Chicago. Number legally licensed or registered? Number illegal?

As of March 6, 1969, there were 402,732 registered. Nonregistered would be purely guesswork.

Recent trend in handgun sales and ownership in Chicago (1960–69, for example)?

We are unable to submit these statistics. We have no empirical data regarding the foregoing. However, according to George D. Newton and Franklin E. Zimring, who compiled a staff report titled "Firearms and Violence in American Life" to the National Commission on the Causes and Prevention of Violence stated that in 1960 there were 474,677 handguns manufactured in the United States, and during the same year there were 128,166 handguns imported for private sale in the United States. In 1968 these totals were increased to approximately 1,259,356 handguns manufactured in the United States and 1,239,930 handguns imported for private sale in the United States. Accordingly, the importation, manufacture, and demand and sale of handguns, 1969 compared to 1960, indicates a 400% increase in the foregoing categories.

Number of fatal handgun accidents in recent years in Chicago?

Fatal handgun accidents are not tabulated.

Number of handgun homicides in Chicago and what percentage they are of the total homicides for several years? Same for robberies? Same for aggravated assaults?

MISUSE OF FIREARMS (ALL TYPES) IN HOMICIDE CASES

	1965	1966	1967	1968	1969
Total number of homicides	395	512	552	647	715
Homicides committed by use of firearms	194	257	311	375	[1] 438
Youths under 21 using firearms to commit homicides	38	72	95	115	171
Number of homicides committed by youths under 21 using firearms	30	63	70	100	125
Homicides by firearms:					
Youths under 21:					
90 percent increase 1966 versus 1965					
150 percent increase 1967 versus 1965					
203 percent increase 1968 versus 1965					
316 percent increase 1969 versus 1965					

[1] Indicates a 126 percent increase in homicide by use of firearms, all ages, 1969 versus 1965.

In 1968, of the 375 firearms used in homicide cases, 206 were revolvers, 64 automatics, 4 derringers, 27 shotguns, 14 rifles, and 60 were unidentified type guns. In essence, of the 315 identified firearms homicides, 274 were by handguns, or 87% of the firearms used to commit homicides in 1968 were by handguns. The same percentage ratio would probably hold for other years.

SERIOUS ASSAULTS

	1965	1966	1967	1968	1969
Total serious assaults	10,352	11,330	12,346	12,312	12,787
By shooting	1,298	1,873	2,412	2,839	[1] 3,145
Percent by shooting	12.5	16.5	19.5	23.0	24.6

[1] Indicates a 142-percent increase in serious assaults by shooting, 1969 versus 1965.

TYPE OF WEAPON USED IN THE OFFENSE OF ARMED ROBBERY

Year	Handguns	Shotguns	Rifles	Knives	Other: bottles, pipes, bricks, blackjacks	Total
1965	3,880	206	25	2,891	1,078	8,080
Percent of use	47.9	2.8	0.3	35.6	13.3	99.9
1966	4,241	182	35	3,063	1,047	8,568
Percent of use	49.5	2.1	.4	35.7	12.2	99.9
1967	4,941	227	42	2,638	1,129	8,977
Percent of use	54.1	2.8	.5	29.9	12.5	99.8
1968	6,247	268	62	2,417	950	9,944
Percent of use	62.8	2.7	.6	24.3	9.6	100
1969	[1] 7,640	575	124	2,317	1,255	11,911
Percent of use	64.1	4.8	1.0	19.5	10.5	99.9

[1] Indicates a 97-percent increase in the number of robberies committed by use of a handgun, 1969 versus 1965.

HOMICIDES AND SHOOTINGS OF POLICE

	1965	1966	1967	1968	1969
Homicides	1	2	5	5	9
Shootings			24	39	64

Your bill entitled "Handgun Control Act of 1970" has been reviewed with great interest. According to the National Commission on the Causes and Prevention of Violence, the manufacture, importation, and sale of handguns show a spiraling increase during the past decade. This increase roughly

parallels the burgeoning rise in violent crime by use of handguns throughout the United States. Undoubtedly, there is a correlation between violent crime increase and the availability of firearms. Social reformation conceptualized as crime-reducing will be significantly hindered if non-military, non-law enforcement, non-sports involved, crime-prone individuals are allowed, through lack of adequate restrictions, to possess and carry handguns for unlawful use. Unfortunately, too many handguns are in plentiful supply and readily acquired by individuals inclined towards crime. We, in law enforcement, applaud your efforts to reduce violent crime through additional handguns control.

I hope that the foregoing statistics, which do not fully or adequately portray the tragic ramifications of violent crime committed by the unlawful use of firearms, mainly handguns, will assist you in your crime prevention efforts.

Sincerely,

JAMES B. CONLISK, Jr.,
Superintendent of Police.

STRIKES AGAINST FEDERAL GOVERNMENT ILLEGAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DERWINSKI. Mr. Speaker, as the post office strike reaches an end and the Congress properly looks forward to assessing the need for legislative activity, the principle which must be emphasized is that strikes by Federal employees are illegal and against the public interest.

This point is effectively emphasized in a release issued yesterday by the Federal Professional Association here in Washington, the full text of which I insert into the RECORD at this point:

FEDERAL PROFESSIONAL ASSOCIATION HEAD BERATES FEDERAL STRIKES

The president of the government-wide Federal Professional Association has issued a statement strongly condemning strikes by Federal employees and simultaneously has called for legislation to erase a number of Federal employee grievances, including those of postal workers.

"Strikes by Federal employees are both against the law and against the public interest," Lucile Graham of Washington, D.C., President of the Federal Professional Association, stated.

She expressed full sympathy for the salary needs of postal employees while castigating their resort to the strike as a means of making their demands felt.

"A strike of Federal employees trends dangerously close to anarchy. No principle in a democracy is more precious than the requirement that public employees must be inviolably pledged to maintaining public services," she said. "Law, order, and the successful functioning of the Nation require that the strike weapon be denied public employees," she said.

"Yet the fact that Federal workers cannot legitimately resort to the strike places a special burden on society to provide adequately for the protection, the needs, and the rights of its public employees," Miss Graham stated.

She asserted that government is derelict when it allows conditions to develop that are conducive to disobedience of the very laws which Federal employees are pledged to uphold and implement.

The members of the Federal Professional Association, an organization dedicated to improving the quality of the public service and the environment in which it is administered, have repeatedly affirmed a no-strike position. "The function of the Federal government depends in large measure on the commitment, competence, judgment, and integrity of the professional workers in the career service," she said. The Association is not antiunion.

"We do not believe in Federal strikes and we can imagine no circumstance in which we would agree that any group of Federal workers should strike, including the present one," she stated.

Miss Graham said that pay adjustments which would make salaries of Federal professional employees comparable with those paid by private enterprise are lagging by almost 18 months, but that the Association which she heads is seeking and will continue to seek remedial action through established legislative channels, rather than through strikes or other means which would disrupt orderly administration of the government.

SPEECH OF REGRET AT "TIC"" FORRESTER'S PASSING

HON. THOMAS G. ABERNETHY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mr. ABERNETHY. Mr. Speaker, in my 28 years of service in this body I have been associated with many Members whom I greatly admired for their courage and respected for their forthrightness and character. However, the respect and admiration which I had for these did not exceed that which I had for Elijah Lewis Forrester, whom we all affectionately knew as "Tic."

Our late and lamented friend, though small in stature, was a courageous giant. As a dedicated loyal American he was always ready to take on anyone at any time in defending the principles upon which this Nation was founded and upon which it was designed to progress and prosper through the ages.

He observed with great concern the attacks upon and whittling away of our great Constitution by those who sought, demanded, and achieved by means other than constitutional amendment. He lamented the trespasses committed by the judiciary upon the prerogatives of the legislative branch, as well as by the Chief Executive, through the abused process of Executive order.

Time after time "Tic" Forrester stood on the floor of this House and warned of Washington's departure from constitutional government, of spending beyond our means, of the hands from every nook of this Nation turning toward Washington for more and more Federal handouts and of the politically inspired cleavage that was separating the American people. The mess we are in today proves that "Tic" Forrester knew whereof he spoke.

This late statesman was a good and kind man. He was friendly and courteous. He loved this House. He loved people. And I am happy to say that he was my friend.

Earlier this year he telephoned me from his home in Georgia. At that time the papers were filled with reports of marching in the streets, of misconduct on the part of numerous college youngsters, of inflation and the depreciation of our dollar, of expanding Federal expenditures and so many other things that have come to concern many of us. He said:

Just wanted someone to talk with, someone to express my concern to about the direction of my country which I love so much.

And we talked on for a half hour or more. Indeed, he was concerned, just as every American should be.

Mr. Speaker, I have seen hundreds of men and women come and go from this body. Many of them have been forgotten, but not "Tic" Forrester. He left an impression upon those who served with him that will live throughout their lives; and he left a mark of service and statesmanship in the Halls of this Congress that will live on and on.

I regret the passing of my warm and personal friend, Elijah Lewis Forrester. I sympathize with his surviving wife and the members of his family. I thank the State of Georgia for sending him to this House where he served so ably and so well. And thank the good Lord for the life that He gave him, a life that was lived so well and did so much good for mankind.

WELFARE REFORM: LOOK CLOSER BEFORE YOU LEAP

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. ULLMAN. Mr. Speaker, the House is expected to vote soon on the administration's welfare reform bill. There is no question that the national welfare system should be renovated. The billions of dollars now poured into welfare can and should be spent much more efficiently and effectively.

I believe that the poor people of this State and this Nation should have a better opportunity to lift themselves out of poverty.

I also believe that the Federal Government should provide additional relief to State governments which are struggling to meet the rapidly rising cost of welfare.

In my judgment, then, there is clearly a need for welfare reform. However, the so-called welfare reform bill recommended by the administration and passed out by the Ways and Means Committee earlier this month is not sound reform nor well-considered innovation.

I voted against the bill in committee and I will vote against it on the House floor for several reasons. Reform should be built on the solid foundation of experience, and should be backed by clearly defined principles understood by all.

But in my judgment, the welfare reform bill is deceptive in nature and clearly understood by very few.

The administration says there will be improvement, pointing with much fanfare to work incentives it claims are in

the bill. The administration says that the poor will, for the first time, be able to work themselves out of poverty, and that the welfare rolls will be reduced.

In my judgment, this is a false hope. The heart of welfare reform should be human rehabilitation. There is little of that in this bill. The funding in the bill for job training, for day care to allow mothers with children to work, and for special Government agency training programs is pathetically inadequate—less than 15 percent of the total cost of the new program.

The bill raises the expectations of the poor for jobs, and then dashes them by grossly underfinancing the programs needed to make jobs possible.

On the other hand, more than 70 percent of the cost of the new welfare program would go for cash payments. Here is where the emphasis of the bill really lies.

The bill ultimately establishes the basis for a guaranteed annual income through a negative tax formula. It would permanently consign more than 10 percent of our national population to welfare handouts. The bill would institutionalize poverty, not eliminate it.

The existing welfare system is an administrative mess. The new bill would not clean it up. It would only take us a half step toward nationalization of the program by creating a new Federal layer of administration on top of the present structure.

The bill leaves much of the operation of the program at the State level. Furthermore, no effort has been made to streamline and coordinate the two dozen Federal work programs that should be operating in conjunction with the welfare system.

The bill means more bureaucracy, not less.

The existing welfare program is extremely expensive. It costs Federal taxpayers more than $4 billion a year. The new bill would add more than 12 million persons to the 10 million already on the welfare rolls. This move would double the Federal cost of the program.

Some additional cost to fight poverty is inevitable and necessary. I favor, for example, the provision in the bill for a Federal floor on payments to present welfare beneficiaries. This Federal minimum will help reduce the States welfare burden and bring a measure of equity into the system.

I also fully concur that the Federal payments in the adult categories—to the aged, the blind, and the disabled—should be significantly increased as provided by the bill. The inflationary pressures of the economy make it impossible for individuals in these welfare categories to exist on their present fixed incomes.

But I am opposed to adding millions of new persons to the welfare rolls, and billions of dollars in cost to the taxpayers, until we have improved the structure of the system.

I believe the need is for tighter Federal standards applied to the existing system and aimed at more efficient and effective administration. Above all, the need is for greatly expanded funding of existing programs created to open up jobs. These include the work incentive program, the special projects program for employment in the public sector, the JOBS program coordinated with the business community, and, of course, child care.

The thrust of Federal welfare spending should be placed on these programs, not on cash payments for up to 25 million Americans. Only then can we produce real reform and an effective welfare system that offers a real chance for the poor of this Nation.

Mr. Speaker, I am pleased that the Wall Street Journal in an editorial this week agrees that we should concentrate our efforts now on job training and child care, and build a sound welfare structure on the present foundation before we expand the rolls.

Certainly, there can be no argument with the editorial's contention that we should get behind the rhetoric and examine the facts and consequences of this far-reaching bill much more closely before we vote.

I commend the editorial to the attention of my colleagues:

[From the Wall Street Journal, Mar. 30, 1970]

CANDOR ON WELFARE REFORM

The Nixon Administration offers its welfare reforms not as a guaranteed annual income but as a way to reduce welfare rolls in the long run by putting recipients to work. In nearby columns this interpretation is defended by Jerome M. Rosow, Assistant Secretary of Labor. We're more than happy to print his comments, representing as they do the Administration's most candid explanation of how it hopes the plan will work.

We particularly hope that anyone judging whether the plan will in fact ever reduce welfare rolls will study these closely reasoned arguments rather than the oversimplified and misleading rhetoric emanating from the White House and environs. There has been an attempt to foster the misconception that the present welfare laws offer absolutely no monetary incentive toward work, and that therefore the incentives in the Administration's Family Assistance Plan are a major breakthrough.

In fact, work incentives are already provided under Aid to Families of Dependent Children, by far the largest present welfare program. Benefits are calculated to allow recipients to keep the first $360 a year plus one-third of additional earnings. As Mr. Rosow's explanation makes clear, the new proposal's only changes within the AFDC category are modest increases in the initial "disregard" and training allowances. This means direct incentives will be only marginally higher.

Similarly, it's easy to make too much of the proposed tightening of the requirement that recipients accept work or training. For one thing, even if a recipient's benefits are canceled for refusing "suitable" work, his dependents' benefits continue. For a family of four, the upshot is a cut of $300 in the basic $1,600 allowance, presumably with a similar reduction in state supplements—surely a meaningful sum to welfare families, but not so surely an infallible sanction.

Even less encouraging is the ambiguity about what employment is "suitable." The current Work Incentive Program does not require recipients to accept "dead-end" jobs such as domestics, porters or janitors. Under the new proposals, "suitable" would be defined on a case-law basis. Litigious welfare rights organizations have been spectacularly successful as of late; only last week the Supreme Court ruled that states cannot cancel benefits to ineligible recipients until after formal hearings where recipients are entitled to legal representation. In practice, almost certainly the requirement of "suitable" work will mean that recipients will typically be required to accept only those jobs for which they cannot qualify.

Now, that neither work requirements nor work incentives will be exactly overwhelming does not absolutely mean the Family Assistance Plan will fail in placing welfare recipients in jobs. But its chances of success depend on the more subtle processes and assumptions Mr. Rosow describes.

In fact, the real guts of the plan are the substantial increases in spending for day-care facilities and training programs. The Administration writes off the disappointing past record of these approaches as due to lower funding and undeniably enormous administrative difficulties. It believes that if it can remove the barriers of low skills and child care, welfare recipients will naturally take jobs without greater incentive than they now have.

As Mr. Rosow puts it, a "key assumption" of the plan is that "the great majority of welfare adults prefer work to idleness." On this assumption the Administration proposes to bet, for openers, an additional $5 billion or so.

Yet the assumption is, to say the least, not exactly unquestionable. In some areas welfare benefits are high enough that it would be economically irrational for recipients to work at low-level jobs. Whatever their answers to attitude surveys, many recipients may suffer such social disorientation that only a truly powerful incentive could induce them toward the complete change in life-style employment implies. Many recipients may not prove trainable for the type of jobs likely to be deemed "suitable."

In light of these obvious difficulties and the discouraging experience so far, we think it senseless to expand welfare rolls until we have better evidence that recipients can be managed off the rolls once they are managed onto them. There is no reason why day care and work training cannot be expanded without at the same time enacting what for all practical reasons is a guaranteed annual income. First see whether this approach works, then talk about expanding welfare to include an additional 12 million people.

In political reality, of course, the Family Assistance Plan is backed by the winning combination of Republican Party loyalty and Democratic Party principals. So we're happy to have Mr. Rosow detail what its passage will entail in terms of work incentives and work training. You can agree or disagree with the assumptions behind the bill, but at least the Administration is starting to make those assumptions clear, and the nation can better judge what policy will actually result if the reforms become law.

NEW PRIORITIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, as Congress considers new priorities, it may be worthwhile for us to occasionally listen to our younger constituents. I was recently visited by a group of eighth-grade students at Encinal School in Atherton, Calif. I was struck by the nature of their priorities as expressed in the petition they presented to me:

ENCINAL SCHOOL SCIENCE CLUB ESSIC

We of the Encinal School Science Club Essic, proclaim the following acts in which we are trying to stop pollution which is destroying our natural resources. Here are some of the activities in which we are attempting to help the fight to stop pollution:

One group of members are making a newsletter which we will distribute throughout

our community. We will explain to people how pollution is destroying our earth and what they can do about it. Second, we are trying to get television coverage telling the people what is happening and the consequences if pollution doesn't stop. We have bought two water testing kits which we will use for testing the Bay. From this we should be able to find out the pollutants of the Bay and where they are coming from. We are writing the companies which pollute the Bay and asking them why they do it and if they could please stop. Some members are going to clean up a little area around our Bay. Finally, we are urging everyone to write to their U.S. Congressmen. We are all hoping that Congress and President Nixon will continue to help stop pollution. The new bill proposed by President Nixon to help stop water pollution is very encouraging. We hope this type of bills will continue. Thank you for the work you do.

Respectfully,

ESSIC.

PAPER HINTS AMERICANS GET GUERRILLA TRAINING IN CUBA

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FISHER. Mr. Speaker, under leave to extend my remarks I include a UPI story, dated March 22. The article follows:

PAPER HINTS AMERICANS GET GUERRILLA TRAINING IN CUBA

DETROIT.—The Detroit News reported Saturday that young Americans who have gone to Cuba to harvest sugar cane may actually be undergoing training there for guerrilla warfare.

In a copyright story in its Sunday edition—most of it devoted to the recent wave of bombings and bombing scares across the country—the News said its information comes from classified reports of several free world consulates in Havana.

"The training of American radicals apparently has been going on for at least six months," the News said.

"It was accidentally discovered last fall when a West European consulate member, invited to the site to review Cuban militia operations, was inadvertently driven into the area where the Americans were being trained," the newspaper said.

The News continued: "In a report to his government, the consulate member identified the trainees as Americans beyond reasonable doubt. A large number were blue-eyed blonds, he reported, and he overheard many speaking English replete with the latest American slang.

"His report was supported on several later occasions by consulate members of other countries, who observed American youths in military attire in small towns and villages near the site."

The News quoted "a high-ranking Canadian government source" as saying that most of the approximately 500 young Americans now in Cuba purportedly to cut Fidel Castro's sugar cane crop actually are learning revolutionary warfare at a site 30 miles east of Havana.

"He (the Canadian source) said they are being taught by instructors from Red China and perhaps the Soviet Union. The training site is also used to prepare guerrillas for export to Latin America," the newspaper said.

On Feb. 13, about 480 young Americans gathered at St. John's, New Brunswick, and boarded the Cuban cattle boat Luis Arco Dergenas to go to Cuba. The 14 said they were going to help harvest the sugar crop.

VIETNAM WAR WAS L. B. J.'S DOWNFALL; WILL CIVIL RIGHTS BE NIXON'S WATERLOO?

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I insert the article, entitled "Vietnam War Was L. B. J.'s Downfall; Will Civil Rights Be Nixon's Waterloo?" from the Washington Daily News, March 24, 1970, in the RECORD:

[From the Washington Daily News, Mar. 24, 1970]

T. R. B.: VIETNAM WAR WAS L. B. J.'S DOWNFALL; WILL CIVIL RIGHTS BE NIXON'S WATERLOO?

At 9:35 Sunday evening, March 31, President Johnson's voice suddenly changed and it became obvious that he had departed from his prepared text. His administration was hemmed in, there was the Tet offensive, the New Hampshire primary was a defeat and the Wisconsin primary promised a disaster. The nation was sullen, frustrated, rebellious.

The speech was taking a strange turn. The tone was humble and painfully intense. There were no flamboyant cliches nor partisan thrusts. The voice was level as Mr. Johnson said simply, "I shall not seek and I will not accept the nomination of my party as your President."

And so, two years ago, the man who started with the highest majority in history ended with his party in shambles and a record he did not care to defend by seeking reelection. Sad too; a man who wanted to be loved; a man of immense gifts who had given the nation a mighty advance in social welfare, consumed by a nasty little war.

One wonders if Mr. Nixon, too will be a one-term President. Currently, he has a substantial majority in the polls but it is below where Mr. Johnson stood at an equivalent time. A moral issue betrayed LBJ, not merely a feeling that he had picked a wrong course, but a widening belief that he was falsifying facts.

In 1968 it was Vietnam. In 1972 the trap for Mr. Nixon may be civil rights.

Walter Lippmann was the nemesis of Mr. Johnson, the most powerful journalist in America, Cook, cosmic, certitudinous, his quiet authority arrested attention in a crowd. Almost alone at first, Mr. Lippmann made the opposition respectable; he laid down these postulates: America cannot fight a war in Southeast Asia with a conscript army; it needs no land war in Asia to assert its presence so long as it controls air and sea; modern military instruments in a jungle are like a herd of elephants fighting a swarm of mosquitoes; America will ultimately tire of such an exercise in futility and will withdraw. Most people now think he was right.

Today, Mr. Nixon has undertaken a new exercise in futility regarding America's most profound problem. Yes, we are a superpower; yes, we are the richest nation on earth; but yes, too, we are a racially divided country unlike any other great nation. Other Western lands willingly or reluctantly gave up their colonies; we cannot drop ours because it is within our boundaries.

One American in 10 is black; the 20 million Black Americans are better off, better schooled, and more aware than their grandfathers who saw the great political sellout of 1876. The morally exhausted North accepted Rutherford Hayes' accession to the Presidency and yielded up in return enforcement of civil rights for the better part of the next century.

Mr. Nixon is pursuing his Southern strategy, which is as much a will-o'-the-wisp in the long run as Mr. Johnson's adventure in Asia. He is trying to barter progress in integration for political advantage, but 1876 can't be repeated; no Grand Coulee can restrain this river.

Mr. Nixon is more oblique than Mr. Johnson. Even some admiring journalists say they don't know where he stands. Always he says that he loves the blacks and always, in practical terms, he has been competing with segregationist George Wallace. In cumulative detail Richard Harris in his book Justice (Dutton, $6.95) shows how Attorney General Mitchell has turned the issue of "law and order" against the Justice Department. That is only one aspect of it. There is school integration, the Supreme Court, and all the rest.

Few whites like, or want, integration. The North begins to see the sacrifices as the South has long known them. But the alternative to integration is repression, which means a different kind of nation. The South had a closed society for a century but that is not viable on a national scale for a modern society.

Southern schools in the past 16 years have made real progress; it is now endangered because Mr. Nixon wants the votes of George Wallace. There is de facto segregation in Northern neighborhoods as whites flee to the suburbs. Like it or not, the problem cannot rest there. It is as unstable as the earthquake fault in California; sooner or later while suburbs and black ghettos must be brought together under unified metropolitan government so that commuters from bedroom suburbs will share taxes and responsibilities with the whole area in which they are involved.

Mr. Nixon's benign neglect policy won't work. The reasons are as simple as those mentioned by Mr. Lippmann about Vietnam. Political economic and moral considerations will not permit second class citizenship for one American in 10 while the U.S. remains a democracy.

(NOTE.—The author of this column, who uses the initials T. R. B., is a veteran Washington correspondent. His column appears on this page every Tuesday. The column also appears in The New Republic magazine.)

THE SHARPEVILLE MASSACRE

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1970

Mr. DIGGS. Mr. Speaker, last Saturday, March 21, marked the 10th anniversary of the massacre at Sharpeville, South Africa. On March 21, 1960, South African police opened fire on several thousand demonstrators protesting against the law requiring Africans to carry passes at all times. On that day 69 persons, including eight women and 10 children, were killed and 180 were wounded. Subsequently, the United Nations General Assembly proclaimed March 21 annually as the "International Day for the Elimination of Racial Discrimination."

The memory of the Sharpeville shooting is fading but the effects of the massacre continue to be vivid. During the last 10 years, the Government of South Africa has remained intransigent and has in fact intensified its efforts to entrench the system of racial discrimination in defiance of appeals by the international community that it abandon its racial policy and seek a new course con-

sistent with respect for universal human dignity. Instead harrassment of opponents of apartheid in violation of the principles of the rule of law has continued. Widespread police activity has developed and laws have been enacted providing for house arrest and detention for 90 days without trial. More recently, the terrorism act has been legalized which allows for indefinite detention.

The conflict in South Africa is between people who were robbed of their birthright to land, liberty, and peace and a regime founded on injustice, inequality, and racial supremacy. In the words of Bishop Ambrose Reeves, whose article I am including below:

Unless there is a radical change in the present political and economic structures of South Africa a terrible and brutal civil war might not easily involve Africa alone but the whole world in a global racial conflict. The choice before the international community has been a clear one ever since Sharpeville. Either it takes every possible step to secure the abandonment of the present policies in South Africa or the coming years will bring increasing sorrow and strife both for South Africa and for the world. Sharpeville was a tragedy showing most plainly that the ideology of apartheid is a way of death and not of life. Can the nations recognize this before it is too late?

The article follows:

A MASSACRE RECALLED

(By Bishop Ambrose Reeves)

(NOTE.—Bishop Reeves, born on 6 December 1899, was an Anglican priest in South Africa from 1949 to 1960. During the latter part of his service in South Africa, he was Bishop of Johannesburg. An outspoken opponent of apartheid, he was active in arranging legal defence and relief for political prisoners and their families in South Africa. He organized relief for the families of those killed and wounded in the Sharpeville incident and arranged for an investigation of the incident. Shortly thereafter, he was deported from South Africa.

(Returning to the United Kingdom, he was for several years in charge of the Student Christian Movement. During the past three years, he has been Bishop of Lewes. He was the first petitioner before the United Nations General Assembly on apartheid, having appeared before the Assembly's Special Political Committee in 1963. He is the author of Shooting at Sharpeville and several pamphlets and articles.)

Events at Sharpeville on 21 March 1960 shocked the world and are still remembered with shame by civilized men everywhere. Early that morning a crowd of Africans estimated at between 5,000 and 7,000 marched through Sharpeville to the municipal offices. It appears that earlier that day people were urged to take part in this demonstration. However, many Africans joined the procession to the municipal offices quite willingly. Eventually this demonstration was dispersed by the police, using tear gas bombs and then a baton charge. Fortunately nobody was hurt.

I was not at Sharpeville when the shooting occurred but it was familiar territory to me. Time and again I officiated at the large African Anglican church there and knew intimately many of the congregation, some of whom were to be involved in the events of that tragic day. I could so well visualize the scene. Near my home in the northern suburbs of Johannesburg was a large zoo situated in acres of parkland. By a curious anomaly the lake near the zoo was the meeting-place for Africans working in the northern suburbs on a Sunday afternoon. After work they would leisurely make their way there in small groups—a gay, colourful, jostling crowd—families and individuals—chatting, laughing, singing, gesticulating and occasionally fighting. The thud of home-made drums could be heard shattering the Sunday calm. It could so easily have been like that on that crisp autumn morning in Sharpeville. Like that, but so very different.

During the morning news spread through the township that a statement concerning passes would be made by an important person at the Police Station later that day. The result was that many drifted to the Police Station where they waited patiently for the expected announcement. And all the time the crowd grew.

Reading from the police report on what subsequently happened, the Prime Minister told the House of Assembly that evening that the police estimated 20,000 people were in the crowd. This seems to have been a serious exaggeration. From photographs taken at the time it is doubtful if there were ever more than 5,000 present at any particular moment. They were drawn to the crowd by a variety of reasons. Some wanted to protest against the pass laws; some were there out of idle curiosity; some had heard that a statement would be made about passes.

Whatever may have brought them to the Police Station, I was unable to discover that any policeman ever tried either to find out why they were there, or ask them to disperse, in spite of the fact that their presence seems to have caused a good deal of alarm to the police. So much so that at 10 a.m. a squadron of aircraft dived low over the crowd, presumably to intimidate them to disperse.

The police claimed that the people in the crowd were shouting and brandishing weapons. The Prime Minister told the Assembly that the crowd was in a riotous and aggressive mood and stoned the police. There is no evidence to support this. On the contrary, while the crowd was noisy and excitable, singing and occasionally shouting slogans it was not a hostile crowd. Their purpose was not to fight the police but to show by their presence their hostility to the pass system. They expected that someone would make a statement about passes. Photographs taken that morning show clearly that this was no crowd spoiling for a fight with the police. Not only was the crowd unarmed, but a large proportion of those present were women and children. All through the morning no attack on the police was attempted.

Even as late as one p.m. the Superintendent in charge of the township was able to walk through the crowd, was greeted by them in a friendly manner and chatted with some of them. Similarly, the drivers of two of the Saracen tanks stated subsequently that they had no difficulty in driving their vehicles into the grounds surrounding the Police Station. This testimony was borne out by photographs taken of their progress.

As the hours passed, the increasing number of people in the crowd was matched by police reinforcements. Earlier there had only been 12 policemen in the Police Station: six white and six non-white. But during the morning a series of reinforcements arrived. By lunch time there was a force of nearly 300 armed and uniformed men in addition to five Saracens.

Yet in spite of the increased force that was then available, no one asked the crowd to disperse. The police strolled around the compound with rifles slung over their shoulders, smoking and chatting with one another.

SCENE WAS SET FOR EXPLOSIVE SITUATION

The scene was set. Anyone who has lived in South Africa knows how explosive that situation had already become. On the one side was the ever-growing crowd of Africans. On the other side was the South African police. Every African fears them, whether they are traffic police, ordinary constables or members of the dreaded Special Branch. Most policemen expect unquestioning deference from Africans.

The only action taken during that morning appears to have come not from the police but from two African leaders who urged the crowd to stay aw y from the fence around the perimeter of the compound in order not to damage it. Then Colonel Pienaar arrived in the compound. He appears to have realized that he had come into a dangerous situation and therefore made no attempt either to use methods of persuasion on the crowd or to attempt to discover what the crowd was waiting for. Instead, about a quarter of an hour after his arrival he gave the order for his men to fall in. A little later he said, "Load five rounds." But he said no more to any of his officers, or to the men. Later, Colonel Pienaar stated that he thought his order would frighten the crowd and that his men would understand that if they had to fire they would not fire more than five rounds.

During this time Colonel Spengler, then head of the Special Branch, was arresting three African leaders. He said subsequently that he was able to carry out his arrest because the crowd was not in a violent mood.

It is extremely difficult to know what happened next. Some of the crowd near the gate of the Police Station compound said later that they heard a shot. Some said that they heard a policeman say, "Fire". Others suddenly became aware that the police were firing in their midst. But all agreed that nearly everyone turned and ran away once they realized what was happening. Colonel Pienaar asserted that he did not give the order to fire. Moreover, he declared that he would not have fired in that situation. It was stated later that two white policemen opened fire and about 50 others followed suit, using service revolvers, rifles and sten guns.

POLICE ACTION CAUSED DEVASTATING CONSEQUENCES

Whatever doubts there may be of the sequence of events in those fateful minutes, there can be no argument over the devastating consequences of the action of the police on 21 March 1960 in Sharpeville. Sixty-nine people were killed, including eight women and 10 children, and 180 wounded including 31 women and 19 children.

According to medical evidence the police continued firing after the people began to flee, for while 30 shots had entered the wounded or killed from the front of their bodies no less than 155 bullets had entered the bodies of the injured and killed from their backs. All this happened in 40 seconds, when 705 rounds were fired from revolvers and sten guns. But whatever weapons were used the massacre was horrible.

Visiting the wounded the next day in Baragwaneth Hospital near Johannesburg, I discovered youngsters, women and elderly men among the injured. These people could not be described as agitators by any stretch of the imagination. For the most part they were ordinary citizens who had merely gone to the Sharpeville Police Station to see what was going on. Talking with the wounded I found that everyone was stunned and mystified by what had taken place. They had certainly not expected that anything like this would happen. All agreed that there was no provocation for such savage action by the police. Indeed, they insisted that the political organizers who had called for the demonstration had constantly insisted that there should be no violence or fighting.

ARRESTS FOLLOW MASSACRE

To make matters worse, some of the wounded with whom I spoke in hospital stated that they were taunted by the police as they lay on the ground, by being told to get up and be off. Others who tried to help were told to mind their own business. At first there was only one African minister of the Presbyterian Church of South Africa who tried to help the wounded and the dying.

Later, 77 Africans were arrested in connection with the Sharpeville demonstration

in some cases while they were still in hospital. In fact, it was clear on my visits to the wards of Baragwaneth Hospital that many of the injured feared what would happen to them when they left hospital.

The attitude of the South African Government to the events at Sharpeville can be seen from its reaction to the civil claims lodged the following September by 224 persons for damages amounting to around £400,000 ($1,120,000) arising from the Sharpeville killings. The following month the Minister of Justice announced that during the next parliamentary session the Government would introduce legislation to indemnify itself and its officials retrospectively against claims resulting from action taken during the disturbances earlier that year. This was done in the Indemnity Act No. 61 of 1961. Money could never compensate adequately for the loss of a breadwinner to a family or make up for lost limbs or permanent incapacity. But it would have been some assistance. It is true that in February 1961 the Government set up a committee to examine the claims for compensation and to recommend the payment of *ex gratia* payments in deserving cases. But this is not the same thing, and in fact by October 1962 no payments had been made.

FAILURE OF POLICE TO COMMUNICATE WITH CROWD

Few commentators since Sharpeville have attempted to justify the action of the police. In fact, many of them have drawn special attention to the complete failure of the police to communicate with the crowd at the Police Station. If it had been a white crowd the police would have tried to find out why they were there and what they wanted. Surely their failure to do so was due to the fact that it never occurred to them, as the custodians of public order, either to negotiate with the African leaders, or to try to persuade the crowd to disperse. Their attitude was summed up by the statement of Colonel Pienaar that "the Native mentality does not allow them to gather for a peaceful demonstration. For them to gather means violence." The same point was demonstrated even more graphically by one of his answers at the Court of Enquiry under Mr. Justice Vessels. When asked if he had learned any useful lesson from the events in Sharpeville he replied, "Well, we may get better equipment."

What happened at Sharpeville emphasizes how far the police in South Africa are cut off from sympathy with or even understanding of Africans. At no time did the police express regret for this tragic happening.

Yet it would be folly to attempt to fasten the whole blame for the events at Sharpeville on the police. By the mass of repressive legislation which has been enacted every year since 1948, the South African Government has given the police a task which becomes ever more difficult to fulfill.

It was this legislation which was indirectly responsible for the tragedy of Sharpeville, and in particular, the "pass laws". Indeed, the immediate cause of many in the crowd assembling at the Police Station was the growing resentment of Africans to the system of passes.

HISTORY OF PASS LAWS

The pass system originated in 1760 in the Cape Colony to regulate the movement of slaves between the urban and the rural areas. The slaves had to carry passes from their masters. Subsequently, the system was extended in various forms to the whole country and was eventually collated in the Native (Urban Areas) Consolidation Act of 1945. This Act made provision for a variety of passes, including registered service contracts and for passes permitting men to seek work in particular areas. But through the years an increasing number of Africans had been given exemption from these laws.

In 1952 a new act, ironically called "The Abolition of Passes Act", made it compulsory for every African male to carry a reference book. To the Africans, reference books are passes for they contain all the details which were previously entered on the various pass documents. Failure to produce it on demand constitutes an offence for which an African may be detained up to 30 days while inquiries are being made about him. In the 12 months ending 30 June 1966 no less than 479,114 Africans were prosecuted for offences against the "pass laws". At the time of Sharpeville there were 1,000 prosecutions a day for these offenses. By 1966, this had risen to over 1,300 a day. These figures speak for themselves.

PASS LAWS EXTENDED TO WOMEN IN 1960

In 1960 the Government decided for the first time in South African history to extend the pass laws to African women. In their case another fear was added that they might be subjected to manhandling by the police with a further loss of human dignity. In fact, by the time of Sharpeville it was estimated that three quarters of African women were in possession of reference books.

African wages in Sharpeville in 1960 were low, partly because African Trade Unions were not, and still are not, recognized for the purpose of bargaining with employers. Moreover, the continuing colour bar in commerce and industry meant, and still means, high minimum wages for white workers and low maximum wages for the black workers who make up the great majority of the labour force.

All this means two wage structures in South Africa which have no relation to one another: in the fixing of the black wage structure the workers frequently have no say at all. Several months before the tragic events at Sharpeville it was becoming obvious that those living in the township were facing an intolerable economic situation.

Sharpeville was not an isolated incident. The 10 years before Sharpeville had seen feverish activity by the opponents of *apartheid*. By means of boycotts, mass demonstrations, strikes and protests, the non-white majority had attempted by non-violent means to compel those in power to modify their racist policies. For example, on 26 June 1952, the Campaign of Resistance to Unjust Laws had been launched, the same day three years later (26 June 1955) 3,000 delegates had adopted the Freedom Charter which had been drafted by the Congress Alliance. This took place at a massive gathering at Kliptown Johannesburg. The following year (1956) the Federation of South African Women held a series of spectacular demonstrations against the extension of the pass system to African women. These culminated in a mass demonstration at the Union Buildings, Pretoria, on 9 August. Some 10,000 women gathered there in an orderly fashion to present 7,000 individually signed protest forms. Again, from 7 January 1957, many thousands of African men and women for months walked 18 to 20 miles a day to and from work in Johannesburg in a boycott of the buses. Although in this particular case they gained their objective, all the various endeavors by Africans to secure change by peaceful means brought little tangible result.

The surprising thing was that in all this activity there was very little violence on the part of boycotters, demonstrators and strikers. In spite of great and frequent provocation by the police, Africans remained orderly and disciplined.

"CIVILIZATION WITHOUT MERCY"

The crowd at Sharpeville was not attacking anything or anyone. Further, there is abundant evidence to show that they were unarmed. As the late Sir Winston Churchill pointed out in a debate in the British House of Commons on 8 July 1920, "There is surely one general prohibition which we can make . . . against what is called 'frightfulness'. What I mean by frightfulness is the inflicting of great slaughter or massacre upon a particular crowd of people with the intention of terrorizing not merely the rest of the crowd, but the whole district or the whole country". This is precisely what the police did at Sharpeville. On that occasion Sir Winston concluded his speech with some words of Macaulay, ". . . and then was seen what we believe to be the most frightful of spectacles, the strength of civilization without mercy". These are words which aptly summarize all that happened at Sharpeville.

Certainly the Government of South Africa, though badly shaken in the days immediately following Sharpeville, soon regained control of the situation. On 24 March 1960, the Government banned all public meetings in 24 Magisterial districts. On 18 April, the Governor-General signed a proclamation banning the African National Congress and the Pan Africanist Congress as unlawful organizations. On 30 March, in Proclamation No. 90, the Governor-General declared a state of emergency which lasted until 31 August 1960. During that time a large number of prominent opponents of Government policy of all races were arrested and detained without trial. In addition some 20,000 Africans were rounded up, many of whom were released after screening.

After some months, at least superficially, life became at least relatively normal. But underneath the external calm dangerous fires continue to smoulder; fires that can never be extinguished by repressive measures coupled with a constant and growing show of force.

Outside South Africa there were widespread reactions to Sharpeville which in many cases led to positive action against South Africa: action which still continues.

It is my personal belief that history will recognize that Sharpeville marked a watershed in South African affairs. Until Sharpeville, violence for the most part had been used by the white minority. Over and over again, non-white civilians were injured by police action or by assaults on them when in prison. Until Sharpeville the movements opposed to *apartheid* were pledged to a policy of non-violence. But on 21 March 1960, when an unarmed African crowd was confronted by 300 heavily armed police supported by five Saracen armoured vehicles, an agonizing reappraisal of the situation was inevitable. Having tried every peaceful method open to them to secure change without avail, the African leadership decided that violence was the only alternative left to them.

As Nelson Mandela said in court at his trial in October 1962, "Government violence can do only one thing and that is to breed counter-violence. We have warned repeatedly that if there is no dawning of sanity on the part of the Government, the dispute between the Government and my people will finish up by being settled in violence and by force."

Outwardly things may go on in South Africa much as before. Visitors may find a booming economy, the white minority may seem secure in their privileged position for any foreseeable future, some urban Africans may have a higher living standard than formerly. But all this should not deceive anybody. The fact is that for the first time both sides in the racial struggle in South Africa are now committed to violence; the white minority to preserve the *status quo;* the non-white majority to change: change from a society dominated by *apartheid* to one that is non-racial in character.

The fact that at the moment this is being expressed through small bands of guerrillas who may be neither very well trained nor well equipped does not mean that they ought therefore to be dismissed as having little significance. After all, we have the examples of Algeria, Cuba and Viet-Nam before us as powerful reminders of what may result from very small and weak beginnings.

Unless there is a radical change in the present political and economic structures of South Africa a terrible and brutal civil war might not easily involve Africa alone but the whole world in a global racial conflict. The choice before the international community has been a clear one ever since Sharpeville. Either it takes every possible step to secure the abandonment of the present policies in South Africa or the coming years will bring increasing sorrow and strife both for South Africa and for the world. Sharpeville was a tragedy showing most plainly that the ideology of *apartheid* is a way of death and not of life. Can the nations recognize this before it is too late?

VILLAGE IN DELTA HAS ONE TV SET AND AUDIENCE IS MOSTLY CHILDREN

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. CHAMBERLAIN. Mr. Speaker, as one who has been greatly concerned about the development of more effective communications in South Vietnam through the establishment of a television network, I read with special interest an article appearing in the New York Times of Wednesday, March 25, describing the impact of this effort, particularly in the Mekong Delta Village at Ninhquoi. I commend to the attention of my colleagues the following article:

[From the New York Times, Mar. 25, 1970]

VILLAGE IN DELTA HAS ONE TV SET AND AUDIENCE IS MOSTLY CHILDREN

(By Gloria Emerson)

NINHQUOI, SOUTH VIETNAM, March 16—The big box is here.

At 7 P.M. every day the villagers of Ninhquoi can tune in to Channel 7, their own station in the Mekong Delta, and find out how the war is supposed to be going. But, like many Americans, most of them prefer to be entertained.

The village television set is not in a living room, and no one eats dinner while watching it. The set is outdoors, protected inside a metal box raised more than six feet. It faces a lumpy, dusty unpaved stretch of street with shops and little houses whose doors seem never to shut.

This community-owned television set, given by the Government of South Vietnam, is a 23-inch screen American model marked Setchel Carlson.

It was an American idea to introduce television to Vietnam. In 1969, it was estimated that there were more than 300,000 television sets in South Vietnam, most of them privately owned.

YOUNG AUDIENCE UNMOVED

"Alexander's Ragtime Band," the musical theme for an old European film on the history of the cinema, blared out in Ninhquoi one recent night. The film did not grip the audience, most of whom looked under 8 years of age.

Ninhquoi, which lies beside a canal, is made up of five hamlets, with over 6,000 people in them. No one can say how many men between the ages of 18 and 38 have gone into the army.

The hamlets are not next door to one another. Many villagers wishing to see the community television set in the biggest hamlet must walk more than a mile.

Some fear the possibility of a Vietcong terrorist incident. Others are farmers who are too tired to make it.

At 7 P.M. it is still light in Ninhquoi. A village dignitary rises on his tiptoes to reach the knob of the television set. The programs end at 10:30.

It is the children of Ninhquoi—including some so little that they toddle rather than walk—who are the most faithful audience. They like the noise coming from the box even when they do not understand the pictures.

ELDERLY WATCH REGULARLY

Adult television watchers are usually elderly people who, like the young, are grateful for distraction. The women in the village like to say that they have too much to do in their homes to sit for three and a half hours watching television, but a few do.

What do the villagers of Ninhquoi most enjoy on television?

"I am ashamed to say," the village chief said. He is 39-year-old Le Thanh Tong, who rarely watches it himself.

The favorite program—as it is all over South Vietnam—is called "Cai Luong," which has no literal translation. The Vietnamese who defend it say it is a kind of renovated theater in which the players both sing and speak in Vietnamese. Others, such as the village chief, consider it a soap opera. The program, which lasts for two and a half hours, has a different plot each week, all satisfyingly complicated and melodramatic to the audiences.

"Fault of Older Sister and Love of Younger Sister" was the title of a recent "Cai Luong" program. It is shown on Friday nights in Saigon but on Saturday nights on Channel 7 in the Delta.

"It is not suitable for children, for it is much concerned with love," the village chief said.

CHILDREN ARE INDULGED

But Vietnamese children live in a splendidly permissive world where mothers do not shriek at them to get to bed. In Ninhquoi, all the smallest infants stayed up until the end of the last program. Even then, they were not rushed to bed.

"Cai Luong"—which the children seem to adore for its melodrama—is so popular in the Delta region that the television station only showed it in installments on Saturday night. The reason given is that other films—mostly propaganda shorts—can then be squeezed in between installments. The villagers would not watch, it is said, unless they were waiting for "Cai Luong" to be resumed.

The propaganda films, usually made in Saigon, include highly idealized short films on South Vietnamese soldiers or men in the militia, and virtuous South Vietnamese citizens.

What difference has television made in the lives of the villagers?

A visitor speaking no Vietnamese cannot easily judge. But the children of Ninhquoi seemed more excited by the landing and take-off of a helicopter in the village, and the wind it raised, than by the magician, the dancers and the newsreels they had seen the night before.

Some observers feel television in Vietnam has come much too early. Others believe that it is an ineffectual way of bringing the Government to the people, who for 20 years have been inundated by propaganda of all kinds.

In Myxuong, another Delta village many miles away, a community television set was given to the people two years ago.

The village chief, an unrelenting anti-Communist Nguyen Thanh Nhon, feels it has made the Government in Saigon more real to the people.

But in this village, too, it was noted that 80 per cent of the television audience were children.

"And also the television set causes more movement at night," Nguyen Thanh Nhon added, when pressed for his opinion on other changes.

The movement comes from the children, who would ordinarily be in their homes, although not asleep.

The villagers of Myxuong—like those in the rest of the region—see only one channel, since it is difficult to receive Saigon's Channel 9. Nor can they very often see Channel 11, which is the United States Armed Forces network for American soldiers in Vietnam.

SAIGON'S FAVORITES LISTED

This means they are missing some of the favorites of the Vietnamese in Saigon who own private sets. "The Dean Martin Show," "Dragnet," "Bonanza," "The Red Skelton Show," "Felony Squad" and "Jimmy Durante's Hollywood Palace," which are all broadcast in English.

Villagers in Myxuong requested set from the district information service, which distributes them. But here again, while the population in the four hamlets exceeds 6,000 only slightly more than 100 people could be seen watching at night.

To operate the Japanese-made Honda generator needed for their television set, and to buy gasoline for it, the villagers pay about $2 a month out of village funds.

Some Americans with the United States Government agency, Civil Operations Revolutionary Development Support, feel television in South Vietnam is "a way to sell the Government."

THIEU VIEWED ON TELEVISION

"President Thieu doesn't travel as much as I wish he would in this part of Vietnam, so the next best thing is for the people here to see him on television," an official of the agency in the Delta said.

Others are not so sure that it makes an important difference.

The impression that the Americans have an unusually keen interest in how the Delta television station is run also comes from talking to the station manager, who is Hoang Thai. He feels he has about 37,000 viewers.

Two pretty, young Vietnamese girls read the news on Channel 7.

"By itself the news is not interesting," Mr. Thai said. "A lady announcer attracts attention and has a more attractive voice and manners."

He studied film production at the University of Southern California in Los Angeles eight years ago, and has worked with Americans in Saigon.

A small budget, decided and provided by the Government, limits his scope in program planning. He has only two cameramen.

No actual scenes of combat, or military operations, are filmed for Channel 7, for financial and technical reasons.

Television in the Delta is playing an important part, Mr. Thai said, in the pacification program. One example: "Wanted" posters of Vietcong suspects are televised.

The Ministry of Information in Saigon estimates that there are 2,330 community-owned sets in all of South Vietnam. Some stand unused—as in the city of Cantho—some have been stolen and some have been given to officials to put in their homes so they can see the programs.

The project started when the United States Government distributed free about 3,500 television sets in pacified hamlets. In 1966, with American aid, advice and urging, the Government of South Vietnam started its own television system, and has been distributing community sets reportedly on its own initiative and with its own funds.

But most of South Vietnam's 17.5 million people depend on radios for news, relaxation and comforting kinds of noise.

CARSWELL'S TAINTED IMAGE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FRASER. Mr. Speaker, Austin C. Wehrwein often comments incisively upon legal matters on the editorial page of the Minneapolis Star. On Wednesday, March 25, 1970, Mr. Wehrwein discussed the G. Harrold Carswell nomination to the U.S. Supreme Court. This commentary is worthy of a wider audience and I include it in the RECORD today.

The final two paragraphs of Mr. Wehrwein's commentary sum up what many of us feel about President Nixon's choice for the most prestigious court in the world:

At the same time, it may be true enough that any Southerner, especially one with Carswell's political background, is bound to face some automatic opposition. Narrow sectionalism is, of course, unworthy whether it is used for or against a nominee.

But while the case against Carswell is necessarily made in the context of Carswell, the Southerner, the burden of the opposition rests on an assessment of Carswell, the man . . . the lawyer and the judge. Label words like "mediocre" . . . "dull" . . . "callous" . . . are harsh. Yet what has the Nixon administration, especially Attorney General John Mitchell, been able to do by way of counter argument to destroy the image such words have created?

Surely there is a southern jurist or lawyer or legal scholar who will add to the luster of the Supreme Court rather than tarnish it.

The commentary follows:

[From the Minneapolis Star, Mar. 25, 1970]

CARSWELL'S TAINTED IMAGE

(By Austin C. Wehrwein)

What is the case against G. Harrold Carswell's confirmation as a member of the Supreme Court?

Unlike Clement F. Haynsworth Jr., Carswell was not caught off base on the conflicts-of-interest issue, an issue that was considerably warmer at the time of the Haynsworth debate because the Fortas scandal was still fresh in mind.

The contentions do, in fact, seem to boil down to Sen. Hruska's characterization: "mediocre." But while lawyers make very sharp assessments of each other (not normally in public) and of judges (even less so in public), "mediocre" or any similar label alone is too subjective to serve as a public political verdict.

However, there is documentary evidence to support the conclusion of mediocrity . . . and not as the bumbling Hruska used it, in his awkward effort to equate Carswell with the average voter.

But I can't help but feel that somehow that the merits of the Carswell case have not been clarified in the discussion so far. Perhaps this, if, no more, suggests the ordinary character of his mind and the drabness of his personality. In any event, the best anti-Carswell "brief" is a long statement signed by more than 450 lawyers and law deans.

The essence is: "Carswell does not have the legal or mental qualifications. . . ."

The statement, sent to all the senators, added that Carswell was not even fit to hold the U.S. district judgeship he has now.

It said he showed in his testimony no express or implied repudiation of his 1948 praise for white supremacy until disclosure of that attitude jeopardized his confirmation.

It said that the 1956 leasing of a Tallahassee public golf course to a newly-formed private club for 99 years at $1 a year was for the deliberate purpose of excluding Negroes, and Carswell, then a U.S. attorney, was a leader in the maneuver.

The statement based much of its argument on that episode, stopping just short of calling Carswell's Senate Judiciary Committee testimony false. Instead, it used "lack of candor and frankness"; it also said he is "lacking the intelligence of a reasonable man" and was "utterly callous" to the implications of the "scheme."

By 1956, segregated municipal recreational facilities (such as a golf course) were clearly unconstitutional. Meantime, the generally-accepted (but not always successful) ploy was to sell or lease the facilities to a private segregationist group.

Affidavits, signed by both blacks and whites, submitted to the Senate committee showed that the community was fully aware of the obvious: The golf course was being "rented" at $1 a year to a new club solely to keep black players off the premises.

Carswell was an incorporator and director of the club, called the Capital City Country Club. He "subscribed" $100.

He told the committee, however, that he thought the $100 was to be used only to help refurbish the wooden club house. As regards the club's purposes he was blank. Here is some of the tesitmony in truncated form:

Sen. KENNEDY. (Was) . . . the purpose . . . to avoid the various court orders which had required integration of municipal facilities?

CARSWELL. I state again unequivocally . . . that I never had any discussions with anyone, I never heard any discussions about this.

KENNEDY. Did you have any idea that the private club was going to be opened or closed (to Negroes)?

CARSWELL. The matter was never discussed.

KENNEDY. What did you assume?

CARSWELL. I didn't assume anything.

The statement concludes from this line of testimony that Carswell would have to have been "rather dull not to recognize the evasion (of the law) at once."

That is the essence of the case against his "mental" qualifications.

It is tantamount to a saying he is morally suspect. As for legal qualifications, the statement said that a full study of his record found "no indication that the nominee was qualified—by the standards of pure legal capacity and scholarships."

More specifically, it cited 15 decisions involving civil and individual rights. In all, he decided against the individual. In all, he was unanimously reversed by the appellate court. The statement said:

"These 15 cases indicate to us a closed mind on the subject (of civil and individual rights)—a mind impervious to repeated appellate rebuke. In some of the 15 he was reversed more than once. In many of them he was reversed because he decided the cases without even granting hearing although judicial precedents clearly required a hearing."

The statement is, of course, a political tract rather than a bare recitation of facts. Nevertheless, it is persuasive. The rebuttal is that Carswell is being attacked because he is a Southerner and a "constitutional conservative." Unfortunately, only too often "constitutional conservative" means "segregationist."

At the same time, it may be true enough that any Southerner, especially one with Carswell's political background, is bound to face some automatic opposition. Narrow sectionalism is, of course, unworthy whether it is used for or against a nominee.

But while the case against Carswell is necessarily made in the context of Carswell, the Southerner, the burden of the opposition rests on an assessment of Carswell, the man . . . the lawyer and the judge. Label-words like "mediocre" . . . "dull" . . . "callous" . . . are harsh. Yet what has the Nixon administration, especially Atty. Gen. John Mitchell, been able to do by way of counter argument to destroy the image such words have created?

C.F.R. AND OUR COMIC OPERA AFRICAN DIPLOMACY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1970

Mr. RARICK. Mr. Speaker, at the United Nations Organization, leftwing extremists of the Organization of African Unity celebrated their victory over civilization in the paper war against Rhodesia. But, their ill-gotten gains in New York brought little relief to the domestic tensions at home. While they solved world problems on a one-chief one-vote basis, their tribes at home warred against each other and basic human rights enjoyed in civilized countries yield to emotion and expediency.

The comic opera leaders of their African tribal states have emerged again into the usual spear-shaking hostility and the boss-man rule of the traditional tribal state.

On March 12, I addressed the House at length on the tragedy of our foreign policy in Africa—page 7189.

On March 23, the local newspaper carried a human interest story of the new stability enjoyed in the Democratic Republic of the Congo under the dictatorship of the showcase gendarmerie sergeant, Mobutu, who was promoted to general, then to one-party President by his plantation masters, the IMF, and the World Bank. In fact, because he has been a good boy, Mobutu has received compensatory benefits. He has received an extra quota of S.D.R.'s—special drawing rights—paper gold—from the international bankers—just like taking candy from a baby.

The following day, President Ngouabi, the Red stooge and hardline Communist dictator of the other Congo, across the river, reported an attempted coup against his rule which he charged had been instituted by his neighbor, General Mobutu of the Domocratic Republic of the Congo, whom he accused of being "a lacky and running dog of imperialism."

He was probably right, since Mobutu breaks the monotony about every 10 days by threatening to send a company of his Israeli-trained paratroopers on a preventive retaliation mission to take over Ngouabi's Congo. Spear shaking has become so commonplace that the UNO does not even consider the incidents worthy of placing on the agenda. After all, the internationalists could not even get together on Biafra.

But, tribal justice for treason is swift and certain in the Congo. The death penalty for conspiracy was executed 7 days after arrest. The trial court and the supreme court must be one and the same in emerging Africa. It makes one question whether or not the condemned men had right to counsel—change of venue—even a jury trial.

While the Organization of African Unity tribal representatives in New York City were celebrating the diplomatic coup over the U.S. blunders in African foreign policy, and as the tribal chiefs were too busy spear-shaking at one another and executing conspirators to organize an army to realize their dream of conquering the civilized countries to the south, the President of the United States on March 23, celebrated a historic first by wining and dining at the White House with the ambassadors of the 32 members of the Organization of African Unity. Despite the exotic menu, I am pleased to report that there is no cause for alarm over the failure of the President to make a public appearance since the meal.

At the same time the American people were paying for the firewater to entertain the natives, the U.S. Davis Cup committee refused the youth of South Africa a right to play tennis in the 1970 Davis Cup Tournament because the athletes behind the Iron Curtain said they would refuse to play against free people.

And, despite the Anglo-U.S. "kowtowing" to the bloc vote in the United Nations organization, Soviet Russia stole all the diplomatic marbles by telling our new-found allies of the Organization of African Unity that it is all America's fault that we have not sent U.S. troops to preserve world peace in peaceful Africa by conquering warlike Rhodesia.

But the U.S. State Department does not change its "no win" policies easily. So the African expert, Secretary Rogers—fresh from his 10-day African tour of only nonwhite countries, and exuberant at his newly won "compromise sanctions" against Rhodesia—issued paper gold of his own, a 5,000-word document, probably not worth the paper printed on, except being good for more U.S. credit and prestigious backing.

What a tragic comic opera American diplomacy has become since it ceased to serve the interests of the American people in favor of the interests of the CFR.

I submit pertinent newsclippings to be included in the RECORD at this point:

[From the Christian Science Monitor, Mar. 20, 1970]

AFRICANS CELEBRATE ANTI-RHODESIA GAINS—UNITED NATIONS DELEGATES SEE U.S. VETO AS DIPLOMATIC COUP

(By Bertram B. Johansson)

UNITED NATIONS, N.Y.—African, and particularly Zambian, delegates to the United Nations are undisguisedly jubilant over the amount of sudden activity they have stimulated on the Rhodesian question since March 2.

Not only have they obtained another Security Council condemnation of the Ian Smith regime, which the British, to be sure, asked for as well.

They have achieved the closing of some eight consulates and national missions in Rhodesia, including that of the United States, in the time span of the Rhodesian debate here between March 2–18.

They see it as a diplomatic coup of the first order to have forced the United States to exert its first Security Council veto in the 25 year history of the United Nations.

The United States used its veto against an Afro-Asian resolution condemning Britain for failing to use force to overthrow the white minority regime in Rhodesia. Britain also vetoed the resolution.

COMPROMISE ADOPTED

The Security Council finally adopted a compromise resolution moved by Finland which calls on UN members to sever all relations with Rhodesia and to suspend all transportation to and from the rebel British colony.

The African jubiliation is seen by some here as possibly somewhat premature. Even Zambia delegates admit that the Smith regime may begin to feel so politically isolated by Security Council action and the closing of consulates that it might engage in some "military adventures" against neighboring Zambia.

Zambian officials here stated that the Smith government had killed innocent Zambian civilians on several occasions in border actions and had razed several Zambian villages to the ground. They also noted that Zambian territory had been invaded by Portuguese armed patrols from Mozambique.

CUTOFF CALLED POSSIBILITY

These same Zambians posed the possibility that the Smith regime might well attempt to cut off electricity generated at the Kariba Dam, a joint Zambia-Rhodesia operation. Zambia receives 70 percent of its electric power from the Kariba Dam.

From the African point of view, the United States veto represented a "desperate, cynical, and hypocritical move" to support Britain, and to oppose Africans on the use of force against Rhodesia.

From the United States view, the veto was cast as a sign of American awareness of responsibility to prevent the use of force against any government or peoples, no matter how illegal that government may be in the eyes of the international community.

U.S. Ambassador Charles W. Yost acknowledged that "it is natural and proper that the African members of the United Nations should feel deep frustration at the inability of our organization, thus far, to bring about the compliance of a regime (in Rhodesia), representing only 200,000 whites, and not even all of them, among 4.5 million blacks, with the legitimate demands and decisions of this Council. It is equally natural that they should seek further means to make our decisions prevail. . . .

POWER OUTLINED

"However, as we are all aware, the United Nations does not have unlimited powers. The Charter does not convey such powers upon it nor have members been able to agree among themselves to give it in fact all the authority which the Charter conveys, in principle . . . ."

Abmassador Yost reiterated that "in the present instance it seems to us both improper and futile to call upon the United Kingdom to overthrow the Smith regime by force—improper because starting a war anywhere is hardly what the United Nations should recommend and starting a war in southern Africa would be particularly risky business, futile because we all know perfectly well that the United Kingdom is not going to engage in any such hazardous enterprise. . . ."

Mr. Yost also expressed United States disagreement with a proposal to cut off all communications with the Smith regime. Having closed its consulate in Salisbury, the United States the Ambassador said, could not agree to cut off the land and air communications by means of which American citizens could leave southern Rhodesia.

Casting for the first United States veto came under dramatic circumstances. When it became apparent in debate on March 17 that the Soviet and Afro-Asian groups might well be able to summon enough votes to condemn Britain for not using force, several maneuvers were undertaken.

Britain's Lord Caradon asked for a 24-hour period in which to consider two paragraphs of a resolution incorporating a condemnation of Portugal and South Africa. This was denied.

SPEECH DELAYS ACTION

The American delegation, needing to telephone Washington for counsel and advice, asked for a half-hour delay, as a matter of diplomatic courtesy, especially since the African countries had asked, and obtained, several delays early in March. The half-hour delay for the United States was denied on a vote of the Soviet-Afro-Asian groupings.

Mr. Yost then achieved his delay by giving a short speech, and asking that it be translated into the official languages of the Council. Normally, delegates will waive "consecutive translation."

By the time the translations had been accomplished and several other delegates had issued caveats, explanations of position, exceptions, and qualifications—some of them by Africans—the American delegation obtained its precious half-hour of time to talk with the State Department in Washington.

And, to the surprise of everyone, the United States invoked its first veto in UN history.

In the past the Soviet Union has invoked 105 vetoes, the most recent one opposing condemnation of the Russian invasion of Czechoslovakia in 1968. Britain has cast 4 vetoes, including 1 on the Rhodesian question this week; France 3; and Nationalist China, 2.

U.S. spokesmen here were emphasizing they did not feel it was a defeat for the United States finally to have used its veto power. It is looked upon by these spokesmen not as an abuse of power, as many of the Soviet vetoes tend to be regarded, but as a device used to exert big power responsibility.

[From the Washington Post, Mar. 23 1970]

MOBUTU'S CONGO ENJOYS NEW STABILITY

(By Jim Hoagland)

KINSHASA, THE CONGO.—A decade after his unwieldy country burst into the world as a synonym for chaos and bloodshed, General Joseph Desire Mobutu is beginning to edge himself and the Congo forward to claim the leadership mantle in African affairs.

"He feels secure enought at home to start throwing The Congo's considerable weight around," says one astute Mobutu watcher, who sees a pattern in recent initiatives by the Congolese president.

Mobutu's efforts to gain more influence on the African scene apparently stem from his confidence that his grip on The Congo is now absolute, and that this rambling, increasingly rich country has largely cured its chronic instability.

Even for a continent where one-man rule is a feature of most governments, Mobutu's performance since he overthrew President Joseph Kasavubu in 1965 has been remarkable.

The 39-year-old general has extended his control unit until he now personally makes virtually every decision of importance for The Congo, which is as large as the United States east of the Mississippi, and inhabited by at least 16 million people.

This style of governing—termed by one diplomat who admires Mobutu as "paternal dictatorship"—is based on advice he receives from a small group of Congolese technocrats, and from Western advisers.

American support has been crucial to Mobutu in overcoming widespread rebellion that plagued the Congo from independence in 1960 until mid-1967. In addition to advice, the United States has poured about a half billion dollars in aid into the Congo from 1960 to 1969.

A success story here could provide a great boost to those who argue that the United States should be more active in Black Africa. If Mobutu and The Congo slip, however, it could be disastrous for American influence in Africa.

Western analysts see The Congo as a

counterweight to the more radical, leftist states in Central and West Africa. For these reasons, recent events that have attracted little public notice elsewhere have been carefully scrutinized here:

Mobutu moved quickly to identify himself more than any other African leader with Nigeria's victory in its civil war against Biafra. He was the first head of state to visit Lagos after the end of the war. The Congo's donation of $600,000 was by far the largest African contribution to the Nigerian relief effort, and The Congo sent military aircraft and personnel to help with relief.

An official of Chad's government recently revealed that The Congo is the only African country that is helping train Chadian troops in their fight against rebels. The official, Antoine Bangui, gave no figures, but said The Congo was helping "reorganize" Chad's army.

In the past few months, Mobutu has been Africa's most peripatetic ruler. He has visited nearly a dozen countries since November, and has noticeably improved his relations with leaders like Jean Bokassa of the Central African Republic.

Significantly, he has visited several English-speaking African countries. Mobuto is thought to feel that The Congo, which is French speaking but which is not tied to France, can be the bridge between the two language blocs in Africa.

CONFIDENT TRAVELER

If such visits demonstrate The Congo's growing interest in influencing Africa, Mobutu's extensive travels outside Africa indicate his self-confidence at home. A long absence by a leader in Africa often triggers a coup or coup attempt.

Mobutu, who has just announced that he will visit the United States in August, went to Europe twice last year. On the second trip, he was greeted by a 51-gun salute and open arms by King Baudouin of Belgium, The Congo's former colonial master.

The visit underscored the complete lack of open Congolese opposition to Mobutu from the left. Several weeks earlier, he had reached a settlement with Union Miniere du Haut Katanga, the giant Belgian firm that owned 80 per cent of The Congo's wealth before Mobutu nationalized its mines in 1967.

Analysts say the long delayed settlement gives the Belgians better financial terms than a similar deal worked out between Zambia and international copper companies recently. But there is no criticism of the settlement in Kinshasa.

Mobutu announced last week that presidential and legislative elections—the first of his five-year reign—will be held in December.

It is likely that Mobutu will be re-elected president without opposition, and that the National Assembly candidates will be handpicked by the hierarchy of The Congo's only political party, Mobutu's Mouvement Populaire de la Revolution.

But by living up to his promise of holding elections within five years of his takeover, Mobutu is showcasing the progress he has made.

PURSE POWER

The new budget discloses that Mobutu has taken all development and research funds away from government ministries and put them under his office. His office has also taken over many powers held in the past at lower levels.

This is the result of a governmental reorganization last August, which was overshadowed at the time by a spectacular cabinet reshuffle in which Mobutu downgraded the two men who were thought to be politically indispensable to him—Justin Bomboko, former foreign affairs minister and now ambassador to Washington, and Victor Nendaka, former finance minister and head of the Congolese Secret Police. He is now ambassador to Bonn.

There was undoubtedly deep political motivation behind the changes, but it has never been sufficiently explained either privately or publicly, sources here say. What has become clear now that the reorganization has begun to take effect is Mobutu's twin desires to tighten his personal control of the government apparatus and to replace political leaders with technocrats.

Nendaka was shoved aside for Louis Namwezi, the new finance minister who is a professional economist and who has close contacts with and the confidence of the International Monetary Fund and U.S. officials here.

The IMF and the World Bank, which coordinate their policies closely in the Congo, have played key roles in advising Mobutu. The IMF, for example, induced him to devalue his currency sharply in 1967. The World Bank, which has been dangling a large development loan in front of The Congo and which pressured Mobutu to settle with Union Miniere, may be even more disposed to granting the loan now that Nendaka has been replaced by Namwezi.

Despite Mobutu's justifiable pride in The Congo's newly found stability "The word stability is used like a religious chant here" says one diplomat, "everybody talks about it all the time." He still has to cope with the scars left by the violent outbursts of the past decade.

From the vantage point of this sweltering, river bank capital it is difficult to judge how far Mobutu's iron grip on his 35,000-man army extends out in the vast forests of The Congo. Some sources report that discipline of the once openly rebellious troops has improved, but is still far from tight.

Mobutu's other main problem of the moment seems to be wrestling with the economic discontent that is openly voiced in Kinshas.

Although workers have regained much of the purchasing power they lost in the 1967 devaluation, they are still caught in an inflationary squeeze.

There is much unemployment. And the people seem to be increasingly concerned that little of the millions of dollars pouring into the treasury are trickling down to the people, as the government hoards its assets to impress foreign investors with the country's stability.

In an election year, even an autocratic ruler like Mobutu is likely to make some moves to ease this discontent.

The most serious problem facing The Congo, in the view of one thoughtful long time foreign resident here, is strangely enough the country's momentary strength—Mobutu's unchallenged position as leader.

"The extent and type of aid the United States and other countries are giving Mobutu's government shows that he has convinced them there is no alternative to him in The Congo," the observer said.

"But by holding the reins so tightly and sending off anybody who might develop as a threat—or a successor to him, Mobutu is putting the country at the mercy of his fate."

[From the Washington Post, Mar. 24, 1970]

BRAZZAVILLE PUTS DOWN COUP, BLAMES OTHER CONGO

BRAZZAVILLE, March 23.—President Marien Ngouabi crushed a coup against his Communist-line regime in Congo-Brazzaville today.

About 50 rebels, apparently led by Pierre Kikanga, seized Brazzaville Radio and several other public buildings about 5 a.m.

Calling themselves the National Liberation Committee, they announced the abolition of the constitution, which Ngouabi proclaimed Dec. 31 when he turned the country into a people's republic with a red flag as its emblem and the International as its temporary anthem. The rebels said that Ngouabi had been deposed and a new government would soon be announced.

Ngouabi, dressed in a commando uniform, was reported to have personally taken command of loyalist forces ringing the radio station and ordered the rebels to surrender.

They chose to shoot it out. After a short battle Ngouabi's forces recaptured the station and it came back on the air to announce that the coup attempt had been defeated.

Kikanga and 29 of his men were killed, the radio announced, and Kikanga's body was put on public display. Two government soldiers were also killed.

The coup attempt seems certain to create new trouble between Brazzaville and the neighboring Congo-Kinshasa of President Joseph Mobutu.

Ngouabi charged in a broadcast today that Kinshasa had supported the coup. The rebels crossed the Congo River from Congo-Kinshasa, Ngouabi charged. He made the same accusation last November when another coup failed.

A radio appeal by Kikanga for military help from Kinshasa will give Ngouabi more ammunition with which to resume the war of abuse against the neighboring Congo. There had been a recent lull in the shouting match between the two Congos.

Kikanga also asked help from Gabon, the Central African Republic and Chad, which is likely to cause new strains in their relations with Brazzaville.

SECOND COUP ATTEMPT

Kikanga was a former army sergeant who fled Brazzaville for Kinshasa after taking part in an unsuccessful coup attempt in 1968. For that effort he had been sentenced to death in absentia.

Informed sources said that Kikanga was a supporter of exiled former President Abbe Fulbert Youlou, who lives in Congo-Kinshasa.

Jim Hoagland of The Washington Post cabled from Nairobi that the real danger to Ngouabi is from his left, not from pro-Youlou rightists.

Most observers expect any serious attempt to topple Ngouabi to come from forces seeking to make Brazzaville's links with Communist China stronger than they are.

"RUNNING DOGS"

"Long live the red flag! Long live the Internationale!" said Ngouabi in his broadcast following the defeat of the coup. He described the insurgents as "lackeys and running dogs of imperialism," a phrase often used by Peking.

Ngouabi said that all the plotters were killed or captured except one—former Defense Minister Augustin Poignet. "He is still in Brazzaville," Ngouabi said, "it is necessary to find him."

Brazzaville calls itself a Marxist revolutionary state with strong ties to Peking and asserts that its giant neighbor across the Congo River harbors and equips subversives. Kinshasa, which depends heavily on American financial and technical aid and views itself as a moderate, accuses Brazzaville of doing the same.

A major irritant in their long-standing dispute is Brazzaville's defensiveness about its small size (900,000 people to Kinshasa's 16 million plus) and lack of real ideology. For all the Marxist rhetoric of the Brazzaville regime, there has been little social change since it took on the trappings of a people's republic.

There are no diplomatic relations between the two Congos and no travel is allowed between them. Kinshasa was formerly the Belgian Congo while Brazzaville was a French colony.

The two Congos have been competing for support from neighboring countries, but they have stymied their neighbors' efforts to cool down their dispute.

Western analysts believe that Congo-Brazzaville is one of the few African countries where communism could establish a strong ideological hold. There are reports that the number of Chinese advisers has doubled from the 50 that were here several months ago.

[From the Washington Evening Star, Mar. 23, 1970]

LOYALISTS FOIL COUP ATTEMPT IN BRAZZAVILLE

KINSHASA, CONGO.—President Marlen Ngouabi of the neighboring Congo Republic announced today his loyal forces had crushed a coup attempt by 30 rebel soldiers he called "lackeys and running dogs of imperialism"—a favorite communist insult.

The rebels led by a Lt. Kikanga seized the radio in Brazzaville capital of the former French Congro across the Congo River from this former Belgian Congo capital. Government troops ringed the radio station with tanks and killed Kikanga.

"A group of adventurers, lackeys of international imperalism, headed by Lt. Kikanga, former officer, refugee in Kinshasa, attempted this morning to seize revolutionary power and wished to speak in the name of the people's army," Ngouabi said in a broadcast.

"But the army remained faithful . . . and as a single man, decided to encircle this group of mercenaries in the pay of the enemy.

"Long live the red flag! Long live the Internationale (the communist anthem)!"

A government communique repeated several times on the radio said, "the traitor Kikanga, running dog of international imperialism, was defeated. His body is at the Brazzaville General Hospital."

An appeal was broadcast for blood donors, apparently for rebels who were wounded. It also called citizens to an afternoon demonstration at the Brazzaville city hall "to decide the fate of the adventurers."

The rebel soldiers took Brazzaville Radio at 5 a.m. (11 p.m. yesterday EST) and announced the replacement of Ngouabi's Marxist government with a provision regime. They said the president has been arrested but was safe.

Appeals for military help from such neighboring nations as Gabon, Chad, the Congo and the Central African Republic went out over Brazzaville radio under the rebel soldiers before the station went dead at 7:45 a.m.

The rebel leader, Lt. Kikanga, was said to have fled the republic after being condemned to death for subversion in 1969. But he returned to engineer the abortive takeover attempt.

Shooting could be heard in Brazzaville from Kinshasa.

Later youths waving red flags, the emblem of the republic since it took to the path of communism in December, marched through the streets of Brazzaville to display support for Ngouabi.

A former army colonel, Ngouabi became president Dec. 31, 1968, and exactly one year later announced a constitution changing the nation's name to the Congo People's Republic and making the "internationale" the national anthem.

The rebel soldiers who seized Brazzaville Radio announced "the hour of liberty has rung . . . it is the end of irresponsibility, end of disorder in the administration, in the army, end of political ignorance, end of arbitrary arrests of officers . . ."

From Pointe-Noire, 220 miles east of Brazzaville on the Atlantic coast, an official loyal to Ngouabi went on the radio and accused the soldiers of distributing "imperialist propaganda" and warned them to give up by 9:15 a.m. or be crushed.

The loyalist troops moved in before that deadline and retook the station from the so-called "military committee of national liberation."

[From the Washington Evening Star, Mar. 30, 1970]

THREE MEN EXECUTED BY BRAZZAVILLE IN COUP ATTEMPT

KINSHASA, CONGO.—Three military men were executed yesterday in the neighboring Congo Republic for trying to overthrow the Marxist regime last week, Brazzaville radio said.

The broadcast said two other condemned leaders of the attempted coup are still at large.

The radio did not say how the men were executed but identified them as Capt. Albert Miaouama, Sgt. Jean-Marie Mengo and Andre Nkoutou, a chief adjutant of the national police.

[From the Washington Post, Mar. 30, 1970]

WORLD BANK PLANS OFFICE, GETS YEN

The World Bank announced yesterday it will establish resident mission in Lagos, Nigeria, next month at the request of the Nigerian government.

The bank also announced the Bank of Japan will lend 36 billion yen equal to $100 million, to the bank for 7.14 per cent annual interest.

World Bank president Robert S. McNamara called the loan "a development that is of prime importance to future financing of our activities. Only through the broadening of sources of funds available to the World Bank can it insure a continuing and sufficient supply of financing for its expanding loan operations."

[From the Washington Post, Mar. 29, 1970]

CONGO'S NEW CURRENCY REFLECTS COUNTRY'S ECONOMIC HEALTH

(By Jim Hoagland)

KINSHASA, CONGO.—"Monsieur, we do not have funny money here now," a Congolese taxi driver said recently with an aggrieved air, as a customer haggled over the $6 fare for a bumpy 10-mile ride from Kinshasa's airport.

There was undoubtedly a lot of self interest ladeled into the driver's remark, but it also indicates growing Congolese pride in an economic recovery that astounds financial experts.

General Joseph D. Mobutu sees this economic progress as perhaps the most important part of his campaign to fuse the 200 or so tribes who inhabit this central African giant into a nation.

CURRENCY STABLE

The driver seemed as proud as the president that Congolese currency, which was once the laughing stock of Africa and which sold on the black market for 300 to 400 percent markups has now stabilized.

The increasingly hard-to-find illicit money changers now give only 20 percent premiums.

President Mobutu introduced the new currency, which is called the zaire and which bears Mobutu's image, in 1967 when he agreed to a strong International Monetary Fund suggestion for a 350 percent devaluation. The Congo, suffering from the aftermath of its civil war and poor financial management, was nearly bankrupt then.

The Congolese disdain the ex-French colonies which have kept the French African franc as their currency and whose budgets therefore are tied to France. One zaire is worth two American dollars.

Mobutu, who has begun in the past few weeks to assert that "operation zaire" has succeeded, also whips up nationalist fervor by pointing to the Congo's healthy foreign exchange reserves ($236 million), compared to almost nothing three years ago and his liberal investment code, which has brought German, Japanese and American investors sniffing around this country, rich in minerals but devoid of infrastructure.

NAME MEANS RIVER

Mobutu checked off the old Congolese franc and went back in history for the name zaire (pronounced zah-ear) which is the answer Congolese tribesmen reportedly gave the the first white explorers who saw the Congo River and asked how it was called. Zaire is an African word that simply means "river."

Experts involved in the Congo's economic recovery credit it to two factors: increasing copper production while copper prices are at an alltime high, and improved budgetary control that has eliminated the inflationary deficit spending of past Congolese governments.

The copper mines of Katanga account for more than 60 per cent of the Congo's export earnings. Other important minerals are gold, tin, diamonds and cobalt (The Congo produces about half of the world's supply).

NATIONALIZED MINES

Mobutu nationalized the mines, which had belonged to a Belgian firm, Union Miniere du Haut Congo, in 1967. But realizing that law suits in Europe could strangle his chances for marketing the copper, Mobutu made a generous settlement with the Belgians a few months ago. About 1,500 Belgian technicians are currently running the mines. This, plus the legislation that gives foreign investors at least a year off from taxes, is attracting renewed attention here, and Mobutu makes the most of it.

He has hoarded the foreign exchange brought in by the mines in a move to increase investor confidence. A half billion dollars in U.S. aid has enabled him to do this and at the same time "keep the country together" in the words of one observer.

"The Congo is now at the transition point, where aid can be used to help the country take off," an economist here noted recently.

CONGO'S OWN BOMBAST

Sometimes the Congolese seem to get carried away with their own nationalistic bombast. This, at least, seems to be the most reasonable explanation of the frequent and loud assertions being made by Congolese officials that their country became the first in the developing world to join the Group of Ten last month.

In fact, the Congo was one of about 30 countries given extra quotas by the International Monetary Fund when the Special Drawing Rights system was put into effect.

This prestige move and vote of confidence in the Congo (which, because of its solid reserve position, is unlikely to need the extra rights), has somehow been translated with considerable chest puffing out as membership in "les dix."

The Congolese economic pride is also tempered by the realization that they still face major hurdles in economic development. The outlook, as one foreign expert describes it, is "fair with a few clouds."

TRANSPORTATION LACKING

The major problem is the lack of transport networks across the Congo, which is larger than Texas and Alaska combined but which has fewer miles of paved roads than Rhode Island, and which has only 25 miles of sea coast.

The Congo needs to double its current production of more than 300,000 metric tons of copper a year to retain its 6 per cent share of the world market, over the next decade, according to economists here.

The mines have the capacity to do this, but no one is sure they will have any way to get it out of Katanga to the sea.

The Congo River is one of the world's mightiest and longest, but is not navigable south of Kinshasa. An expensive and inefficient 1,500-mile rail-water-road system is currently used to ship about half of the copper to the port of Matadi.

The other half goes out along the British-owned Benguela railway through Portuguese Angola to the port of Lobito. But this link is vulnerable to sabotage by guerrillas fighting the Portuguese (and who do not get along with Mobutu), and affects Mobutu's relations with the Portuguese.

The United States, the Common Market's development fund and the World Bank are all considering studies for new transport links for the Congo, either along the river or a new railway. But the cost—likely to be over $250 million for either system—looks prohibitive thus far.

Lack of transportation cost the Congolese an important deal recently when a friendly government offered to buy the surplus corn and manioc crops that are rooting in the Congolese interior.

"Fine," a high ranking Congolese official reportedly told the ambassador who made the offer. "Go ahead and get it." When the ambassador gently suggested that perhaps the Congolese could bring the produce to the port, the Congolese official looked surprised. "We have no way of bringing it in from the bush," he said. The deal fell through.

Finally, there are the enormous social problems of the Congo which Mobutu has not yet begun to deal with effectively. Inflation, while not as bad as it was after the 1967 devaluation just about doubled prices, is still a concern to a population that earns about $100 per capita per year.

Corruption still flourishes and hampers economic gains. A young high school graduate says he would have to pay $10 to $20 to get a job. He would gladly pay if he had $10 to $20. A British businessman who came here hoping to place some new contracts quietly packed his bags and left after he found government officials expected a 25 per cent rake-off on all contracts.

But even these dark spots cannot dampen the enthusiasm of the Congolese about their new money and their burgeoning new economy. Many of them still are hoping that prosperity will eventually trickle down to them.

MALAWI SEIZES AXING SUSPECTS

BLANTYRE, MALAWI, March 16.—President Kamuzu Banda announced last night that police have arrested the alleged leader and members of a gang responsible for a recent wave of ritual axe killings in Blantyre's African townships.

Banda previously said the murders were the work of sorcerers seeking human parts for their medicines. But he has accused Malawian rebels in Zambia and Tanzania of taking advantage of the killings to concoct anti-government propaganda.

The murders, which may have killed as many as 28 persons in the past year, have caused widespread apprehension among Malawians. Most victims were hacked to death in their beds.

[From the Evening Star, Washington (D.C.), Mar. 24, 1970]

PRESIDENT FETES AMBASSADORS: SALUTE TO NEW AFRICA

(By Isabelle Shelton)

President Nixon, entertaining African ambassadors last night at what he called another White House "historic first," pledged U.S. sympathy for the nations on the emerging continent, especially their children.

The dinner, the first at which "all of the African diplomats were honored in this room (the State Dining Room) . . . indicates the escalating manner in which Africa and the nations of Africa have come upon the American as well as the international scene in a very short period of time," Nixon told representatives of the Organization of African Unity.

"I endorse in advance" the report and recommendations that Secretary of State William Rogers will give him in a few days concerning U.S.-African policy, based on Rogers' recent trip there, the President told the group of about 100, which included Rogers and his wife.

TOAST AND RESPONSE

"We only hope that in our policy toward Africa (we) . . . will be able to help you realize your hope, to extend to the greatest opportunity that is possible the ideas that you have for your future, but that, above all, to see that your children realize that they have a chance, a chance for a better world, a more peaceful world, a world of progress, a world of opportunity for them and all of the other children of the world," the Chief Executive went on.

Ambassador Edward Peal of Liberia, responding to the presidential toast on behalf of the 32 members of the Organization of African Unity who were present last night, said he and his colleagues "recognize the earnest altruism that has motivated the assistance, moral and material, extended to our people over many years and in a variety of contexts.

"We will always remain mindful of the close, strong, brotherly ties that link us to that large and creative segment of the American people," he continued, and "so long as there is respect for human dignity, and so long as there is one man who cries out from the dwindling jungle of tyranny, so long, Mr. President, will the American example and pattern be a very relevant and shining example for the building of the African dream."

The dinner for approximately 100, which reporters were not permited to attend, was designed, the White House indicated as a prelude for a New White House African policy (apparently to be enunciated in Rogers' report and recommendations on his recent trip, to be made in a few days.)

The dinner, according to some who attended, presented a colorful scene, with several ambassadors joining their wives in wearing colorful native costumes.

The Ambassador of Ghana and Mrs. Debrah, wearing what a few guests called identical "His and Hers" costumes, in bright red, yellow and black patterned fabric, were cited as especially notable.

"It was a warm and colorful evening all around," with American women at the black tie dinner seeking to match the brilliant colors worn by the African, according to the wife of one U.S. official who was present.

First Lady Pat Nixon wore a long-sleeved, high-necked white gown, belted at the waist and decorated at the neck with brilliants.

The menu called for Supreme of Striped Bass Duglere, Tournedos of Beef Saute Rossini, Artichokes Hascotte, Fresh Asparagus Hollandaise, Bel Paese Cheese, Bibb Lettuce Salad and Charlotte Royale.

The usual after-diner entertainment in the East Room was dispensed with last night, in place of a brief period of singing by the United States Army Chorus during the dessert course.

After-dinner guests mingled briefly with the Nixons over coffee and liqueurs, wandering from room to room on the public floor.

There they could admire the Andrew Wyeth paintings still on exhibit, and the display of spring flowers in the entrance foyer—huge tubs containing blooming cherry blossom trees, pink azalea trees, forsythia bushes and red geraniums.

WHITE HOUSE GUESTS

Guests at the dinner given by President and Mrs. Nixon at the White House last night were:

Secretary of State and Mrs. Rogers.

Ambassador of Liberia and Mrs. Peal.

Ambassador of the Libyan Arab Rep. and Mrs. Abidia

Ambassador of the Central African Rep. and Mrs. Gallin-Douathe

Ambassador of the Federal Rep. of Cameroon and Mrs. Owono

Ambassador of the Rep. of Niger and Mrs. Mayaki

Ambassador of the Rep. of Upper Volta and Mrs. Rouamba

Ambassador of the Rep. of Ivory Coast Timothee N' Guetta Ahoua

Ambassador of the Rep. of Burundi and Mrs. Nsanze

Ambassador of the Rep. of Dahomey and Mrs. Zollner

Ambassador of Morocco Ahmed Osman

Ambassador of the Rep. of Togo and Mrs. Ohim

Ambassador of Malawi Nyemba Wales Mbekeani

Ambassador of Ghana and Mrs. Debrah

Ambassador of the Somali Republic Yusuf O. Azhari

Ambassador of Nigeria and Mrs. Iyalla

Ambassador of the Rep. of Senegal and Mrs. Fall

Ambassador of Mauritius and Mrs. Balancy

Ambasador of Swaziland and Mrs. Sukati

Ambassador of the Rep. of Chad and Mrs. Massibe

Ambassador of the United Rep. of Tanzania and Mrs. Rutabanzibwa

Ambassador of the Rep. of Botswana and Mrs. Kgfaela

Ambassador of the Kingdom of Lesotho and Mrs. Mashologu

Ambassador of the Rep. of Guinea and Mrs. Keita

Ambassador of Kenya and Mrs. Kibinge

Ambassador of Sierra Leone and Mrs. Akar

Ambassador of the Rep. of Rwanda and Mrs. Nkundabagenzi

Ambassador of the Democratic Rep. of the Congo (Kinshasa) and Mrs. Bomboko

Ambassador of the Rep. of Mali and Mrs. Traore

Ambassador of Tunisia and Mrs. El Goulli

Ambassador of the Rept. of Zambia and Mrs. Chona

Ambassador of the Rep. of Gabon Gaston-Robert Bouckat-Bou-Nziengui

Ambassador of the Malagasy Rep. and Mrs. Razafimbahiny

Secretary of the Treasury and Mrs. Kennedy

Secretary of Agriculture and Mrs. Hardin

Sen. and Mrs. George D. Aiken

Sen. and Mrs. J. W. Fulbright

Sen. and Mrs. Gale W. McGee

Rep. and Mrs. Thomas E. Morgan

Rep. and Mrs. E. Ross Adair

Rep. Charles C. Diggs, Jr.

Rep. and Mrs. J. Irving Whalley

Charge d'Affaires a.i. of Ethiopia and Mrs. Mekbib

Charge d'Affaires a.i. of the Republic of Uganda Christopher Katsigazi

Gustavo Envela, Permanent Representative of Equatorial Guinea to the U.N.

Abdou O. Hacheme Charge, Embassy of the Islamic Rep. of Mauritania

Adm. Agency for International Development and Mrs. John A. Hannah

Dir., U.S. Information Agency and Mrs. Frank J. Shakespeare, Jr.

Dir., Peace Corps and Mrs. Joseph Blatchford

Chief of Protocol and Mrs. Emil Mosbacher, Jr.

Assistant to the President for National Security Affairs Henry A. Kissinger

Counselor, Dept. of State and Mrs. Richard F. Pedersen

Assistant Secretary of State for African Affairs and Mrs. David D. Newsom

Asst. Admr. for African Affairs, AID and Mrs. Samuel C. Adams, Jr.

Asst. Dir. for Africa U.S. Information Agency and Mrs. John E. Reinhardt.

Deputy Assistant Secretary of State for African Affairs W. Beverly Carter

Staff Assistant, National Security Council and Mrs. Roger Morris

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[From the Washington Post, Mar. 23, 1970]

RHODESIA NOT AFFECTED: DAVIS CUP NATIONS BAR SOUTH AFRICA

LONDON, March 23.—South Africa was officially barerd today from the 1970 Davis Cup tennis competition at an extraordinary meeting of the Davis Cup nations.

The seven-nation committee took no action on the entry of Rhodesia.

The committee, made up of representatives from Britain, France, the United States, Australia, Uruguay, Russia and Malaysia decided to exclude South Africa after the republic's delegate declined to withdraw South Africa's entry in the European zone.

The banning of South Africa means the

republic's sportsmen are now virtually excluded from all truly representative sports meetings. They were not invited to the last two Olympic Games and are banned from the World Soccer Cup.

RUGBY, CRICKET SHAKY

In minor sports like rugby union and cricket, South Africa still has ties with Australia, Britain and New Zealand, but the recent rugby tour of Britain was marred by demonstrations and trouble is expected on this summer's cricket tour of British Isles.

American delegate Bob Colwell denied his association was influenced by the decision of the South African government to deny Negro tennis star Arthur Ashe of Richmond, Va., a visa to enter the country to play in the South African Nationals, which open in Johannesburg on Tuesday.

"The Arthur Ashe incident was not a prime factor," he said.

U.S. CALLS MEETING

The United States, as the champion nation, felt it was necessary to convene the extraordinary session after the East Bloc nations, the Scandinavian countries and the Latin European entries had served notice they would default rather than play South Africa.

Last year South Africa gained the zone finals against Britain after beating Iran. Both Hungary and Czechoslovakia defaulted.

South Africa gained a bye in the first round of the European "B" section this year. She was due to meet the Finland-Belgium winner.

The seven-man committee met for 90 minutes before reaching a decision. The voting was kept secret, but Colwell said it was not unanimous. It was believed that Britain and France supported the continued representation of South Africa.

The ban is for 1970 only. South Africa will be permitted to enter next year's competition when the committee will again judge her case on its merits and in the light of the political climate.

[From the Washington (D.C.) Post, Mar. 13, 1970]

SOVIET UNION BLAMES UNITED STATES, BRITAIN FOR EXISTENCE OF RHODESIAN REGIME

(By Robert H. Estabrook)

UNITED NATIONS, March 12.—Soviet Ambassador Yakov Malik blamed the United States along with Britain this afternoon for allegedly supporting the white supremacy republic in Rhodesia.

The U.S. and its allies "bear the main responsibility for the emergence and subsistence thus far of the racist regime" of Prime Minister Ian Smith, he charged in a coldwar-style indictment in the Security Council.

Contending that these countries had had a major part in "emasculating" sanctions voted by the council, he accused them of preventing extension of similar measures to Portugal and South Africa.

Why does Britain not apply the treason act to members of the Smith regime, he asked rhetorically, recalling that in the last century treason had brought a death sentence.

"Because Smith and his government are committing crimes not against the United Kingdom but against Africans—against the people of Zimbabwe," (the African name for Rhodesia) he declared. He added that Smith regards the British "as friends and patrons."

Apart from championing an Afro-Asian resolution for extension of sanctions, Malik appeared to be attempting to offset any credit accruing to Western countries for the closure of their consulates in Rhodesia. West Germany today joined the U.S. and six other countries that have recently withdrawn consular representation.

A British spokesman noted today that apart from the U.S. and Germany, Norway, Denmark, Italy, the Netherlands and France have closed their consulates in Rhodesia and that Austria, which had been erroneously reported as having representation there has not had even an honorary consul since 1967.

Belgium and Switzerland are reviewing their policies, the British spokesman said, and only Greece, Portugal and South Africa appear unmoved by pleas to withdraw representation.

Burundi ambassador Nsanze Terence introduced the five-power Afro-Asian resolution calling on all states to sever immediately all remaining ties with Rhodesia including postal, telegraphic and air communications.

But Britain, which asked originally for a simple resolution calling on all states not to recognize the new republic, is understood to be considering a veto if the Afro-Asian measure should be put to a vote in its present form. The total communications ban also would pose constitutional difficulties for the United States.

The Council will continue the debate Friday afternoon.

[From the Washington Post, Mar. 26, 1970]

UGANDA TO BAN OPPOSITION, LINK IT TO ASSASSINATION TRY

(By Jim Hoagland)

NAIROBI, KENYA, March 25.—Uganda's government served notice today that it is going to outlaw opposition political parties.

The announcement made in Kampala and reported here by the Kenya News Agency, came as the government asserted for the first time that the opposition party was linked to the attempted assassination of President Milton Obote in December.

Obote, who has almost completely recovered from the bullet that struck him in the jaw and narrowly missed killing him, was in Nairobi today for a meeting with the presidents of Kenya and Tanzania, Jomo Kenyatta and Julius Nyerere.

They were meeting as heads of the East African Community to coordinate economic and social policies.

The Kampala announcement said that the government would introduce a motion establishing Uganda as a one-party state when the parliament meets again on April 20. The parliament, completely controlled by Obote's United People's Congress, is considered certain to pass the motion, observers here said.

Uganda's move to become a one-party state had been expected even before the assassination attempt.

Tanzania was the first of the three East African countries to do away with political opposition. Kenya has been a de facto one-party country since October, when Kenyatta angrily banned the opposition and threw its leaders into jail.

Leaders of Uganda's opposition Democratic Party, which had been gradually losing strength since Obote came to power in 1966, were jailed after Obote was shot, and the party was banned.

They were arrested under preventive detention laws, and were not charged with a role in the shooting.

But a Ugandan prosecutor told the district court in Kampala today that an unnamed "leader of a political party" now banned had been present when the plan to shoot Obote was drawn up.

The prosecutor, according to reporters who were present at the hearing, also said that the planning had taken place in the home of Princess Ndagire, the sister of the late Kabaka of Uganda, Sir Edward Mutesa.

Obote ousted the Kabaka, who was president of Uganda and hereditary ruler of the Baganda people of sourthern Uganda, in 1966. The Kabaka died in London in November.

The government asserted today that the assassination plot had been financed from London. Five Baganda men who pleaded guilty to conspiring and attempting to kill Obote were bound over at the hearing for sentencing.

A sixth man, who pleaded not guilty, was released when charges were dropped. He was immediately, re-arrested, however, under preventive detention.

The prosecution said that a 33-year-old taxi driver, Mohamed Sebaduka, had shot the president and would probably have succeeded in killing him if the gun had not jammed after the first shot.

Another man threw a grenade at Obote, but it failed to explode, the government said.

The government's portrayal of the assassination attempt as a joint Baganda and Democratic Party effort surprised some observers.

Because of the pattern of the government's investigation, and the still unsolved assassination of the army's second most powerful commander in January, some analysts had speculated that an inner-army or government feud had touched off the violence.

[From the Washington (D.C.) Star, Mar. 29, 1970]

UNITED STATES VOWS AFRICAN COOPERATION

(By George Sherman)

The Nixon administration yesterday formally proclaimed a policy of "constructive cooperation" toward Africa.

In a 5,000-word document entitled the "U.S. and Africa in the 70s," released at the State Department, Secretary of State William P. Rogers asserted the United States wants "no military allies, no spheres of influence, no big power competition in Africa."

The 25-page statement, promised here for more than a month, lays heavy stress on the nuts and bolts issues of economic development in black Africa. But only three pages deal with the politically charged issues of white southern Africa. The section makes no new departure in dealing with the problem of racist regimes.

"The problems of southern Africa are extremely stubborn," says the statement. "Passions are strong on both sides. We see no easy solutions." Without explanatory detail, it adds that "we take our stand on the side of those forces of fundamental human rights in southern Africa as we do at home and elsewhere."

In an accompanying letter, sent with the report to President Nixon, Rogers said American economic aid to Africa in the coming years should "be certainly not less than the present level."

NIXON NOTES APPROVAL

In a brief responding letter Nixon wrote that Rogers' "thoughtfully prepared policy statement on Africa is wholeheartedly approved." The President noted that a special opportunity now exists for the U.S. to "respond to African needs and build that relationship and understanding which we desire."

In over-all terms, a pledge of greater trade, private investment, and measured economic aid to Africa in the Document, fits the guidelines of "low profile" laid down by Rogers during his 10-nation tour of Africa in February.

The document states that the total U.S. shares in foreign aid to Africa has averaged $350 million a year, about 20 percent of all external, assistance to the continent. Officials later noted that this figure—which includes the $154 million in the budget of the Agency for International Development—does not include an additional $250 million contributed to such international programs for Africa as the United Nations Technical Assistance fund.

While pledging greater American participation in national economic development programs in Africa, the statement points to a "more flexible approach" in across-the-board regional and neglected economic field programs. It emphasizes that the U.S. will increase aid through international institu-

tions and "multi-donor arrangements," singling out especially the African Development Bank.

The document admits ambivalence toward dictatorship in Africa. One point it pledges American respect for the institutions "which the Africans themselves create." While stating American preference for democratic procedures, the statement recognizes that forces of change and "nation-building" in Africa "may create governmental patterns not necessarily consistent with such procedures."

But later, at another point, the policy statement shows no such ambivalence about the South African system of racial segregation.

"We continue to make known to them and the world our strong views on apartheid," a key paragraph reads. "We are maintaining our arms embargo. We oppose their continued administration of Namibia (Southwest Africa) and their implementation of apartheid and other repressive legislation there. We will continue to make clear that our limited governmental activities in South Africa do not represent any acceptance or condoning of its discriminatory system."

"We do not believe cutting our ties with this rich, troubled land would advance the cause we pursue or help the majority of the people of that country," it states. It also rejects the "fatalistic view" that "only violence" can end "racial oppression and residual colonialism" in Africa.

"Rather we believe," the statement continues, "that solution lies in the constructive interplay of political, economic and social forces which inevitably lead to changes."

A short paragraph maintains, however, that the United States will not recognize or maintain diplomatic relations with the breakaway white minority regime in Rhodesia. Officials explained that Rhodesia has been recognized by almost no one in the international community since breaking with Britain. Therefore it does not have the long "juridical existence" that justifies the United States maintaining diplomatic ties with South Africa.

HOPEFUL IN OTHER AREAS

The document holds out more hope for the evolution of the Portuguese territories of Mozambique and Angola. The U.S. government, it states, will continue to encourage "peaceful progress" toward selfdetermination in these territories.

"The declared Portuguese policy of racial toleration is an important factor in this equation," it states. "We think this holds genuine hope for the future." In the meantime, it continues, the U.S. will continue the 1961 embargo against arms shipments for use in the Portuguese territories.

On economic aid to Africa, the statement expresses the hope that European nations—with "historic links" to Africa—will continue to provide the bulk of foreign assistance.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

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

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

How long?

A PROPOSAL FOR A NATIONAL GOALS INSTITUTE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, Arjay Miller, dean of the Graduate School of Business at Stanford University, recently presented a most interesting and valuable statement to the Joint Economic Committee. As a long-time participant in the debate on national priorities, Mr. Miller is well acquainted with the hard choices which are attendant to rationing limited resources.

As a result of his study and experience in this area, he now proposes that a National Goals Institute be established as a quasi-independent body to advise both the Congress and the executive. Its members would be nationally recognized leaders, and its staff would be drawn from the eminently qualified and dedicated scholars who even now are devoting their own time and energies to the economic analysis of alternative policy choices. The task of establishing national goals should be a continuous process, and the creation of a permanent Institute of this nature would be a first step in this direction.

Because I am certain that Mr. Miller's remarks will be of special interest to my colleagues, the full text of his statement follows:

A PROPOSAL FOR A NATIONAL GOALS INSTITUTE

(By Arjay Miller)

National goals and priorities is a phrase heard frequently these days, most often invoked by partisans of particular causes which are felt to be neglected. I should like to speak to the matter, not in a substantive way, but in terms of a systematic approach to the ordering of such national priorities. I am particularly pleased to be invited to make my remarks to members of that deliberative body which can make a real determination of what national goals should be.

Participants in the dialogue are typically hard-working, public-oriented, genuinely-concerned individuals, who give freely of their own time and talent. In addition, the objectives each supports are collectively desirable. Who is there that doesn't want to eliminate poverty, crime, disease, hunger, war, ignorance, foul air and polluted water? Somehow, then, we must find not only an objective solution to the problem, but some means to resolve the conflicting priorities and methodologies as well. Recognition of very real limits on total resources compared to the conflicting claims against these resources is the essential first step. The hard choices which must be made depend on the availability of comprehensive objective information.

Considerable progress has been made and is being made on this overall problem, of which the work of this committee is an outstanding example. Significant contributions are also being made by such organizations as the Council of Economic Advisors, the Bureau of the Budget, and the National Planning Association, a non-profit organization located here in Washington. Encouraging recent developments include the presidential establishment last July of the National Goals Research Staff within the Executive Office under Mr. Leonard Garment and Mr. Charles Williams, and the recent work being undertaken by The Brookings Institution under the direction of Mr. Charles Schultz.

In my opinion, however, the comfort of all these organizations, valuable efforts, falls short of meeting the enormous needs of the general problem. What we need initially, I am convinced, is an overall approach that will do two things: First, tell us what our economy is capable of producing over a given period of time, and, second, project the cost of present and contemplated national programs.

The first of these tasks is the easier by far. We can project at least the general magnitude of future increases in output. The long-term rate of increase in Gross National Product, as estimated by the Council of Economic Advisors, falls between 4 and 4½ per cent per year. With a current GNP of roughly $935 billion, our total output should advance about $40 billion per year, valued at today's prices.

The second step—projecting the cost of present and contemplated programs—is more difficult. But it can be done, I believe, even if we have to settle for ranges of cost in most of our long-term estimates.

First, we could project the cost of existing programs over, say, the next 10 years. The magnitude of built-in increases in these programs is not generally recognized, so the extent of this existing commitment must be made as we estimate the total demand upon our resources. In this calculation, the enormous cost of providing schools, hospitals, roads, productive facilities, et cetera to keep up with projected population growth should be clearly set forth.

Next we could project the cost of attaining generally recognized goals over the next 10 years. Wherever possible, use would be made of existing estimates contained in reports such as those prepared by Presidential Commissions and private organizations like the Carnegie Commission on Higher Education. At the present time, many valuable reports lose their effectiveness because they have no "home"; no place where their claim on national resources can be recorded and evaluated against competing demands.

Proposed legislation and Congressional Committee recommendations would also be considered. In addition to some mechanism for costing out generally recognized goals, there should also be some means for gathering and analyzing serious major proposals by groups or individuals wanting to press specific ideas. This participation is essential to the eventual implementation of solutions chosen at the grass roots level in our Country. In effect, we would achieve a national forum for airing of new approaches to public needs—a highly desirable objective.

A listing of all our national goals, together with estimated costs and the resources available to meet those costs, would be published on an annual basis. Probably the most significant figure in such a report would be the "gap" between the total cost of our goals and our ability to pay. In 1965, the National Planning Association published a report indicating this "gap" would amount to $150 billion by 1975. Recognition of new social needs, plus inflation, would now make that figure much larger.

General recognition of this "gap" would in itself be valuable, because it would open the eyes of those who believe that our problem is overproduction or that everything is possible in what is sometimes called our "economy of abundance." Furthermore, recognition of this "gap" would throw into perspective such recurrent questions as the shorter work week and technological unemployment. As long as so many recognized needs remain unsatisfied, the overall problem can be correctly portrayed as one of requiring more work, not less.

One big question remains: How is all this to be done? In my opinion, no existing organization seems appropriate to perform this task. This is why I proposed a year ago, in a talk before the American Economic Association and the American Finance Association,

...olishment of a permanent National the... Institute for the express purpose of G...veloping an overview of America's needs and resources.

Under broad and responsible direction, the institute would be made up of a permanent, full-time professional staff drawn from many relevant disciplines—the behavioral sciences, economics, engineering, urban planning, medicine and so forth. Its task would be relatively narrow in scope but almost limitless in its implications for sound, coordinated social progress in the years ahead.

It would be most useful—if this idea has merit—for such an institute to be recommended by the President and established by an Act of Congress. I would recommend that its board of directors include representation from both the Executive Branch and the Congress, as well as from non-governmental areas such as business, labor and education. Its reports should be made directly to the President and to the Congress, and given wide public distribution.

Now let me deal with some of the questions I am sure this proposal will raise. Some might contend that an institute of this kind does not go far enough. They would prefer to see a neat ordering of social objectives that could be contained within our ability to pay. Some such restrictions and cutbacks would, of course, have to be acecpted in any event, but this cannot be the prerogative of any single group or organization in our society. In a democracy, this is a process that all of us must and should share.

Reports by the Institute would have no binding force or direct authority in and of themselves. They would simply point out directions and possibilities, and provide a factual basis for enlightened public discussion and decision-making. Maximum participation in the work of the Institute would provide the mechanism for local "goals" programs to properly "mesh" with national priorities; concurrently, this same mechanism would provide greater local support of stated national priorities. In my home area, for instance, there is presently under consideration a county-wide goals program. The necessity for this area-wide program to be coordinated with national priorities cannot be easily overlooked. Additionally, financial support of positive local programs—through block grants or revenue sharing—could have a mutually beneficial affect.

Institute reports should spell out alternatives and the magnitudes involved in each of the different approaches. Individual directors of the Institute would be free to differ with a majority opinion and to add their own comments or recommendations to the basic report. Thus, these reports would be only the beginning point for orderly planning.

Our concern is not with absolutes, but with choices—with the kind of information that we as a people must have if we are to be able to see clearly the various alternatives open to us and choose rationally from among them. In Russia, a five-year plan carries the full force of government authority and the people have no options.

In our case, elected representatives of the people would choose whether to follow one plan or another—or one part of a plan and not another. Coupled with the "forum" concept and the coordination of local programs, this would mean maximum participation by our citizenry. This kind of planning, then, does not in any way supplant "The People's Choice;" on the contrary, it is meant to increase the people's ability to make clear and informed choices.

A second question that might be raised is why a National Goals Institute is needed now when we have progressed this far without one. The answer lies in the basic shift of emphasis that has occurred from private goods to public goods. The private sector has done such an effective job in meeting the demand for items like automobiles, television sets and radios that the most critical shortages today exist among such social goods as health, education and safety—areas in which public participation and planning is absolutely necessary.

Another question that might be raised about a National Goals Institute is whether it is possible to treat in quantitative terms all the goals of society. There obviously are many values in life that cannot be measured. The dispossessed in our society, however, have no problem in recognizing—and demanding—such basic quantitative objectives as more income, more jobs, more health care, to name just a few. These goals are important in themselves, and they are a foundation for the achievement of such broader goals as dignity and self-respect, social harmony and cultural advancement.

Let me turn now to another part of my subject today—the task of moving effectively toward the goals we choose. Even with a clear sense of priorities and adequate funding, tremendous effort would still be needed to develop a sound and effective attack on social problems. My own experience leads me to believe, however, that new approaches can be made to work if there is general agreement on the broad objectives of the entire community.

For example, I have devoted a great deal of time to the work of the Economic Development Corporation of greater Detroit, an organization of businessmen established to encourage and assist the development of black-owned and operated businesses in the city. There is general agreement among both whites and blacks on the desirability of minority ownership of varied kinds of business in the inner city and there is general agreement as to the kinds of assistance required—financial, technical and legal. But it is clear that these enterprises must be controlled and directed by residents of the inner city. The Economic Development Corporation is responding to requests for help from black entrepreneurs, and is making no effort to tell anyone how he must set up or run his business. This is determined by the black businessmen themselves.

Locally managed programs of this kind will add up to an effective national attack on social problems, I believe, if the local programs are conceived and implemented with clear understanding that they are only part of an overall effort to meet a problem of national dimensions.

This is why I believe so strongly in the idea of a National Goals Institute. Something of this kind is needed if we as a nation are to see our problems whole and learn to deal with them effectively. Unless we adopt a total view, we must resign ourselves to patchwork progress, and probably to eventual failure.

To make gains in one area of need while compounding problems in other areas is not real progress. For example, inner city factories would increase local employment but might at the same time add to the problems of air pollution and urban congestion. So what we must seek, actually, is a synthesis of efforts. All parts of a total program must be mutually consistent, at both the national and local levels.

The proposed National Goals Institute, unlike any existing institution, would have the following three characteristics, all of which would contribute to the successful operation of the organization.

1. *Degree of Independence.*—Although the Institute should be supported by both Congress and the White House, it should not be an integral part or fully dependent on either. A quasi-independent status should make it easier to attract nationally recognized leaders on its board of directors, and qualified scholars on its staff. In turn, this would assure objectivity in the work of the institute, and a recognition of that objectivity by the general public—both of which are essential for success.

2. *Government Support.*—Congressional creation of the Institute and backing by the Executive Branch would give it the kind of support necessary for effective operation, as well as make its output more acceptable to the governmental bodies which would be the primary users. Assurance of continued financial support is essential, and this could probably best be achieved through primary reliance on Congressional appropriations. Compared to the size of the problem, the amounts required would be small indeed. I would estimate expenditures of about $2,000,000 annually would be adequate.

3. *Continuity.*—The task of establishing national goals should be viewed as a continuous process, reflecting changes in the national mood as well as changes in our technology and social institutions. Continuity of employment would also aid in attracting the kind of personnel needed, and in their gaining the experience and expertise required to deal effectively with the complex issues involved.

The task of setting acceptable priorities for our society is a most difficult one. In the accomplishment of this task, the establishment of a National Goals Institute is only one small step, but, nevertheless, a vitally important and necessary one that can and should be taken now.

All the Institute can hope to accomplish is to provide a mechanism to aid in the decision making process; it can not be a substitute for leadership action itself. A specific example may help clarify this point. At the present time, leaders from practically all segments of society are calling out boldly for an end to environmental pollution, yet concrete proposals of exactly what steps should be taken are rare indeed. This should not be too surprising, when we realize that no one really knows how to define in objective terms what we mean by pure air or clean water, or what it will cost to attain these objectives. I have heard one estimate that 200 billion dollars would be required to clean up our environment, yet no one to my knowledge has indicated where funds approaching this magnitude will come from. The real character of the problem is brought home when we remember that previously announced national efforts, like the War on Poverty and the call for 2.6 million housing starts a year, are falling far short of their objectives, primarily because of a shortage of funds.

In other words, what is lacking most today is not a general recognition of what we would like to accomplish, but rather the ability to establish and communicate realistic programs. In my opinion, a National Goals Institute would help meet this need by enabling legislative bodies and sincere citizens in all walks of life to reach decisions based upon comprehensive and factual information. Hopefully, greater understanding of the true nature of problem dimension would lead to the establishment of *attainable* national goals and priorities, supplanting false hopes which can only lead to discouragement, frustration and despair.

We have the ability to make significant progress toward a better life, but only if we make a determined, continuous and intelligent effort. One factor in our favor today is the widespread unrest present among almost all segments of our society. Change is possible only when we are dissatisfied with the status quo. Let us view the present unrest then as a perilous opportunity—as a challenge to build a better future; using all the vision, good will, and power at our command.

AN INJUSTICE TO THE FAMILIES OF OUR SERVICEMEN IN VIETNAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, during our visits to the Department of

Defense Overseas Schools, members of the Dent committee have become aware of a special hardship faced by the widows and children of American servicemen who died serving their country in Vietnam.

The committee has discovered cases where the effective result of Department of Defense school policy has been to turn children out of the doors of their school as soon as there is word of the father's death in Vietnam. These children of these men had previously been attending Department of Defense schools abroad without paying tuition as dependents. Then, when their fathers are killed in Vietnam they are no longer technically dependents under the wording of section 607(a) of the Department of Defense Appropriations Act of 1970 and they cannot attend our schools without paying tuition.

For widows without much money who remain living in the home that their husband established, because they have family there who can help to bring up their now fatherless children, it is often impossible to come up with the $630 per child that present rulings have required.

These children are effectively denied an opportunity for an American education which is the right of all other American children. I doubt that it is in the Nation's best interest to deny an American education to the children of men who gave their lives while serving their country in Vietnam.

I am introducing today a bill to provide a solution to eliminate this injustice. The effect of my bill would be to permit the Department of Defense to provide education without payment of tuition where schools were available to the children of these deceased servicemen.

LEGISLATION ON DANGEROUS EXPLOSIVES

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, I am filing legislation today to regulate and control the traffic in dangerous explosives.

The lack of control over the sale and use of explosives in this country is scandalous. Greater regulation of these dangerous items is urgently needed and the Federal Government can move in the area of interstate commerce to provide some of the needed control. At the same time, State and local laws and ordinances must be modernized and enforcement of the laws must be upgraded.

The revolutionaries who seek to terrorize society to bring about its overthrow must be confronted with the full force of the law to put a stop to the wave of calculated brutality which endangers the lives of our people.

The bill that I am introducing today would first, impose a tax on the transfer of explosives of 1 percent of value; second, provide for the registration of all importers, manufacturers, and dealers of explosives; third, provide for an application procedure for others which would delay the transfer of the explosive until the application was approved. On the application, the transferee would state the use for the explosive and—as in the old Gangster Weapon Control Act of 1934—would be photographed and fingerprinted. The Secretary of the Treasury would have to approve the transfer once he was satisfied that it did not place the applicant in violation of law. Fourth, provide for one-time registration of those who lawfully and regularly use explosives; and fifth, it would prohibit anyone under indictment or who has been convicted of a crime punishable by imprisonment for more than a year, or any fugitive from justice, adjudicated mental defective, or patient of a mental hospital, from receiving or possessing any explosive.

THE WELFARE REFORM BILL

HON. JOHN W. BYRNES

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. BYRNES of Wisconsin. Mr. Speaker, the House will soon consider legislation that the Ways and Means Committee has reported to comprehensively reform our Federal-State-local welfare system. The chairman of the Ways and Means Committee delivered a speech before the National Association of Counties carefully considering the problems of the present welfare system and the recommendations for reform included in the new Family Assistance Act—H.R. 16311—by the Ways and Means Committee on March 11.

In order that all the Members may have an opportunity to review Chairman MILLS' remarks in connection with their consideration of this important legislation, I am inserting his remarks in the RECORD.

REMARKS OF HON. WILBUR D. MILLS

I appreciate your invitation to be here today, because it is always a stimulating and rewarding experience for me to renew my relationship with members of the National Association of Counties. Your organization over the years has contributed so very much to the improvement of our government at all levels.

We are in a period in our history when all levels of our governmental system, the counties, the states and the Federal government, are feeling an urgent need to re-examine their responsibilities and their capabilities. Your organization is playing an important role in this process. As Chairman of the Committee on Ways and Means, I know that your contributions in the areas of our jurisdiction are extremely important.

I want you to know that all of us on the Committee have benefited by your efforts to assist us in the area of welfare reform. Your recent testimony before the Committee was, as always, thoughtful and provocative.

Like many of you, I have been thinking hard about the welfare problem for a long time. Therefore, I welcome the opportunity today to share with you some of my thoughts on welfare reform and, in particular, the new welfare reform bill which the Committee on Ways and Means has recently reported. This legislation is important to you at the county level, as it is to all other levels of government.

I have felt for a long time that we needed to make a new start in welfare. We have been trying to improve and build on the original legislation of 1935, but it has been clear that this was not enough. Welfare has become a serious burden for our society, both in terms of high dollar costs and in its failure to help the people it was supposed to help.

When the President addressed the Nation on television last August, calling for a new system of "workfare" to replace the present inadequate system of "welfare," he obviously struck a very responsive chord with the public. His proposal gained widespread support.

As I listened to the testimony of experts before the Committee on Ways and Means, most of whom endorsed the general concepts, if not all of the fine print, in the Administration bill, I became convinced that this approach was a promising one.

The bill which the Committee on Ways and Means has reported to the House is essentially patterned after the bill presented by the Administration but with some major changes and additions, with which the Administration agreed. Some of these changes are very important, as I will delineate later.

If this bill works as we intend, it will not only provide more adequate assistance to many who are in desperate need, but will also be the catalyst to help move millions of families out of poverty and into economic independence. It is designed to help those who cannot help themselves. It will provide incentives and, where necessary, requirements to help those who are capable of achieving economic independence to do just that.

The bill provides for the creation of an entirely new program for poor families—the Family Assistance Plan. This Plan will be a genuine assistance plan for all families with children, and will eliminate the discrimination of the existing AFDC program, which provides no help for families where the father is present and is working.

One of the most disturbing letters any Members of Congress can receive is from the conscientious, hard-working father who is doing his very best to support his family, and who writes to ask why his taxes should be going to support a family in which no one is working and which is receiving more in welfare than he can earn. There really isn't any answer to this kind of letter.

As a condition of receiving benefits—and this is very important—able-bodied adults would be required to register with the employment service for employment or training. There are, of course, certain groups of people, such as the disabled and mothers of very small children, who may be unable to participate in employment, and the bill recognizes this by excluding them from the registration requirement. Those who are excluded from the registration requirement would be permitted to register voluntarily, however, and receive equal treatment under the work and training program.

However, except for very specific groups, as a condition to receiving benefits, *all* adults would be required to register their willingness to live up to their family responsibilities by agreeing to take suitable work or training.

While I am on this subject, let me address myself to the question of the registration requirement for mothers. Our bill does require mothers, except mothers of small children, to register for employment and training. I think this is fair. There are 11.6 million mothers with children under age 18 in this country who are *already* working. Most of them are working because they have to, and they are paying taxes like all the rest of us. How can we say that these mothers who are working to help their families should support millions of other mothers whether they are willing to work or not?

There are many welfare mothers who *do* want to work—Most of them, in fact, as various surveys show. This bill will give these mothers the best chance they have ever had

to build themselves and their children a better life. We make individualized training available. We assure them of child care. We help them become a part of the world around them, instead of a reject of the world.

A few days ago I read a story of the experiences of one of our present AFDC mothers. She was one of the lucky ones who was getting off of welfare and into a job. Let me tell you what she had to say about her life on welfare.

"If you're on welfare you don't have to work," she said. But—"Having no problems is as bad as having too many. With no problems you're not worth anything. It's OK when the children are little and you're busy taking care of them. But when they're in school, you get up and make the beds and sometimes do the dishes because you have all day to do them."

This woman went on to say: "Talk about incentive. Handing someone an income is not enough. You have to find the right button to push for each person." For her, she said, it was the chance to go to school.

And this is the kind of thing we're trying to do with this welfare legislation. We're trying to find the right kind of button for each person. We're trying to give these mothers a chance.

We expect that a great many mothers who are not required to register will welcome this chance, and will volunteer for registration. That has been our experience under the present Work Incentive Program.

One very significant difference between the Committee bill and the draft sent to us by the President is that we added a requirement for the registration of the working poor with the employment service. This change is an extremely important one. We do not intend that the working poor should be short changed in manpower services. Likewise, we do not expect that they will go on receiving government payments forever. We fully expect and intend that the Department of Labor will provide these citizens a chance to improve their working capabilities by providing the kind of training and other services they need.

We believe that most people want to be independent of government handouts. They will work if they can. But you know as well as I that there will always be a few who will abuse their rights. If we don't require all adults to register for work or training, we run the risk of having a few no-gooders ruin the program for everyone.

This legislation goes a long way toward mobilizing the rehabilitative resources of this country for the benefit of all poor families. It places very heavy emphasis on training and rehabilitation. The Federal government would pay 90 percent of the costs of manpower programs, which the states must match with 10 percent in cash or kind. The Department of Labor and the state manpower and employment services would be required to develop employability plans for each person who is registered. This approach is very different from the traditional manpower programs. We are providing for *individualized* manpower services, following the example of the better WIN programs. We start with the individual and try to meet his needs, rather than try to fit him into whatever training slot happens to be available. We do not envisage useless, unwanted, dead-end training under this program.

We also make it possible for him to get the other kinds of services he needs, such as necessary transportation, work clothes, and so forth, again with 90 percent Federal funding. If he has a major disability and needs vocational rehabilitation, he will receive that. He will get an exemption in earnings as a work incentive, so that he will always be better off working than not working. Child care will be provided when it is needed, and it will be the kind of child care that individual families want for their children.

The legislation provides for up to 100 percent Federal money for grants and contracts or day care programs, so that we can be sure that necessary day care will be provided, and so that we can also be sure that the care is of the quality needed for the welfare of the children.

The day care provision in the bill can go a long way toward breaking the cycle of poverty for many families. It not only will help the family by freeing the parent for work, but it can also provide the kind of preschool care which many poor children need. The right kind of day care center will provide educational, medical, nutritional, and social benefits which can have a decisive impact on their well-being in the future. This is an investment which I believe is necessary and justified.

As I am sure you know, the bill provides a Federal basic payment of $1,600 for a family of four. Families in states which have higher welfare payments now, will have to supplement the Federal payment up to their present levels for all of their recipients, except the working poor. In addition, the families eligible for Family Assistance will also be eligible for food stamps, and the value of the food stamp program to a family with an income of $1,600 a year would be $864, bringing the total value of cash and food stamps to $2,464. The working poor, by definition, will have some additional earnings which would raise them even higher, up to a break-even point of $3,920. All of these factors must be kept in mind when one analyzes the impact of the program on individual families in different circumstances.

The President's proposal also directed itself toward the old, the blind, and the disabled, and provided for the establishment of a single program for them, with a uniform minimum standard of need throughout the country. The move toward uniformity seems a good one, and the Committee agreed to it. However, we improved the provisions regarding these people, who are the most unfortunate in our society. The bill sets a new minimum of $110 a month for each recipient, an increase of $20 over the Administration proposal.

The bill also liberalizes the earnings exemptions for the disabled and for the aged, so that those who can work will be encouraged to do so.

National uniform standards of eligibility are established for these categories, as for needy families, so that there will be equal treatment of the poor throughout the nation in regard to such factors as resources and relative responsibility. In addition, the bill adjusts the Federal contribution to the adult assistance programs to assure that by helping these recipients we weren't wreaking havoc with the financial obligations for welfare of any particular state or locality.

With respect to administration of the program, we have tried to introduce as much uniformity as possible. Various alternative arrangements are possible as to the Family Assistance Plan. We expect, however, that the Federal government will generally administer the family assistance payments through a new Federal agency under the Department of Health, Education, and Welfare, which will have offices in convenient locations so that they can effectively serve the recipients. We also expect that many states will agree to have the Federal government administer the state supplementary payments. To encourage this, the Committee added a provision to the administration proposal which would provide 100 percent Federal financing for the administration of supplementary payments that are paid by the Federal government. If a state chooses to administer its own payments, it gets only 50 percent Federal matching for the costs of administration, as under existing law.

We made the same kind of change regarding administration of the new program of aid to the aged, blind, and disabled, in the expectation that this would also encourage Federal administration for these recipients.

This change should remove some burden not only from the state governments, but from county governments which, in many states, have had to pay part of the costs of administering welfare programs.

The new welfare proposal does ease the costs of welfare to most of the states, shifting a greater burden to the Federal government. Over all, according to estimates of the Department of Health, Education, and Welfare, the bill developed by the Committee shows slightly greater fiscal relief to the states than the bill that was originally introduced by the President.

In general, the effect of the Committee changes in the Administration bill is to give more savings to those states which have been making greater fiscal effort in their welfare programs. In those states that have local financing of public assistance programs a portion of any state savings will be passed on to the localities, including the counties. In addition, most of the counties in those states that pay out significant amounts in general assistance will receive added fiscal relief from the provisions of the bill covering working poor families under the family assistance plan.

I would be the last to suggest that this welfare reform proposal can solve all of our country's grievous social problems. But I do think that it will be a highly significant step forward. It is designed to promote individual integrity and efforts toward self-help. It is designed to help to stabilize poor families. These are important goals, and if we start on the road toward accomplishing them, we will have made a valuable contribution to a happier life for all the people of this country.

SMALL BUSINESS PROGRAM

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. STANTON. Mr. Speaker, I commend the President for his evaluation of small business in modern America and his suggestions for improving it.

It is refreshing to note that while task forces are legion in government, this one appears to have managed an accurate appraisal of its subject matter and made some constructive suggestions for solving problems. In this day and age a task force report that is helpful and to the point is scarce as hen's teeth.

The basic question that underlies all of this is really whether small business can survive, and, more importantly, whether we want it to survive. By his actions and his words the President has answered both in the affirmative. And with that I agree.

If small business can and should survive, and if it is still a practical path to national stability and personal achievement, then I think it has more than ordinary validity for members of our racial minorities.

We are all familiar with the fact that many other minorities—immigrants from other lands—found their way to economic security, community accept-

ance and ultimately full incorporation into the American society through the medium of small, local business. For many it was a difficult but rewarding Americanization.

Not only did these people win a better life for themselves in this way, but they made the Nation immeasurably richer in the process. The same thing can happen to today's minorities—and to the Nation.

For these reasons I applaud the President's proposed small business program and intend to support his efforts.

ECONOMIC PROGRESS OF NEGROES IN THE UNITED STATES: THE DEEPENING SCHISM

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I include the following:

ECONOMIC PROGRESS OF NEGROES IN THE UNITED STATES: THE DEEPENING SCHISM

(By Andrew F. Brimmer)

To be asked to address this Founder's Day Celebration in honor of the memory of Booker T. Washington is really a way of honoring the one receiving the invitation. Not only on this campus, or in this community, but in the country at large anyone with even the most modest sense of history knows that the memory of Booker T. Washington is honored every day by the simple fact that Tuskegee Institute is here. That memory is embossed and embellished each time that this institution can render another day of service to the Negro community, to its region and to the nation through its commitment to higher education.

Yet, it is also good to pause at least once each year to reflect explicitly on the founding of this institution in rural Alabama in 1881. Since 1917, Tuskegee has found the time for such reflection, and the roster of speakers testifies to the high regard for Tuskegee in this country and in the world. This annual celebration has drawn to this campus a President of the United States, the Head of a foreign government, a Chief Justice of the Supreme Court, members of the President's Cabinet, other leading representatives of the Federal and State governments—as well as eminent scholars and educators and outstanding figures in the private sector. However, in coming here, they came as much to encourage the work of a growing Tuskegee as to honor the memory of its founder. So I am flattered to be a part of this tradition.

Having accepted the invitation to speak before this assembly, I decided that you really did not want me to dwell on the obstacles which Booker T. Washington had to overcome in the creation of a viable institution; nor did you expect me simply to extol the record of Tuskegee's achievements during the last 89 years. Rather, given the nature of my own responsibilities, I assumed that I was invited because you thought I might have something to say with a bearing on some of the central economic issues which we face today—especially those issues of immediate relevance to the Negro community.

On that assumption, I decided that it might be helpful to focus on a question that has generated a considerable amount of debate in the last few weeks: did Negroes make such extraordinary progress during the 1960's that the best course for public policy over the years ahead is one of "benign neglect"? Obviously this is not a trivial question. While the exact meaning of this proposition is far from clear, it has been advanced in a context whose potential impact on public policy in the area of race relations can be considerable. Thus, it is crucial that all of us have a clear understanding of the extent of economic progress which Negroes have made—and we must also have a full appreciation of the extent to which important segments within the Negro community have failed to share in this progress.

To help provide such an understanding, I have pulled together a considerable amount of statistical information relating to the economic experiences of Negroes during the last decade. From an examination of this evidence, I am convinced that it would be a serious mistake to conclude that the black community has been so blessed with the benefits of economic advancement that public policy—which played such a vital role in the 1960's—need no longer treat poverty and deprivation among such a large segment of society as a matter of national concern. To accept such a view would certainly amount to neglect—but it would also be far from benign.

The evidence underlying my assessment is presented in some detail in the rest of these remarks, but the salient conclusions can be summaried briefly:

During the 1960's, Negroes as a group *did* make significant economic progress. This can be seen in terms of higher employment and occupational upgrading as well as in lower unemployment and a narrowing of the income gap between Negroes and whites.

However, beneath these overall improvements, another—and disturbing—trend is also evident: within the Negro community, there appears to be a deepening schism between the able and the less able, between the well-prepared and those with few skills.

This deepening schism can be traced in a number of ways, including the substantial rise in the proportion of Negroes employed in professional and technical jobs—while the proportion in low-skilled occupations also edges upward; in the sizable decline in unemployment—while the share of Negroes among the long-term unemployed rises; in the persistence of inequality in income distribution within the black community—while a trend toward greater equality is evident among white families; above all in the dramatic deterioration in the position of Negro families headed by females.

In my judgment, this deepening schism within the black community should interest us as much as the real progress that has been made by Negroes as a group.

Before concluding these remarks, I would also like to comment briefly on the new program of family assistance, recommended by the President and now being considered by the Congress. It is my impression that this program is a source of much discussion—and some apprehension—within the Negro community. In my personal judgment, there is more reason to support it than to campaign against its enactment.

Let us now turn to a closer examination of each of these main points.

EMPLOYMENT AND OCCUPATIONAL UPGRADING

The economic progress of Negroes can be traced in the trends of the labor force, employment and occupational advancement during the last decade. In 1969, there were just under 9 million nonwhites in the labor force—meaning that they were holding jobs or seeking work. (Well over 90 per cent of nonwhites are Negroes.) This was a rise of 16 per cent since 1960, a rate of increase virtually the same as for whites and for the total labor force. However, employment of nonwhites rose more rapidly than it did for whites (by 21 per cent to 8.4 million for the former compared with 18 per cent to 69.5 million for the latter). Expressed differently, while nonwhites represented about 11 per cent of the total labor force in both 1960 and 1969, their share of the gains in employment during the decade was somewhat larger; they accounted for 12 per cent of the employment growth, although they held just over 10 per cent of the jobs at the beginning of the period.

Advancement in the range of job helds by Negroes in the last decade was also noticeable. This was particularly true of the improvements in the highest paying occupations. Between 1960 and 1969, the number of nonwhites in professional and technical positions increased by 109 per cent (to 692 thousand) while the increase for whites was only 41 per cent (to 10,031 thousand). By last year, the nonwhites had progressed to the point where they accounted for 6½ per cent of the total employment in these top categories in the occupational structure (compared with less than 4½ per cent in 1960), and they got about 11 per cent of the net increase in such jobs over the decade. During this same period, the number of nonwhite managers, officials and proprietors (the second highest paying category) increased by 43 per cent (to 254 thousand) compared to an expansion of only 12 per cent (to 7,721 thousand) for whites. In the 1960's, nonwhite workers left low-paying jobs in agriculture and household service at a rate two to three times faster than did white workers. The number of nonwhite farmers and farm workers dropped by 56 per cent (to 366 thousand) in contrast to a decline of 31 per cent (to just under 3 million) for whites in the same category. In fact, by 1969, nonwhites accounted for the same proportion (11 per cent) of employment in agriculture as their share in the total labor force; in 1960, the proportion for nonwhites (to 16½ per cent) was more than 1½ times their share in the total labor force. The exit of nonwhites from private household employment was even more striking. During the last decade, the number of nonwhites so employed fell by 28 per cent (to 712 thousand); corresponding drop for white workers was only 9 per cent (to 900 thousand). Although roughly half of all household workers were nonwhites in 1960, the ratio had declined to just over two-fifths by 1969. The number of nonfarm laborers also fell (by 8 per cent to 876 thousand) over the last decade while the number of white laborers rose by the same percentage (to 2,809 thousand).

Nevertheless, as already indicated, the accelerated movement of nonwhites out of the positions at the bottom of the occupational pyramid did not carry through the entire occupational structure. For example, nonwhites in 1969 still held about 1.5 million of the service jobs outside private households—most of which require only modest skills. This represented one-fifth of the total—approximately the same proportion as in 1960. Moreover, the number of nonwhites holding semi-skilled operative jobs (mainly in factories) rose by 41 per cent (to about 2 million) during the decade, compared with an expansion of only 17 per cent (to 12.4 million) for whites. The result was that nonwhites' share of the total climbed from 12 per cent to 14 per cent. Taken together, these two categories of low-skilled jobs chiefly in factories or in nonhousehold services accounted for a larger share (42 per cent) of total nonwhite employment in 1969 than they did in 1960—when their share was 38 per cent. In contrast, among whites the proportion was virtually unchanged—26 per cent at the beginning of the decade and 27 per cent at its close.

While nonwhites made substantial progress during the 1960's in obtaining clerical and sales jobs—and also registered noticeable gains as craftsmen—their occupational center of gravity remained anchored in those positions requiring little skill and offering a few opportunities for further advancement. At the same time, it is also clear

from the above analysis that those nonwhites who are well-prepared to compete for the higher-paying positions in the upper reaches of the occupation structure have made measurable gains. These contrasting experiences should be borne in mind because they point clearly to the deepening schism within the black community.

TRENDS IN UNEMPLOYMENT

Over the 1960's, unemployment among Negroes declined substantially. In 1960, about 787 thousand nonwhites were unemployed, representing 10.2 per cent of the nonwhite labor force. Among whites in the same year, about 3.1 million were without jobs, and the unemployment rate was 4.9 per cent. By 1969, unemployment had dropped by 28 per cent (to 570 thousand) for nonwhites and by 26 per cent (to 2.3 million) for whites. Their unemployment rates had fallen to 6.4 per cent and 3.1 per cent, respectively.

The incidence of joblessness among nonwhites continued to be about twice that for whites during the 1960's. Even in those categories where the most favorable experience was registered, nonwhite unemployment rates remained significantly higher than those for whites. For instance, among married nonwhite males aged 20 years and over, the unemployment rate in 1969 stood at 2.5 per cent, compared with 1.4 per cent for white men in the same circumstances. Nevertheless, one should not lose sight of the fact that—taken as a group—Negroes made real strides in escaping idleness in the 1960's.

But, here again, we should not stop with this over-view. On closer examination, one quickly observes that a sizable proportion of the remaining unemployment among Negroes appears to be of the long-term variety. For example, in 1969, just under 20 per cent of the unemployed nonwhites on the average had been without jobs for 15 weeks or longer; among whites the proportion was only 12½ per cent. Moreover, those out of work for more than half a year represented 7 per cent of the joblessness among nonwhites compared with 4 per cent for whites. In 1961, when unemployment rose substantially under the impact of the 1960–61 recession, nonwhites accounted for about 21 per cent of total unemployment and for roughly 24 per cent of those without jobs for at least 3½ consecutive months. However, by 1969, nonwhites made up 27 per cent of the pool of long-term joblessness—although their share of total unemployment had declined slightly to 18 per cent. So, while a significant number of Negroes did find—and keep—jobs during the last decade, a sizable number of others were stuck in idleness for fairly long periods of time.

Still other evidence can be cited which underlines the contrasts within the Negro community. During the first eleven months of 1969, the unemployment rate among nonwhites living in the central cities of the 20 largest metropolitan areas averaged 6.3 percent; it was a full percentage point less among those living in the suburban sections of these areas. Among nonwhite teenagers (those members of the labor force 16 to 19 years old), the unemployment rate averaged 27 per cent. During the same period of 1969, there was very little difference in unemployment rates between whites living in central cities (3.1 per cent) and those living in suburbs (2.9 per cent), and for white teenagers, the rate was 10 per cent.

So, judged by the differential impact of unemployment—as well as by the trend of employment and occupational upgrading—some Negroes have experienced commendable improvement while others have lingered behind in relative stagnation.

TRENDS IN INCOME: A REEXAMINATION

Undoubtedly, income statistics are probably the most closely watched indicators of economic progress. This is true for Negroes as well as for whites. These figures also demonstrate that the Negro community recorded significant gains during the last decade. In 1961, aggregate money income of families in the United States totaled $306.6 billion, of which whites received $290.4 billion and nonwhites received $16.2 billion. Thus, the nonwhites' share was 5.3 per cent. By 1968, the total had risen to $488.4 billion—with $454.5 billion going to whites and $33.9 billion going to nonwhites. In that year, the nonwhites' share had risen to 6.9 per cent.

In terms of median family income, the same indication of progress is evident. In 1959, the median income of nonwhite families amounted to $3,164, or 54 per cent of that for whites—which amounted to $5,893. By 1968, the figure had risen to $8,936 for whites and to $5,590 for nonwhites, thus raising the nonwhite/white ratio to 63 per cent.

These relative family income data are a useful concept for some purposes, but they must be interpreted carefully. Otherwise they yield a misleading picture of the comparative economic status of the nonwhite population. A principal source of error is the failure of data on median family income to account for the fact that nonwhite families on average tend to be substantially larger than white families.

Data on median family income adjusted to a per capita basis to account for much larger minority families are presented in Table 1. (Attached.) When further adjustments are made to differentiate among types of families, several important conclusions result. The first and most important of these is that, for all types of families, nonwhite per capital family income is substantially lower in relation to that for white families than was suggested by the unadjusted figures. It appears that in 1967 the median income data unadjusted for differences in family size may have overstated the relative economic status of nonwhite families by something on the order of 11 per cent.

The information in Table 1 permits a further analysis of growth trends in per capita family income compared to growth trends in relative median family incomes for different types of households. For all families and for husband and wife families, the relative gains on a per capita basis were only slightly less than the relative gains on a total family income basis. The picture for female headed families, however, is completely different. The latter have the lowest median family income in general, and nonwhite families headed by females have the lowest median income compared to their white counterparts. What is perhaps even more disturbing, however, is that—because of the much larger size of nonwhite female headed households [1]—the per capita differences in family income are substantially wider than the differences in median family income. In 1967, the ratio of family income per capita of female headed nonwhite families (at 44 per cent) was 18 percentage points lower than the ratio of Negro to white median family income. The data in Table 1 appear to indicate that the gap between white and Negro per capita family income has not been narrowing as rapidly as suggested by the most widely cited income figures.

The conclusion reached by expressing median family income in per capita terms is that the usually observed ratios convey an unrealistic picture of family well-being because they fail to account for the larger absolute size of nonwhite families.

Another indication of the widening gap within the Negro community is provided by the distribution of income among families and individuals at different levels of income. Data showing these trends, by race and broad groupings of income classes, are presented in Table 2.

In examining these data, the first thing to note is that the distribution of income is by no means equal in either the white or nonwhite community. If it were, each fifth of the families would receive 20 per cent of the aggregate income in each year. In reality, however, only those families around and just above the middle of the distribution come close to receiving approximately this proportion of the total income. The families constituting the lowest fifth receive between 3½ per cent and 6 per cent of the income, while those in the highest fifth receive over 40 per cent of the total. This general pattern of income distribution holds for both white and nonwhite families.

But looking beyond these overall characteristics, it will also be observed that, within the nonwhite community, the distribution of income is considerably more unequal. Among nonwhites, from the lowest through the middle fifth, for each of the years shown, the proportion of aggregate money income received by the families in each category is below that for the white community. The opposite is true for nonwhite families above the middle fifth; their share is greater than that received by white families in the same category. The same tendency is evident when the top 5 percent of the families with the highest incomes in both groups are compared.

Moreover, in the last few years, the distribution of incomes within the nonwhite community has apparently run counter to the trend among white families. In both the 1961–65 period and the 1965–68 period, the income distribution for white families became more equal. For nonwhite families, the same trend toward greater equality was evident in the first half of the decade. However, it remained roughly constant in the 1965–68 years. And the share received by the top 5 per cent particularly showed no further tendency to decline.

Again, these figures seem to underline a conviction held by an increasing number of observers: a basic schism has developed in the black community, and it may be widening year-by-year.

POVERTY IN THE NEGRO COMMUNITY

Poverty is a difficult concept to define in any meaningful sense. Yet, quantitative estimates are necessary if policymakers are to have reliable information on which to make decisions. Since 1965, the United States Government has relied on the estimates developed by the Social Security Administration which, for whatever their defects, appear to be the most reliable data available. The poverty concept developed by the Social Security Administration classifies a family as poor if its income is not roughly three times as great as the cost of an economy food plan for a family of that particular size and farm or nonfarm residence. In 1968, a nonfarm family of four was assumed to be living in poverty if its total money income was less than $3,553. The income deficit of a family is that amount required to raise its income to the poverty threshold.

Table 3 reviews the 1959-68 record of the escape of individuals from poverty. These data demonstrate quite clearly that the rate of decline of poverty for whites has been substantially faster than the rate of decline for nonwhites. Between 1959 and 1968, poverty among whites declined by 39 per cent while poverty among nonwhites declined by 27 per cent. Thus, in 1968 nonwhites made up a greater proportion of the total poor population than they did in 1959—the fraction increasing from 27.9 per cent to 31.5 per cent. This much more rapid rate of exodus by whites from poverty is explained by the fact that in 1959 the average poor white family

[1] In 1967, the average Negro husband-wife family was .76 members larger than its white counterpart, but the average Negro female headed family was 1.26 members larger.

was not nearly as deeply in poverty as the average poor nonwhite family. In 1959, the median income deficit for white families was only $868 while for nonwhites it was $1,280, or 47.5 per cent higher. Clearly, it took less economic achievement to lift the average white family out of poverty. It should be further noted that in 1968 the median income deficit for poor nonwhite families was $1,260 while for white families it was only $907, a difference of 38.9 per cent. Thus, these figures suggest that the future will continue to witness a more rapid rate of escape from poverty by whites than by nonwhites.

The data in Table 3 are of further interest because they permit an analysis of changes in poverty status by type of family. Disaggregating the poverty data into male and female headed families highlights several important points. Between 1959 and 1968, the rate of decline in poverty among individuals in male headed families of whites and nonwhites was roughly equal and also rather rapid. In 1968, the number of individuals classified as poor in male headed households for both races was roughly half the number in 1959.

Distressingly, however, for female headed families, the pattern was quite different. For the white population, the rate of decline among poor individuals in female headed families was substantially below the rate for individuals in male headed families. By 1968, there were only 16 per cent fewer poor individuals in white female headed households compared with 1959. For nonwhites, the data on changes in poverty among individuals in female headed families are extremely disturbing. Between 1959 and 1968, the number of nonwhites in poor female headed families increased by 24 per cent, and the number of nonwhite family members under 18 rose by an alarming 35 per cent. Between 1959 and 1968, there was an *absolute increase* of 609 thousand nonwhite family members 18 or less classified as poor living in a female headed family. So while the 22 million Negroes constituted only 11 per cent of the country's total population in 1968, the 2.3 million poor children in nonwhite families headed by females represented 52 per cent of all such children.

The data on the rate of escape from poverty for different types of families also emphasize the development of a serious schism within the Negro community. Negroes in stable male headed families appear able to take advantage of economic growth and are leaving poverty at roughly the same rates as whites. The opposite appears true for families headed by a female, who appear unable to earn a sufficient income to escape poverty. The rapid increase in the number of poor nonwhites in female headed families—and particularly the very rapid rise of children 18 and under in their families—suggests that the problem of poverty in the black community has by no means disappeared.

Having discussed recent changes in the overall poverty population, it is important to examine briefly the rural experience. For farm families the record is much more encouraging with a decline of almost three-fourths in the number of poor individuals in nine years. Moreover, the rate of decline was roughly equal for whites and nonwhites. These results may in part reflect a growing prosperity in agriculture, but in large part they are due to a migration of the poor of both races from rural to urban settings.

The conclusions from this section are that nonwhite poverty in general has not declined as rapidly as white poverty, primarily because nonwhites classified as poor tended to be substantially poorer than whites classified as poor. This section has also shown that in the last decade there has been an alarming rise in the number of poor nonwhite children under 18 living in female headed families.

PROSPERITY IN THE NEGRO COMMUNITY: THE IMPORTANCE OF EDUCATION

The above discussion has obviously reflected a rather pessimistic assessment of several aspects of economic developments in the Negro community—focusing as it did on nonwhite poverty and the fact that actual white-nonwhite income discrepancies are wider than commonly observed statistics would suggest. To stop here, however, would present a somewhat unbalanced view of Negro economic progress. To present a more balanced picture, it is important to consider the source of some of the recent gains within the Negro community. In particular, it is important to discuss the role of education.

Recent data suggest that Negroes are making considerable gains in both secondary and higher education. Between 1960 and 1969, the per cent of Negro males aged 25 to 29 who had completed 4 years of high school or more increased from 36 per cent to 60 per cent while the white fraction increased from 63 per cent to 78 per cent. Thus, in 1960 the gap had been 27 percentage points, and in nine years this gap had narrowed to only 18 percentage points. In 1968, for the first time a greater percentage of Negro males aged 25–29 completed high school than Negro females.

In the case of higher education, the gains also have been impressive. Table 4 presents data on trends in Negro college enrollment between 1964 and 1968. In these four years, the number of Negroes in college rose by 85 per cent. What is more striking, however, is the fact that during this period, 82 per cent of this enrollment growth occurred in institutions other than the predominantly Negro colleges. Thus, in only four years, the per cent of Negro college students enrolled outside predominantly Negro colleges increased from 49 per cent to 64 per cent. This fact suggests that the larger institutions are becoming increasingly aware of minority problems and are making a concerted effort to assist minority group students. In four years the number of Negro students at these institutions has more than doubled.

The importance of higher education in the economic achievements of whites and Negroes is underlined by the data in Table 5. It is clear that median incomes for men of both races increase dramatically with increasing amounts of education. What is even more important, the ratio of Negroes' income to that of whites rises as the level of education climbs. Stated in a slightly different fashion, the relative gaps within the Negro community between those with higher education and those with lower education are wider than for whites. In 1968 a Negro man, aged 25–54, with a high school education had an income 29 per cent above that for a Negro man with only an 8th grade education, while for whites this gap was 26 per cent.

The case of a Negro with some higher education is of particular interest. This is a man with the highest absolute income and the highest income relative to whites. Unfortunately, due to the unavailability of more data, the figures in Table 5 probably seriously understate the contribution of higher education to Negro income. The last line in Table 5 shows the income of whites and Negroes with 1 or more years of college. This category is really a composite of the categories 1 to 3 years of college and 4 or more years of college. Of all Negro men 25 years of age or over in 1967 reporting one or more years of college, 60 per cent were concentrated in the 1–3 year category. For all white men reporting more than 1 year of college, there was a much greater tendency to have four or more years of college, with only 42 per cent concentrated in the 1–3 year class. If a more complete breakdown of the data in Table 5 were available, they would probably indicate a higher return to Negro higher education.

A second reason why the data in Table 5 may understate the returns to higher education for Negroes is that they fail to account for the age distribution of those achieving higher education. Since major education gains among Negroes have been a rather recent occurrence the better educated Negro man will be substantially younger than his white counterpart. Table 6 documents this point by comparing educational achievements of whites and Negroes at similar age levels. These data show conclusively that the differences in educational achievements are in large part a function of age with the widest gaps among the older segments of the population. It is clear that the best educated within the Negro community are much more highly concentrated in the younger age brackets. Since income increases directly with age, when education is held constant,[2] due to factors of experience and promotions based on length of service, the failure of the data in Table 5 to account for the relatively younger age distribution of the better educated Negro population seriously underestimates the returns to education for Negro males. The figure for white males with higher education refers to an older population and thus, in part, reflects returns to age and experience as well as returns to education. Unfortunately, we will have to wait until the processing of the 1970 Census has been completed to get more complete data.

The conclusions from this discussion of education then are much more encouraging than the results reached above. Younger Negroes are making substantial progress in achieving secondary and higher education, and this increased education is associated with higher absolute income and income relative to whites.

NEGROES AND THE FAMILY ASSISTANCE PROGRAM

As I indicated above, I would like to comment briefly on the proposal to change significantly the principal means through which the Federal Government provides assistance to needy families. In recent years, these programs have become an important source of income for many Negro families headed by females in which a sizable number of children are found. Thus, one can readily understand why the President's recommendation to change them submitted to Congress in August 1969, has generated so much discussion (and some apprehension) in the Negro community.

It will be recalled that, in broad outline, the proposed family assistance program would have the Federal Government pay a basic income to all families who could not provide for themselves—whether they are employed or unemployed. It would be geared to dependent families with children. It would replace entirely the largest of the Federally supported public assistance programs (i.e., aid to families with dependent children). Under the proposal, persons (except mothers with preschool children) who accept assistance would be required to register for work or training. It is estimated that in the first year of the program, over half of the families covered would have one member employed or undergoing training.

As recommended to Congress, the family assistance program would work in the following fashion: A family's basic allowance would consist of $500 for the first two members and $300 per member for each additional member. Thus, for a family of four, the allowance would be $1,600 per year.

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[2] In 1967, the median income of all males aged 25–34, with four years of college, was $8,716, for those with the same education, aged 45–54, it was $12,267, or 40.7 percent higher.

Cash payments to families would be computed by adjusting the basic allowance to account for the earnings of the family. The first $720 of family income would not affect the payments because it is assumed that there are basic costs of transportation, lunches, clothing, etc., associated with taking a job. Cash payments to families would then be reduced by 50 cents for each additional dollar of earnings above the $720 minimum.

A simple numerical example will illustrate the program's operation. Assume a family of four has a cash income of $2,000. The first $720 of this income would be disregarded, leaving a balance of $1,280. A family's cash payment would then be reduced by half this amount, or by $640. Since the family's basic allowance was $1,600, its cash payment after earnings would be $960.

So far only a rough idea can be provided with respect to the probable coverage of the family assistance program. The projections available are shown in Table 7, as prepared by the Department of Health, Education, and Welfare in February of this year. According to these estimates, in 1971, about 3.3 million families would be covered; of these 2 million (three-fifths) would be white, and 1.3 million (two-fifths) would be nonwhites. These families would include close to 18 million persons—of whom 44 per cent would be nonwhites. Gross payments would approximate $3.5 billion, and nonwhites would receive about $1.5 bilion—or 43 per cent. These annual payments would average around $1,060 for all families, about $1,000 for white families, and about $1,154 for nonwhites. However, since nonwhite families are expected to be somewhat larger (averaging 6.0 members vs. 5.1 members for whites and 5.4 members for all families), payments per capita would be about the same: $196 for all families, $198 for whites, and $192 for nonwhites.

It is difficult to compare the differential impact of the proposed program on particular groups of families compared with the existing program. However, it appears that a somewhat greater proportion of the families covered by the new program would be white compared with those covered by aid to families with dependent children (AFDC). In 1968, there were 1.5 million families participating in AFDC, involving 6.1 million persons, of whom 4.6 million were children. Outlays under the Federally aided programs amounted to $3.4 billion, and the average monthly payment per family was $168 (just over $2,000 per year).

In 1967, according to an HEW survey conducted in 1968, about 51.3 per cent of the families covered by AFDC were white, 46 per cent were Negro, and 2.7 per cent were other nonwhites. In 1961, whites constituted 51.8 per cent of the total, Negroes 43.1 per cent, and other nonwhites made up the remaining 5 per cent. So during the decade of the 1960's, Negroes as a proportion of total AFDC coverage increased while the proportion for all other groups was declining.

On balance, it appears that the new family assistance program would represent a considerable improvement—compared with the existing AFDC program—in about 20 States. Of these, 14 are Southern States (with a heavy concentration of Negroes), and most of the remainder are Western States (with a sizable proportion of Indians and Mexican-Americans among their populations). In 1968, the average annual payment under AFDC in the 14 Southern States was approximately $1,116. However, the average payment varies greatly among these States, and in some it is much below $1,000. Thus, given an annual payment of $1,600 for a family of four, there would be an increase of roughly $480 (or well over 40 per cent) compared with the amounts received by the average AFDC family in this region. While the exact status of families under the old and new programs cannot be determined, there appears to be no doubt whatsoever that the new proposal would result in a real improvement.

In 30 States there would also be an opportunity to make further improvements. However, in these cases, the outcome would depend on whether the States and local governments maintained their existing programs at substantially the same level. If these outlays were held at no less than 90 per cent of the 1968 level, assisted families would be better off in virtually every instance. Under the existing AFDC program, the average annual payment in these States in 1968 was $2,195 (of which $1,044 represented non-Federal payments). Under the new program (and assuming the 90 per cent maintenance factor), the average payment per family would rise to about $2,536. Thus, the new arrangement would imply an increase of roughly $340, or 15 per cent. The 30 States include primarily the heavily populated northern industrial States plus California. Most of these have a sizable concentration of low-income nonwhites in urban areas.

So, while these estimates of the probable improvement which might accrue under the new program of family assistance are obviously crude, they are suggestive. They imply that Negroes—and particularly the poverty-stricken families headed by females—would benefit substantially. And above all, it would create a promising basis for checking the increased dependence on public welfare of a growing segment of the population.

CONCLUDING OBSERVATIONS

The analysis presented here has sketched a rather mixed picture of economic progress among Negroes in the United States. While not meaning to deny or demean the recent impressive economic gains by Negroes, we must be careful that no one is lulled into believing (falsely) that the economic problems of Negroes have been solved. In this regard, the commonly observed income statistics, when accepted at face value, convey an unwarranted sense of greater economic parity between whites and Negroes than actually exists.

It was also noted that a closer analysis of the available data shows clearly that a definite economic schism has arisen within the Negro community. Individuals in male headed households appear able to share fairly well in economic advances, while those in female headed households are sinking backwards into poverty. Those individuals who have prepared themselves for challenging careers by seeking and obtaining higher education are registering relatively large improvements in incomes, while those without such training are falling further behind. Clearly, the economic condition of those who currently are lagging should be made a matter of serious national concern.

For this reason, the proposed family assistance program is pointing in the right direction, and—despite reservations many might have about some of its components—it should be viewed with greater receptivity within the Negro community.

TABLE 1.—FAMILY INCOME ADJUSTED TO PER CAPITA BASIS, BY TYPE OF FAMILY, BY RACE OF HEAD, 1959 AND 1967

	All families		Husband-wife families		Female-headed families	
	1959	1967	1959	[1] 1967	1959	[1] 1967
Median family income:						
White	5,893	8,274	6,089	8,269	3,538	4,879
Nonwhite	3,164	5,141	3,663	5,854	1,734	3,015
Ratio	0.54	0.62	0.60	0.71	0.49	0.62
Persons per family:						
White	3.58	3.59	3.66	3.66	2.93	3.03
Nonwhite	4.31	4.35	4.42	4.42	4.04	4.29
Per capita family income:						
White	1,646	2,305	1,664	2,358	1,208	1,610
Nonwhite	733	1,182	829	1,324	429	703
Ratio	0.45	0.51	0.50	0.56	0.36	0.44

[1] Data for 1967 refer exclusively to Negroes.

Source: U.S. Department of Commerce, Bureau of the Census, Income in 1967 of Families in the United States, Series P-60, No. 59, April 18, 1969, and U.S. Census of Population: 1960, vol. 1, Characteristics of the Population, pt. 1, United States Summary, 1964.

TABLE 2.—TRENDS IN THE INCOME OF FAMILIES IN THE UNITED STATES: 1950 TO 1968

[In percent]

Income rank	1968	1967	1965	1961	1950
FAMILIES					
Total, all races	100.0	100.0	100.0	100.0	100.0
Lowest fifth	5.7	5.4	5.3	4.8	4.5
2d fifth	12.4	12.2	12.1	11.7	12.0
Middle fifth	17.7	17.5	17.7	17.4	17.4
4th fifth	23.7	23.7	23.7	23.6	23.5
Highest fifth	40.6	41.2	41.3	42.6	42.6
Top 5 percent	14.0	15.3	15.8	17.1	17.0
WHITE					
Total	100.0	100.0	100.0	100.0	100.0
Lowest fifth	6.0	5.8	5.6	5.2	4.8
2d fifth	12.7	12.5	12.5	12.1	12.2
Middle fifth	17.7	17.5	17.7	17.3	17.3
4th fifth	23.4	23.5	23.4	23.2	23.1
Highest fifth	40.3	40.7	40.8	42.2	42.5
Top 5 percent	14.0	14.9	15.5	17.3	17.6
NEGRO AND OTHER RACES					
Total	100.0	100.0	100.0	100.0	100.0
Lowest fifth	4.8	4.4	4.6	4.0	3.5
2d fifth	10.5	10.4	10.7	9.7	10.2
Middle fifth	16.5	16.4	16.4	15.9	17.6
4th fifth	24.6	24.1	24.7	24.3	25.2
Highest fifth	43.6	44.7	43.5	46.0	43.5
Top 5 percent	16.1	17.5	15.5	17.4	16.6

TABLE 3.—PERSONS BELOW POVERTY LEVEL IN 1959 AND 1968, BY FAMILY STATUS AND SEX AND RACE OF HEAD

[Number in thousands]

	1959	1968	Percentage change
White total	28,484	17,395	−38.9
In Families with male head, total	20,211	9,995	−50.5
Head	4,952	2,595	−47.6
Family members under 18	8,966	4,298	−52.1
Other family members	6,293	3,102	−50.7
In families with female head, total	4,232	3,551	−16.1
Head	1,233	1,021	−17.2

TABLE 3.—PERSONS BELOW POVERTY LEVEL IN 1959 AND 1968, BY FAMILY STATUS AND SEX AND RACE OF HEAD—Continued

[Number in thousands]

	1959	1968	Percentage change
Family members under 18	2,420	2,075	−14.3
Other family members	579	455	−21.4
Unrelated individuals	4,041	3,849	−4.8
Negro and other races, total	11,006	7,994	−27.4
In families with male head, total	7,337	3,710	−49.4
Head	1,452	697	−52.0
Family members under 18	4,097	2,032	−50.4
Other family members	1,788	981	−45.1
In families with female head, total	2,782	3,439	+23.6
Head	683	734	+7.5
Family members under 18	1,725	2,334	+35.3
Other family members	374	371	−0.8
Unrelated individuals	887	845	−4.7

Source: U.S. Department of Commerce, Bureau of the Census, "Poverty in the United States, 1959 to 1968," series P-68, No. 68, Dec. 31, 1969.

TABLE 4.—NEGRO COLLEGE STUDENTS ENROLLED IN 1964 AND 1968, BY TYPE OF INSTITUTION

[Numbers in thousands]

	1964 (fall)	1968 (fall)	Change, 1964–68 Number	Change, 1964–68 Percent
Total enrollment	4,643	6,801	2,158	46
Total Negro enrollment	234	434	200	85
Percent total enrollment	5	6	(1)	(1)
Enrollment in predominantly Negro colleges	120	156	36	30
Percent of all Negroes in college	51	36	(1)	(1)
Enrollment in other colleges	114	278	164	144
Percent of all Negroes in college	49	64	(1)	(1)

[1] Not applicable.

Source: U.S. Department of Labor, Bureau of Labor Statistics; U.S. Department of Commerce, Bureau of the Census; U.S. Department of Health, Education, and Welfare, Office of Education.

TABLE 5.—MEDIAN INCOME OF MEN 25 TO 54 YEARS OLD, BY EDUCATIONAL ATTAINMENT, 1968

	Median income, 1968 Negro	Median income, 1968 White	Negro income as a percent of white
Elementary:			
Total	$3,900	$5,844	67
Less than 8 years	3,558	5,131	69
8 years	4,499	6,452	70
High School:			
Total	5,580	7,852	71
1 to 3 years	5,255	7,229	73
4 years	5,801	8,154	71
College: 1 or more years	7,481	10,149	74

Source: U.S. Department of Commerce, Bureau of the Census.

TABLE 6.—MEDIAN YEARS OF SCHOOL COMPLETED FOR PERSONS 20 YEARS OF AGE AND OVER, BY AGE, 1969

Age (years)	White	Negro	Difference
20 to 21	12.8	12.2	0.6
22 to 24	12.7	12.2	.5
25 to 29	12.6	12.1	.5
30 to 34	12.5	12.0	.5
35 to 44	12.4	10.6	1.8
45 to 54	12.2	9.1	3.1
55 to 64	10.9	7.6	3.3
65 to 74	8.9	6.1	2.8
75 and over	8.5	5.2	3.3

Source: U.S. Department of Commerce, Bureau of the Census.

TABLE 7.—RACIAL DISTRIBUTION OF RECIPIENTS UNDER THE PROPOSED FAMILY ASSISTANCE PROGRAM, 1971 PROJECTION

[Numbers in millions; amounts in billions of dollars]

Race	Families covered Number	Families covered Percent	Persons covered Number	Persons covered Percent	Gross payments Amount	Gross payments Percent
White	2.0	60.6	10.1	56.4	2.0	57.1
Nonwhite	1.3	39.4	7.8	43.6	1.5	42.9
Total	3.3	100.0	17.9	100.0	3.5	100.0

Source: Department of Health, Education, and Welfare "Selected Characteristics of Families Eligible for Family Assistance Plan: 1971 Projection," Feb. 2, 1970.

TEMPEST IN A TEAPOT

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, the President has brewed a tempest in a teapot with his proposal to abolish the "Board of Tea Tasters." Does he seek revenge on tea drinkers like myself because someone slipped him a badly brewed cup of tea; or does he favor coffee over tea? In any event, Mr. Nixon, who rarely sips a soothing cup, should not aid in taking away the stimulation that many find in a pot of excellent tiffin or even Canton that accompanies Chinese food. Including myself there are many of English, Irish, Scotch, Russian, Jewish, and other extractions who demand quality and purity in their tea.

The tasting of tea also involves our ability to conduct a trade embargo successfully as importation of products originating from mainland China is prohibited under the Trading With the Enemy Act. Because of differences in climate, soil, and local practices, teas originating from a particular geographic area have a remarkably uniform character that is impossible to duplicate in teas grown elsewhere. A good teataster should be able to identify several hundred different teas and to distinguish hundreds more. An experienced taster by making organoleptic distinctions can identify not only the type of tea, the country of origin, but also the province or district and in a few cases the very garden of origin. Thus, teas originating on the Chinese mainland can be spotted by Government teatasters carrying out the functions required of them under the Tea Importation Act, 21 U.S.C. 41–50, and reported to the Bureau of Customs. They are also called upon to identify batches of this tea which have been smuggled into this country. By abolishing the teataster, surely it cannot be the President's intention to allow Communist China to increase its ability to sell tea in the United States.

Mr. Speaker, the recent pronouncements of the administration and the President on tea raise even more serious questions. The President's ability to enforce the Tea Importation Act as enacted by the representatives of the people of this country becomes subject to question due to the Snafu actions of agency bureaucrats. The one time tea importation and representation became a controversial issue the result was a splash—the Boston Tea Party. I urge the President to correct the record, to carry out the law of the land or utilize the constitutional process to change existing law else the tea importation problem could create another splash.

A few weeks ago the President announced in a message to Congress that he had decided to kill off 57 programs that were allegedly obsolescent including as the prime example, "the Board of Tea Tasters." Some administration spokesmen were quoted as saying that the Government would save $1 million a year by abolishing this program. Others reduced the estimate to $127,000 a year. The President himself stated $125,000 a year of taxpayer moneys would be saved by abolishing the "Board of Tea Tasters" which he said he could do on his own authority. The President was quoted as saying:

> Do you know that this government has a board of tea tasters? Now at one time in the dim past, there may have been good reason to single out tea for special tests, but that reason no longer exists. Nevertheless a separate tea-tasting board has gone along, at a cost of $125,000 a year at the taxpayer's expense, because nobody up to now took the trouble to take a hard look why it was in existence.

Mr. Speaker, as chairman of the Special Studies Subcommittee of the House Government Operations Committee undertaking a study of Government advisory groups, I have taken that hard look once in 1969 and again this year. The House and Senate took a hard look at this "Board" in 1940. Other hard looks have been taken at various times by Congress, which in its collective wisdom did not see any reason to abolish the "Board." I do not know of any reason for this "Board" to cease its existence.

There is no "Board of Tea Tasters," but there are two boards with tea examination functions. They are the Board of Tea Experts, 21 U.S.C. 42, and the U.S. Board of Tea Appeal, 21 U.S.C. 46–49, both statutory boards.

In September 1969, the Secretary of Health, Education, and Welfare reported to the subcommittee as follows:

> The Board of Tea Experts is required by the Tea Importation Act of 1897. The Board has met yearly as required to recommend to the Secretary standard samples of tea which constitute the legal standards for the year. It recommends and makes a written report annually to the Secretary. The Board will continue its functions as required by law. The Tea Importation Act of 1897, as amended, forbids the entry into the United States of any tea that fails to meet the standards of quality, purity, and fitness for consumption established annually by the Board.

Despite the above statements during the October 1969 Bureau of the Budget hearings on the fiscal year 1971 budget relative to the required tea examination functions the Administrator for the Consumer Protection and Environmental Health Science, DHEW, informed the Bureau of the Budget Examiner that during fiscal year 1971 the Food and

Drug Administration would discontinue the tea examination functions being performed under the Tea Importation Act and Regulations. In essence, this means that instead of sampling and examining every lot of tea imported into the United States for purity, quality, and fitness for consumption as required by the act, 21 U.S.C. 41–50, only infrequent spot checks will be made by occasional sampling and examination of import batches of tea.

On February 8, 1970, members of last year's Board of Tea Experts were notified they would not be appointed again. Thus, no one has been appointed to the Board as of February 16, 1970, as the statute requires. By law the Secretary of Health, Education, and Welfare, must appoint a Board to consist of seven members for a term of 1 year to prepare and submit to him standard samples of tea to be upheld for that year. Without these standards of quality, purity, and fitness for consumption as established by the Board the executive branch cannot carry the specifically required functions, 21 U.S.C. 41050, of the Tea Importation Act.

In recent testimony, March 17, 1970, before my subcommittee the Assistant Director of Executive Management of the Bureau of the Budget stated that he believed that legislation would be submitted to terminate the Board of Tea Experts, that legislation is required to terminate this Board, that in no way could it be appropriately terminated by administrative action alone. Furthermore, he said, if the Board has been terminated in effect, someone is not carrying out a function specifically required by law.

Mr. Speaker, this is the opinion of all who have read the Tea Importation Act. Yet—despite the statements of the Secretary of Health, Education, and Welfare to the subcommittee and the testimony of the Assistant Director of the Bureau of the Budget it is obvious that the Board of Tea Experts is inoperable possibly for the first time in 73 years and the functions of the Tea Importation Act will not be carried out as required by existing law. The action can be depicted as a thumbing of the nose at an act of Congress and also as ignoring our constitutional process. Such actions by the Executive make it difficult if not impossible to say to our dissidents they should respect and uphold the law and utilize the constitutional process to effect change where ever necessary.

Incidentally, it should be noted that the Board of Tea Experts—Tasters—costs the taxpayers little or no money. The Department of Health, Education, and Welfare submissions to the subcommittee disclose average annual cost figures for the Board of Tea Experts as $700 or $772 a year. The maximum annual budgeted costs for experts for the Board of Tea Appeals is $150. The total sum—costs—for both Boards is a far cry from $1 million or even $125,000 a year. In fact it is a rare year when expenses of the two Boards exceed $800 a year. Further this amount may be partly if not entirely offset as a result of tea examination fees collected on all imported tea and then deposited in the U.S. Treasury as miscellaneous receipts.

But does the figure of $125,000 have any significance. At best the Department of Health, Education, and Welfare's estimated total cost of administering the entire Tea Importation Act annually including inflated costs is slightly under $124,000. The following cost data was prepared by the agency to justify the prior determination that the enforcement of the Tea Importation Act as a program activity was not warranted.

Personal services costs—approximately 11-man years: Staffs at Boston, New Orleans, San Francisco, and New York—including apportioned time of inspectors and examiners, $111,500.

New York has one fulltime examiner.

San Francisco—the examiner spends about half of his time on tea.

The analyst in Boston devotes a fifth of duty time on tea.

New York has the equivalent of two fulltime import inspectors to collect samples.

New Orleans has the equivalent of one, San Francisco and Boston have about half each. The Tea Room Clerk in New York is full time.

Other objects costs at 10 percent	$11,150
Average annual cost for Board of Tea Experts	700
Preparation of tea standards samples	400
Experts for Tea Appeals Board (Maximum annual cost)	150
	123,900

However, this does not cost the taxpayer $123,900 a year as the following are recoverable sums. The Government prepares half-pound tins containing duplicate samples of teas which conformed to the yearly established standards of purity, quality, and fitness for consumption for sale to importers and dealers at a price which approximates the cost of preparation. The average cost of preparing standard samples is approximately $400 per year, and at a price of $2 each, the return is approximately $300 per year.

The tea examiners perform tea examinations for the Defense Supply Administration—DSA, and the General Services Administration—GSA—for which its agency is reimbursed approximately $2,000 per year.

The Tea Importation Act as amended requires payment of fee before examination of tea of 3.5 cents for each hundred weight or fraction thereof of all tea imported in the United States and prior to its release from Customs custody. In the past 2 years these fees have averaged slightly over $50,000 per year. Total $52,300.

Thus, the present cost to the taxpayer is approximately $70,000 to carry out all the functions of the Tea Importation Act. Readjustment of fees for standard samples and tea examination could make up the difference. The Tea Importers and the Tea Associations of the United States have made this proposal to Government officials. So at an approximate present cost to the taxpayer of $70,000 a year every batch of tea that is imported into the United States is checked in accordance with a fixed and uniform standard of purity, quality and fitness for consumption. No tea inferior to the standard may be released. So, for the past 73 years the Tea Importation Act procedures have prevented the importation of unsound contaminated or worthless tea. To do away with the Board of Tea Experts and the tea examination functions of the existing Tea Importation Act is certainly a false claim of economy. It is more so as it is known that tea importers and consumers appear to be willing to pay higher tea examination fees in order to assure coverage of all costs in this way rather than impose any burden on the taxpayer. The administration's proposal to occasionally sample and examine lots of tea by spot checks appears to be going back to the general philosophy of the Tea Importation Act of 1883 which did not prove to be adequate to protect the U.S. importer or consumer of tea.

AGGRESSIVE INDIA CALLS FOR ARMED ATTACK ON RHODESIA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, the peoples of civilized nations are utterly aghast at the reactionary announcement by the Indian Government calling for the use of force by Britain to overthrow the Republic of Rhodesia.

First, India's announcement is completely antagonistic to the lives and property of millions of Indians who live in Africa and have already been forced to flee from the north and midland sectors into Rhodesia, South Africa, and Portuguese provinces for safety and sanctuary.

Second, for the Indian politicians in power to attack the Rhodesians as being a "racist regime" is like the pot calling the kettle black. No country in the world has and maintains a stronger system of racial and religious apartheid than that to be found in India, nor do more citizens of any nation starve year after year. Yet, no one has suggested isolating the segregated and ineffective government of India from the world community through economic sanctions nor that England overthrow the Indian Government to liberate the members of the untouchable caste or to feed the starving.

In fact, applying the same standards of conduct and behavior against the Indians that they have accused the Rhodesians of, it would appear more rational for the civilized governments of the world to withdraw their diplomatic recognition from India rather than from Rhodesia. No Rhodesian troops occupy either Kashmir or Goa.

There have been several incidents in India recently which might illustrate the manner in which the caste system prevails in the country despite the laws and the announced good intentions of the Government. In May 1968, seven members of one of the upper castes beat, tortured, and finally cremated an untouchable youth who had been accused of petty thievery. The beating of the young man apparently had a twofold purpose: To force a confession, and to serve as an example to the other untouchables in the

area that they must "stay in line" and not take too literally laws giving them legal equality. The young untouchable, with burns on 50 percent of his body and near death, appealed to an upper caste doctor for treatment—and was turned away. He then went to a police station for help, but was detained for several hours before being offered minor first aid. The next day, he was admitted to a hospital, but it was too late: the following day he died.

The riots of September 1969, when Muslims and Hindus clashed over job discrimination against the Muslim minority, resulted in thousands of casualties. Observers estimate that of those injured and killed, 80 percent were Muslim and 20 percent were Hindu. The reason offered by some sources for the discrepancy was that the predominantly Hindu police force was slow to act as long as the Muslims were receiving the brunt of the attacks, but were quick to act when the Hindus were at the disadvantage. During the same September riots, police were quick to break up labor demonstrations, perhaps an indication of the government's disregard for the working class poor. Other clashes between the Punjabi-speaking and the Hindi-speaking peoples tied up many of the northern cities: The Hindi-speaking peoples consider the Punjabis to be inferior.

Today in India, there are about 3,000 castes or subcastes, each of which is within one of the five major divisions. One is born into a caste, and can change that status only through death and an eventual rebirth in another caste. It is possible, of course, to disassociate one's self from a caste, but it is impossible to join another caste. For each caste, there is a body of laws and duties, derived from the Vedic Law of Manu, which apply to all members of the caste but may not necessarily apply to members of other castes or to castes of apparent equal status. For example, members of one group may marry their first cousins, while the members of another group may not: Or, one caste may eat lamb or goat, another may eat poultry or fish, another may eat eggs, and yet another may eat only vegetables. To violate these rules and duties necessitates a cleansing, if the transgression is minor in nature, or if the violation is major, the offending member of the caste will be "outcaste."

The primary reason for the caste rules is to avoid pollution. The eating of flesh may pollute the member of the caste to a high degree, and touching a person who eats flesh will pollute the caste member to a lesser degree. One may also be polluted by breathing bad air, perhaps talking to a polluted person or standing too close and breathing the fumes from his body. In the 1930's, it was reported in an Indian newspaper that there was a caste in the south of the country that was considered so low that other members of the society could not look at them without becoming tainted. The caste in question was engaged in the occupation of washing the clothes of untouchables. They lived in an isolated village and could travel only at night so that the other people would not see them.

Basically, there are two great schisms in Indian society. The three upper castes of the Brahmans, the Kabatriyes, and the Vaishyas form one group which looks down on the Shudras and the untouchables. The Shudras form a second group which is subservient to the upper three castes but which is superior to the untouchables. The untouchables, despite the constitution and the laws against discrimination, remain on the bottom of the social ladder. There are still some restrictions on occupation. The lowest forms of manual labor and the most degrading jobs are left to the untouchables, who may number as many as 20 percent of the 500 million people of India. Because of the poverty prevalent among the untouchables, there is little chance for them to better their station in life. Most quit school before they have received enough education to enable them to get the better jobs. In many cases, the untouchables are reduced to collecting carrion for their food.

The Shudras are for the most part the peasant community and the agrarian workers of India, although the lower castes of the Shudras are often not much better off than the untouchables. Theirs is a two-way struggle; upward against the entrenched positions of the higher classes in their attempts to increase their station in life, and downward against the rising expectations of the untouchables. The Shudras are occasionally allowed some mobility of caste, for it is the custom among some of the Vaishya castes to choose their wives from among the Shudras. The mobility is not reciprocal, however, for the Shudra men are not allowed to take wives from among the Vaishyas. The enfranchisement of the Shudras and the untouchables has given them great power since between them they constitute the majority of the Indian people and therefore hold the balance of the elections within their grasp.

There are privileges to be enjoyed by the upper castes, such as the control of the government by the Brahmans. Similarly, the Vaishyas, the traditional merchant caste of India, continues to dominate the economic field which they share with the Kahatriyas, who were the traditional warriors and rulers of ancient India. This does not suggest that all members of the government are Brahmans to the complete exclusion of the other castes, for there have been members of the cabinet who were untouchables and there has been a Muslim President in India. But a Brahman has an advantage in seeking a government job, for example, since there is a tendency to treat one's own caste with favor. Similarly, in the business world, the son follows the father, and the members of a caste will turn to those of the same caste as themselves when seeking new recruits for the firm or the industry or when applying favor on a contract or an investment. Discrimination not obvious on the surface is often subtly observed. Two men, of different castes, may work side by side at the same job, but the man of the lower caste would hesitate to approach his social better on an equal basis, using instead a humbling attitude in deference to his superior. The law, however egalitarian, cannot change the minds of the Indian people who prefer to maintain their caste system.

Just as there is a wide gulf between the law and the intention of the law to abolish discrimination and the caste system on the one hand, and the continuance of the discrimination and the maintenance of the caste system in practice on the other hand, there is also a chasm between Indian practice at home and the espousal of egalitarian causes abroad. As an illustration, the Indian Government has, in the past sessions of the United Nations, voted with the majority of the nations in condemning the practice of apartheid in South Africa. But it would appear to many observers that the practice of apartheid in its broadest context is little different from the practice of the caste system within India. In another example, the Indian Government has supported the United Nations resolutions which seek sanctions against the Rhodesian regime, even suggesting the use of armed force to end the white rule in Rhodesia. But the law within the nation of India has not been enough in itself to remove discrimination, no matter how forcefully it is applied. India has also advocated the adoption of the human rights conventions and has voted for the conventions in the United Nations, but the state of India cannot offer the same guarantees of human rights to its own people. India has condemned the colonial practices of Portugal, even attacking, conquering, and annexing, yet India allows a form of colonialism within its own boundaries.

The caste system in all its forms continues to influence the people of India. It is a paradox of history that India, outspoken in its criticism of social systems elsewhere around the world, cannot secure for its own people freedom from the practice of discrimination, any more than it can from hunger.

I include in my remarks a newsclipping stating the Indian position on free and independent Rhodesia:

[From the India News, Mar. 27, 1970]

WITHDRAWAL OF U.S. REPRESENTATION FROM RHODESIA WELCOMED

India has welcomed the decision of the Governments of the U.S., France, the Federal Republic of Germany, Italy, the Netherlands, and Norway to withdraw their consulates from Salisbury.

Mr. Surendra Pal Singh, Deputy Minister for External Affairs, gave the Government's views in a statement in the Lok Sabha (Lower House of Indian Parliament) on March 12. He said: "We consider the act of the racist regime to declare itself a Republic as totally illegal."

"We hope that it will not be recognized by any civilized nation in the world. We also hope that all the states, which continue to maintain diplomatic, consular, economic or military connections with Rhodesia, will sever their connection with it. In this connection, we are happy to note that the governments which had representation in Rhodesia, such as the U.S.A., France, the Netherlands and Norway have decided to withdraw their consulates from Salisbury.

"We are convinced that the illegal regime would not have survived if all members of the United Nations had strictly observed the general and mandatory sanctions adopted by the Security Council. Keeping in view the fact that these sanctions have not succeeded so far, we believe that full support to UN resolutions by all member-states including the use of force by Britain, is the only way to establish the legitimate rights of the people of Zimbabwe."

AND CHARLES EVERS: A CASE IN POINT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, under leave to extend my remarks, I include the following editorial:

AND CHARLES EVERS: A CASE IN POINT

Turning from what is cumulative and comprehensive—and no less real or pernicious for that—let us take up cases. Let us consider for a moment what his countrymen and his government have said to Charles Evers, who is the black mayor of Fayette, Miss. Mayor Evers is of course a lot more than that. He was born 47 years ago and raised poor in Decatur, Miss. He served in World War II as an army volunteer in the Pacific and again, in the Korean war, as a reservist. He took a bachelor of arts degree at Alcorn College, and in 1951, with his brother Medgar, he undertook a membership drive in Mississippi for the NAACP. That was to cost him his livelihood: because of his NAACP connection he was forced out of business in Philadelphia, Miss. It was also to cost his brother his life: Medgar Evers was murdered in Jackson on June 12, 1963, and Charles Evers, then living in Chicago, came home and assumed his dead brother's job as field secretary for the NAACP in Mississippi.

One hears a great deal about blacks who have been provoked and abused into despair, a great deal about black men and black women who have been forced to the conclusion that separatism or violence or both are the only solutions available to them. On the basis of his experience, Charles Evers would seem a likely prospect for this turn of mind. His recollections of family suffering and humiliation at the hands of white neighbors when he was a boy are vivid; his brother and the political leaders he followed—both Kennedys and Martin Luther King—were murdered; his every attempt to obtain for himself and others the simplest, most fundamental forms of equal justice in his state have been systematically and viciously fought by its citizens and its leaders. And yet this is a man who can still say that he "loves" Mississippi and that he "loves" his country and that he is bent on making justice work—within the system, by means of the traditional American political processes.

Charles Evers has had almost as much trouble on this count from those he describes as the "black extremists" as he has had from his white compatriots. But he has rejected the ridicule and pressures of this one and the ominous warnings of the other. His crime (in the eyes of both) has been his single-minded pursuit of political equity and racial understanding through the instruments of government that are theoretically available to all. A patient campaign led to the accreditation of his delegation at the Democratic convention in Chicago, and he was a stalwart among those who insisted that the delegation and the party it represented be black and white—not just black. His prodigious efforts to take advantage of the Voting Rights Act of 1965 via registration and get-out-the-vote drives and via the fielding of a number of candidates, led to his election as mayor of Fayette last year. None of this was done without risk, but his observations upon election and since have been wholly lacking in any of the vengeance or retaliatory spirit that he might easily have indulged had he wished. On the contrary, Charles Evers declared that his policy for the community he served would be one aimed at economic betterment for all citizens—black and white—and that there would be no racial violence from any quarter tolerated. "We're not going to do to white people what they've done to us," he said. "We're going to have law and order and justice." And again: "We've got to prove to this country we can work together. I know we can."

You would think that the kind of spirit and sense Charles Evers has shown would gain him allies and admirers in high places. But something quite different has occurred. One of the Nixon administration's first acts in the civil rights field was an attempt to eviscerate the Voting Rights Act, the legislation to which Mayor Evers and others could point as evidence that the system might be made to work. Then it pulled out the rug in Mississippi from under those of both races who, like Major Evers, had persisted in championing the worth of desegregating state institutions as a means of achieving racial amity and common justice. It sent Vice President Agnew to Jackson to titillate the fancy of his audience ("The point is this—in a man's private life he has the right to make his own friends . . . men like John Stennis and Jim Easterland have fought with great determination in Washington to preserve the strength and stability of this country . . . we believe that civil rights must be balanced by civil responsibilities . . ." and so on.). Now we learn that Mayor Evers, with the assistance of HEW staff, not long ago put in for an HEW grant to begin a comprehensive health program for his county—the nation's fourth poorest—and an adjoining county. And we learn too that the state's Republican chairman wrote a letter to Washington opposing it and that the grant has been refused.

What are men like Charles Evers to think of an administration that seems at pains to undercut everything that offers hope of achieving progress through the legitimate means and channels of government? Statements on school desegregation, anxious inquiries of selected visitors as to whether and why the administration has a "racist" image are at this point of secondary importance. If, as we believe, the first order of business for Congress is the rejection of Judge Carswell's appointment, so the first order of business for the White House is to cease undermining the legislative gains of the past and undercutting those men and women who are smart enough and brave enough to use them. The President must make plain that when he and his spokesmen talk so lovingly about the "people of the South" they mean *all* the people of the South, including such distinguished people as Charles Evers.

BYELORUSSIAN INDEPENDENCE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MINISH. Mr. Speaker, on March 25, Byelorussians everywhere in the free world celebrated the 52d anniversary of the proclamation of independence of the Byelorussian Democratic Republic, for it was on that date in 1918 that the Council of the First All-Byelorussian Congress made its stirring proclamation.

This anniversary is significant to Byelorussians, reminding them as it does of their day in the sun. Unfortunately, Byelorussians living in their native land today are denied the opportunity to mark this occasion so important to them. They are prevented from celebrating the memory of their declaration of freedom, and have been ordered to substitute the observance of the 100th anniversary of the birth of Vladimir Ulianoff in place of their national celebration of independence. Vladimir Ulianoff, otherwise known as Lenin, was the former leader of the Russian Bolshevik Party and head of the Soviet Russian Government. He does not signify in the least the hopes of freedom and sovereignty the Byelorussians cherish.

I want to remind my colleagues that the Byelorussian nation today suffers from a deprivation of most of its human rights and freedoms, the very rights proclaimed earlier by the Byelorussian Democratic Republic. Nonetheless, the stanch Byelorussians have kept hope alive, and believe that they eventually will be restored their independence. Their patience and steadfast resolve must not go unrecognized. It is my hope that their longstanding desire for freedom will soon be granted.

SCHWENGEL PRAISES AMANA MEAT MARKET

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. SCHWENGEL. Mr. Speaker, there has been a good deal of controversy in my home State regarding the need for Federal meat inspection. Without wishing to get embroiled in the controversy itself, I would like to take this opportunity to reaffirm my faith in the Amana Meat Market which seems to have borne the brunt of the controversy. The following editorial, which appeared in the Cedar Rapids Gazette on January 5, and the letter from K. L. Boynton which appeared in the People's Forum on the same date indicates the high regard in which the Amana Meat Market is held. I concur in the comments in this respect which are contained in the editorial and the letter:

AMANA MEANS QUALITY

Down through the years the Amana Society has won a well-deserved nationwide reputation for the quality of its products. Amana-made furniture is considered of heirloom status. Amana-woven woolen goods are much sought after. Amana-manufactured freezers, refrigerators and air conditioners are sold throughout the world. Visitors come from far and wide to taste Amana's fine wines, to sup at its many excellent restaurants and to take home meat and bread specialties.

Amana's people worked long and hard to build this reputation and, once earned, they have continued to work long and hard to maintain it; to make certain the standards that helped to win it are not lowered.

That's why the charge against the Amana Society meat market by a state agriculture department inspector came as a surprise. The Amana people, as much as any of us, are interested in sanitary conditions in their meat market. If there are some things that need to be changed, they are willing to change them. But, caught in a political crossfire between federal inspectors who give them a clean bill of health, and a state inspector, who didn't, it is an admittedly frustrating experience.

That there are political overtones in this unfortunate situation cannot be denied. Secretary of Agriculture Liddy, who thinks the state needs no federal assistance to inspect certain of its meat plants, obviously set out to prove state inspections to be more thorough than federal inspections. He did it in the home congressional district of State Sen. Edward Mezvinsky (D-Iowa City) who has championed federal inspections for Iowa.

But that's water over the dam. Political stump speeches won't work here. The Amana people have a right to know what, if anything, needs to be done to meet federal and state standards and be given a chance to do it—which is the approach the state inspector should have used in the first place instead of involving the Society in a political fight.

AMANA MEAT MARKET PRAISED

MANCHESTER

TO THE EDITOR: We travel a hundred miles from our base here in Manchester to buy meats at the Amana meat market because of the top quality of their product and their high standards of cleanliness.

We always find the shop spic and span, a pleasure to go into, and in talking with other visitors in the market who have just come from a tour of the plant and who are waiting to buy products to take home with them, we find that they too are impressed with the ship-shape and clean manner in which everything is done.

The real test is met in the food itself: Amana Market meat is so fresh and clean that it holds its quality longer in the freezer. . . .

We are old customers of Amana meat market, and will continue to buy their products with pleasure and confidence.

K. L. BOYNTON.

SOUTH AFRICAN THREADS AMONG THE GOLD

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FRASER. Mr. Speaker, the gentleman from Milwaukee (Mr. REUSS) has again made a notable contribution to our knowledge about international monetary matters. I refer to his March 20, 1970, Commonweal article which criticizes the U.S. Treasury's agreement with South Africa and the International Monetary Fund to support the price for South African gold production. Mr. Reuss, chairman of the Banking and Currency Subcommittee on International Finance and a member of the Joint Economic Committee, is one of our most informed Members concerning international finance. I commend his article to this body. It is a lucid and devastating commentary upon a very questionable decision. The article follows:

SOUTH AFRICAN THREADS AMONG THE GOLD

(By Hon. HENRY S. REUSS)

The United States Treasury apparently just can't stand prosperity. No sooner had the world monetary system won the war by South Africa to force the free market price of gold dangerously out of sight than the Treasury, last December 30, concluded an agreement with South Africa and the International Monetary Fund whereby the IMF—and ultimately the United States—will support the price of South African gold by buying it at $35 an ounce whenever the price dips below that figure in the free market.

To understand the meaning of the year-end gold agreement, let us look at the history of gold and the dollar in the last 25 years. Under the 1945 Bretton Woods Charter on which the international monetary system is based, the United States agreed to sell gold to official foreign monetary authorities for $35 an ounce. The U.S. gold reserve was then some $20 billion, and foreign dollar claims against it were only $7 billion. Thus it looked as if the United States could support this vestige of the gold standard without embarrassment to itself.

But for the last 20 years the United States has been losing gold and accumulating short-term debts it owes foreigners. Today our gold stock is $11.9 billion, and the dollar claims outstanding in foreign hands are $42.6 billion. This four-to-one bookkeeping "insolvency" exposes us to pressures which caused us seriously to retard economic growth in the first half of the 1960's and to impose undesirable controls on American investment and aid in more recent years.

Countries like France have a long history of using financial power for political purposes. France withdrew funds from Austria in 1931 to pressure Austria into avoiding union with Germany—a move that led to the collapse of the Credit-Anstalt bank in Vienna, which in turn led to a collapse of the international monetary system and in part to the rise of Hitler.

More recently, in the mid-1960's, France embarked upon a campaign to harass the dollar. If the United States were forced to give up her gold for French-held dollars, the French authorities reasoned, a panic could well be started which could induce the United States to bolster her flagging reserve position by doubling the price of gold. Thus the French gold speculators would be rewarded in their speculation.

France's efforts to have the price of gold doubled were vigorously joined in by the largest gold producer, South Africa, which today produces three-fourths of the world's newly mined gold. The Soviet Union, the other large gold producer, sat by, hoping that the effort to raise the price of gold would succeed.

These efforts to torpedo the dollar came to a climax in the winter of 1967–1968. The time was propitious, because international financial markets were unsettled by the devaluation of the pound sterling in November, 1967, and by the disastrous fourth-quarter United States balance of payments deficit. The United States, the United Kingdom, and other members of the "gold pool" poured gold into the London market, trying to prevent the speculators from raising the price to well above $35. The fear was that if the free market price of gold went to around $50 an ounce, central bankers would sell their gold in this market for a profit, replace it from the United States at $35 an ounce by presenting their dollars, and then repeat the process until the United States was forced to raise the price of gold. The gold pool poured some $3 billion of gold into the London market within a few weeks. But the price of gold continued to go up, and a catastrophe loomed ahead.

But then, in the nick of time, the seven gold pool countries framed the March 17, 1968, Washington two-tier gold agreement. Professor Richard Cooper of Yale, adviser to both the Johnson and Nixon Administrations, describes that agreement: "To prevent further losses, in March 1968 the pool took the far-reaching step of allowing the market price of gold to go free. The intent of this action was to divide gold into two commodities, one for monetary purposes and one for private uses. All new gold was to be directed to private uses; central banks agreed neither to sell nor to buy gold outside the monetary system. It was as if all monetary gold on March 17 were painted indelibly blue, with the claim that no new gold would be so painted in the future. This blue gold could transfer among central banks in settlement of international debts at a value of $35 an ounce. Metallic gold could sell in the market like any other non-ferrous metal, the price reflecting a balance between supply and demand for private uses. This division of markets was to be policed by the refusal of the U.S. Treasury, the only government committed to buy and sell gold for its currency, to deal in gold with those central banks that traded in gold with the private sector."

Within a few weeks the United States had obtained the adherence to the two-tier gold agreement of more than 80 countries—everybody important but France and South Africa. South Africa for more than a year—until mid-1969—tried to break the agreement by playing the old monopolist game of withholding its product from the market. The free market price of gold accordingly shot above $40 an ounce.

South Africa needs to sell practically all her annual gold production—around $1 billion—in order to overcome her normal balance of payments deficit, also about $1 billion. By keeping her gold off the market, she was able to force the price up, in the hope that central banks would depart from the two-tier agreement and once again threaten the United States with the necessity of doubling the price of gold, or else. But to South Africa's disappointment, the central banks (with one unimportant exception, Portugal) held firm and refused to buy. Thus South Africa, desperate for foreign exchange, was forced to sell gold on the free market in the second half of 1969. The price of gold promptly declined, ending up below $35 an ounce.

You would have thought that the United States Treasury would be rejoicing that the war had been won. There were problems, but they could have been easily handled.

The first problem was that some central bankers were understandably queasy at the prospect of their cherished gold reserves declining in value below $35 an ounce. Their citizens might well question the wisdom of their money managers, who put so much of the nation's reserves into such a fragile commodity as gold. These legitimate fears of central bankers could well have been stilled had the U.S. taken the lead in asking the IMF to guarantee the $35 an ounce value of all legitimate monetary gold.

A second concern was that the world's central bankers might begin to welsh on the March, 1968, two-tier agreement, and openly or clandestinely buy and sell gold in the private market in order to make a quick profit. The House-Senate Subcommittee on International Exchange and Payments pointed out that the Treasury had a splendid weapon for dissuading foreign central banks who might be tempted to violate the March, 1968, agreement. As the Subcommittee recommended: "The Secretary of the Treasury could condition his purchase of gold from a foreign monetary authority on the latter's assurance that it had not obtained 'bootleg' gold, whether newly mined or hoarded, from the private market. This Treasury 'condition' would be intended to, and in all likelihood would in fact, discourage foreign official purchases of 'bootleg' gold because of the knowledge that to do so would cause the withdrawal of any U.S.-financed floor."

The Subcommittee went on to warn that "the U.S. Treasury should under no foreseeable circumstances agree to support—either directly, through the IMF, or by sanctioning the purchases of other industrial countries—the free market price of gold."

RECOMMENDATION IGNORED

The Treasury chose to ignore the Subcommittee's recommendation—as of course it has

a legal right to do. On December 30, 1969, with Congress safely out of session, the Treasury entered into the agreement with South Africa. Under that agreement, South Africa will sell its current gold output in the private gold markets when the price is above $35 an ounce (an agreement of doubtful value, since South Africa had just established that it, for all practical purposes, has to do this in any event in order to avoid a balance of payments crisis for South Africa). When the price is below $35 an ounce, South Africa will be able to sell the IMF whatever amounts of gold are needed in order to pay for South Africa's trade and investment. The IMF would immediately unload its gold to its members. As the only country in the world committed to buy gold at a fixed price, the United States thus undertook an open-ended commitment to act as a purchaser of last resort for any South African gold entering the international monetary system. The agreement concluded, South Africa Finance Minister Nicolaas Diederichs went home to Pretoria, to well-deserved applause.

What is puzzling is that the United States Treasury also apparently expected applause for its agreement. The official Treasury justification for the agreement was that it was "essential to the preservation of the two-tier 1968 agreement." But the 1968 agreement, as Professor Cooper has described it, was to retain existing monetary gold in the system, but not to add to it. Every ounce of South African gold added to official monetary reserves weakens the two-tier agreement. Already the IMF has been purchasing South African gold under the December 30, 1969, agreement, since the free market price has remained below the $35 an ounce level.

Americans were shocked to hear some months ago an American major described the leveling of a South Vietnamese village: "In order to save it, we had to destroy it." Apparently this reasoning appeals to the Treasury: in order to save the two-tier agreement not to introduce new gold into the system, we have to introduce new gold into the system!

The December 30, 1969, agreement is unwise for at lease four reasons:

1. It gives speculators against the dollar a new lease on life. South Africa is given a direct never-below-$35 guarantee. Private speculators, and the Soviet Union, will get the spin-off encouragement that the South African agreement will tend to produce some floor on the free price of gold higher than otherwise would be the case. It thus improves their speculative abilities.

2. January, 1970, saw the distribution of $3.5 billion in paper gold—Special Drawing Rights—by the IMF to its members. This constructive new arrangement is designed to produce an orderly and controlled influx of new reserves into the system, one that will avoid both inflation and deflation. What becomes of the orderly SDR arrangement now that SDR's will be supplemented by uncontrollable amounts of new South African gold coming into the system?

3. The December 30, 1969, agreement rubbed salt in the wounds of the less developed countries. They were understandably distressed because two-thirds of the new SDR's—manna from heaven, in that they do not require the transfer of real resources from the countries receiving them—went to the wealthy developed countries. Stung by the deterioration in the export prices of their basic commodities, such as coffee, cocoa and tin, they succeeded in the September, 1967, Rio meeting of the IMF in getting a resolution adopted dealing with "the decisive importance of the stabilization of prices of primary products at a remunerative level for the economic advancement of the developing countries."

The IMF's first move on "stabilization of primary products" is the December 30, 1969, agreement to stabilize the price of the primary product, gold, of South Africa. That wealthy South Africa is a nation which pursues apartheid as a means of maintaining the control of a white minority over an increasingly persecuted and revolutionary black majority does not make the discrimination any easier to bear.

4. From the standpoint of the United States citizen, the December 30, 1969, agreement exposes us to losing real resources—goods and services that Americans produce by the sweat of their brows—in order to buy gold needed not for legitimate monetary reserve purposes, but to please South Africa. More, this South African gold will be paid for not by the ordinary method of asking for a congressional authorization and appropriation of the necessary millions or billions, but by simply printing the dollars that are used to make the sale. As University of Chicago Professor Milton Friedman has said: "The Treasury is authorized to create money to pay for gold it buys, so that expenditures for the purchase of gold do not appear in the budget and the sums required need not be explicitly appropriated by Congress . . ."

All told, the Treasury's December 30, 1969 agreement is a large step backward. The Congress is unhappy about it. Quite a few citizens and taxpayers, when they study the agreement, will be unhappy about it too.

JUDGES CONFERENCE ON THE FUTURE OF THE WORLD COURT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FINDLEY. Mr. Speaker, on April 4, 1970, the Center for International Studies and the School of Law of New York University will sponsor a conference of judges, drawn from both American and Canadian national courts and the International Court of Justice to discuss "The Future of the World Court." The need for re-evaluation of the Court's role is apparent since, at the present time, there is not a single case remaining on the Court's docket.

This conference is predicated on the theory that insight into the adjudicative process gained by experienced judges in national courts can be used to solve the problems of adjudication at the international level. In a world of controversy, of disputes which constantly dissipate national resources and threaten humanity with extinction, law must play a role, alongside politics, in reducing the level of tension and ameliorating the risks. If law is to play such a role, there must be a forum in which legal arguments can be made and in which a judiciary, freed of political constraints, can develop reasoned principles and make just decisions.

It is not an easy matter to develop such an institution in a world climate of jealous state sovereignty, of deep ideological cleavages, of cultural diversity and political polarization.

It is thus particularly meaningful and appropriate that judges of the World Court should be turning for advice to leading members of the United States and Canadian judiciaries. Both operate in federal systems which continue to feature elements of state sovereignty, cultural diversity, and political polarization. In both countries, the Federal judiciary has had ample occasion to experience the problems inherent in such circumstances, yet the federal judicial systems in Canada and the United States have been singularly effective in developing the content of law while also developing a respect for judicial institutions.

On this basis, a comparison of different facets of national and international judicial experience may reveal areas in which the national judicial experience can provide guidance for developing the International Court of Justice into a credible forum in international adjudication. It is particularly gratifying that at this conference on "The Future of the World Court" the executive branch of the Government of the United States, as well as our judiciary, will be working with the judges from the International Court of Justice to find solutions to the problems of the Court's effectiveness. The State Department will be represented by its distinguished legal adviser, Mr. John R. Stevenson, a former president of the American Society of International Law and by the counselor in the Office of the Legal Adviser, Louis D. Sohn, who as Bemis Professor of International Law at Harvard Law School, has long and imaginatively dealt with the problems of creating a world order based on the rule of law.

Among the members of the judiciary participating in the discussion are:

From the International Court of Justice:

Manfred Lachs of Poland (to act as chairman of the conference).

Eduardo Jiménez de Aréchaga of Uruguay.

Hardy Cross Dillard of the United States.

Louis Ignacio-Pinto of Dahomey.

Philip C. Jessup of the United States.

John Erskine Read of Canada.

From the United States:

William O. Douglas, U.S. Supreme Court.

Frank M. Coffin, U.S. Court of Appeals, First Circuit, Portland, Maine.

George Clifton Edwards, Jr., U.S. Court of Appeals, Sixth Circuit, Detroit, Mich.

Walter Ely, U.S. Court of Appeals, Ninth Circuit, Los Angeles, Calif.

Harold Leventhal, U.S. Court of Appeals, District of Columbia, Washington, D.C.

Harrison L. Winter, U.S. Court of Appeals, Fourth Circuit, Baltimore, Md.

John Minor Wisdom, U.S. Court of Appeals, Fifth Circuit, New Orleans, La.

J. Skelly Wright, U.S. Court of Appeals, District of Columbia Circuit, Washington, D.C.

Dudley B. Bonsal, U.S. District Court, Southern District of New York.

Edward Weinfeld, U.S. District Court, Southern District of New York.

Oscar H. Davis, U.S. Court of Claims, District of Columbia, Washington, D.C.

From Canada: Bora Laskin, Supreme Court of Canada.

Out of these high-level deliberations I hope will come ideas that will reactivate the Court. More to the point of this meeting, I hope there will emerge new initiatives on the part of this country to apply concern for law and order to

the international level and to increase our use of the World Court.

It was just this concern over the ineffectiveness of the World Court which prompted me in the fall of last year to write to Judge Philip C. Jessep, the U.S. Judge on the Court and ask him for the opportunity to meet with him and some of the other officials to the Court.

On October 19, 1969, several Members of Congress accompanied me on a trip to the World Court. Those who met with Justices of the Court included Senators PELL, of Rhode Island, EAGLETON, of Missouri and JAVITS, of New York, and Representative QUIE, of Minnesota, and myself.

In addition to Judge Jessup of the United States, these judges were present: Jose Bustamente, former President of Peru, Sir Gerald Fitzmaurice, of Great Britain, Andre Gros, of France, Mandred Lachs, of Poland, Charles Onyeana, of Biafra. Mr. Onyeana was careful to identify himself as being from Biafra, not Nigeria. Clearly, he was a partisan in the Nigerian civil war. Also present was Stanley Aquarone, of Australia, Court registrar.

This meant that our circle included six of the Court's 15 Justices, nearly one-half the total.

In a sense, the turnout may have been less a tribute to the drawing power of our congressional group than to the somber fact that the Court judges had very little else to do.

The Court had only one case on its docket, adjudication of the Barcelona Traction case. That case has since been completed and the Court now has no litigation before it.

We asked why there was no business.

The French jurist supplied this answer: He said governments, like people, dislike litigation and avoid it when they can. He said governments, like people, dislike getting themselves into circumstances in which they may be the loser.

Others gave what may be a more fundamental reason: The foreign office or State Department officials simply prefer not to place matters before the Court. It is not the accustomed way to deal with problems. To an appalling extent, I am afraid, our Department of State could accurately be named the Department of Status Quo when it comes to making the World Court a useful tribunal.

In any case, the World Court gets business only if all parties to a dispute agree to place before it a matter at issue, and this rarely occurs.

In other words, the Traction case went to the Court only because the Government of Spain and the Belgian interests which had originally owned the company agreed to let the Court make the settlement.

The Court itself is housed in a magnificent structure called the Peace Palace. It was financed by Andrew Carnegie in a brief peaceful interlude before the outbreak of World War I.

The courtroom is appropriately colorless, dusty, and musty. Like the palace, the Court is largely a tourist attraction.

Actually, the Court has had success as far as its record goes. Of 60 cases since the Court resumed its work after World War II, the Court's decision has been carried out fully in every decision but one.

But today the world's highest tribunal is a pathetic institution. What is more pathetic is the state of world affairs that has made it so.

What can be done?

Several suggestions developed from our discussion:

First. The availability and high quality of the tribunal should be called to public attention—and especially to governmental attention—at every opportunity. When problems arise, no one seems to think of the Court as a place of settlement.

Second. The Court should be utilized for advisory opinions. Although not binding, these opinions can, nevertheless, be influential. The Court's statute should be changed to permit individual governments to request advisory opinions. Only the U.N. General Assembly or Security Council can presently make such requests.

Third. Future treaties should contain language bringing disputes arising from them under the Court's jurisdiction. This would remove uncertainties caused by the Connolly reservation.

Never in human history has the world had such great need for an international tribunal where disputes are settled, not by force or arms—or by lesser forms of power politics, but by the application of legal principles and precedents through a judicial process of hearings, testimony and cross-examination.

Nowhere is the need more clearly evident than in the Middle East, where clouds of war gather ominously.

Two years ago during the hostilities between Israel and its Arab neighbors, I urged that the United States use its influence to get the major parties in the dispute to place all the complex legal issues there involved before the World Court for adjudication. The issues are complex. Many go back as far as the Palestinian period. They involve refugee questions, seized and destroyed property, boundaries, and right of access. Neither side is without fault or responsibility, but feeling is so intense that a rational solution through negotiation between the parties seems out of the question.

The World Court provides a safe, face-saving fair way out of the present dilemma. If all parties agreed in advance to the Court's adjudiction of particular issues, most likely each would eventually confront a Court order not entirely to its liking. But because of the circumstances of the settlement—the process of adjudication as opposed to arbitration—the outcome would be one which each could defend back home with a minimum of repercussions.

A Jewish rabbi described my proposal as an appeal to reason. I like that description. Put another way, it is a proposal for peace in the Middle East through the application of legal principles and due process.

I have suggested similar measures in respect to the *Pueblo* crisis and the legal issues involved in Vietnam. I made the same suggestion regarding the dispute over the expropriation of an oil company by Peru. As a sovereign nation, Peru has the right to take the property, but it also has the obligation to make a fair settlement. Why not place the whole question before the World Court?

The sad truth, a truth which our trip to The Hague confirmed, is that our State Department and the foreign offices of other countries in the past have had almost no interest in utilizing the World Court.

I hope that initiatives such as this conference can provide the spark which will encourage all governments to warm up to the World Court and recognize its potential for peace.

DAM OUTRAGE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, the April 1970 issue of the Atlantic contains a perceptive article on the Corps of Engineers which I place in the RECORD at this point for the permanent reference of our colleagues:

DAM OUTRAGE: THE STORY OF THE ARMY ENGINEERS

(By Elizabeth B. Drew)

As times change so do the nation's needs and priorities. But the Army Corps of Engineers just keeps rolling along as it has for decades, working one of the most powerful lobbies in Washington, winning more than $1 billion a year from the Congress to straighten rivers, build dams, and dig canals that frequently serve only narrow interests and too often inflict the wrong kinds of change on the environment. Here the *Atlantic's* Washington editor tells how the Engineers do it, and suggests that a changing public opinion may at last force a change in their habits.

The St. Croix River, one of the few remaining wild rivers in the nation, forms a stretch of the border between Wisconsin and Minnesota before it runs into the Mississippi below Minneapolis. Not long ago, Senator Gaylord Nelson of Wisconsin discovered that the Army Corps of Engineers was considering the construction of a hundred-foot-high dam on the St. Croix. At the same time, Nelson and Senator Walter Mondale of Minnesota were trying to win legislation that would preserve the river in its natural state. Nelson took the unusual step of going before a congressional committee to oppose a Corps project in his own state. "The Corps of Engineers," he said, "is like that marvelous little creature, the beaver, whose instinct tells him every fall to build a dam wherever he finds a trickle of water. But at least he has a purpose—to store up some food underwater and create a livable habitat for the long winter. Like the Corps, this little animal frequently builds dams he doesn't need, but at least he doesn't ask the taxpayer to foot the bill."

Few politicians publicly criticize the Corps, because almost all of them want something from it at some point—a dam, a harbor, a flood-control project. A combination of Corps diplomacy and congressional mutuality keeps most of the politicians content, and quiet. The overwhelming majority of Corps projects are attractive federal bonuses, given free of charge to communities—some local contributions may be involved in small flood-control or municipal-water-supply projects—and therefore they are highly prized. "They take care of all of the states," said one Senate aide. "If there's water in a faucet in one of them, they'll go in there and build a dam."

There is no question that the civil works program of the Army Corps of Engineers, viewed over its long history, has benefited the country. It has made waterways navigable and provided hydroelectric power and flood control. Communities to which it has brought help have been genuinely grateful. Now, however, it is a prime example of a bureaucracy that is outliving its rationale, and that is what is getting it into trouble. As the Corps, impelled by bureaucratic momentum and political accommodation, has gone about its damning and dredging and "straightening" of rivers and streams, it has brought down upon itself the wrath of more and more people disturbed about the effects on the environment. A secret poll taken by the White House last year showed environmental concerns to be second only to Vietnam in the public mind. This rather sudden general awarencss of the science of ecology—the interrelationships between organisms and their environment—has brought projects which disturb the environment and the ecology, as Corps projects do, under unprecedented attack. The Corps' philosophy, on the other hand, was recently expressed in a speech by its chief, Lieutenant General F. J. Clarke. "With our country growing the way it is," he said, "we cannot simply sit back and let nature take its course."

Criticism of the Corps and what its programs are all about is not based solely on environmental issues. The broader question, given the claims on our national resources, is whether it makes sense to continue to wink at traditional public works programs, and the self-serving politics which sustain them. The nation is now committed, for example, to making Tulsa, Oklahoma, and Fort Worth, Texas, into seaports, although each is about 400 miles from the sea, at costs of at least $1.2 billion and $1 billion respectively. There are other questions that might be raised at this point, such as whether subsidizing the barge industry should be a national priority; or whether we want to continue to dredge and fill estuaries and build flood-control projects for the benefit of real estate developers and wealthy farmers. The Army Corps of Engineers and its work have been a very important force in American life, with few questions asked. Yet it is not fair simply to castigate the Corps, for the politicians have made the decisions and the public has gone along. General Clarke had a point when he said that the Corps is being put "in the unhappy and, I can't help feeling, rather unfair position of being blamed for presenting a bill by people who have forgotten that they ate the dinner."

The Corps is part of a growing hodgepodge of federal bureaucracies and programs that work at cross-purposes. The Department of Agriculture drains wetlands while the Department of Interior tries to preserve them. The Corps dams wild rivers while the Department of Interior tries to save them. The Corps and the Bureau of Reclamation in Interior provide farmlands for crops which farmers are paid not to produce. The government spent $77 million to build the Glen Elder Dam in Kansas, a Bureau of Reclamation project which provided land to produce feed grains, for which the government pays out hundreds of millions of dollars a year to retire. The Tennessee Valley Authority is also still building dams, and it does strip-mining.

But of these water programs, the Corps is by far the largest. Each year Congress gives it more than a billion dollars, and each year's budget represents commitments to large spending in the future. In a deliberate effort to spread the money around, new projects are begun and ones already under way are permitted to take longer to complete, in the end driving up the costs of all of them.

The annual Public Works appropriations bill provides money for, among others, the Panama Canal, the Water Pollution Control Administration and the Bureau of Reclamation in the Interior Department, and various public power administrations, as well as the Corps of Engineers. This year it came to $2.5 billion, of which the Corps received $1.1 billion. The Corps is now at work on 275 projects. The total future cost of these will be $13.5 billion, not accounting for the customary price increases. Another 452 projects have been authorized by Congress, but have not yet been started. The Corps says that the total cost of these would be another $10 billion, clearly an under-estimation of some magnitude. For every project to which the country is already committed, the Corps, the politicians, and the local interests who stand to gain have many, many more in mind.

"DESTINY . . ."

The Corps' official history traces its beginnings to a colonel who dug trenches "in the darkness of the morning" during the Battle of Bunker Hill, and the subsequent orders of President Washington to establish a corps of military engineers and a school to train them. In 1802, the Corps was established, and West Point was designated to provide its members. The history of the Corps is interwoven with that of the country and its frontier ethic. It is a very proud agency. "They led the way," its history says, "in exploring the great West. They were the pathfinders sent out by a determined government at Washington. They guided, surveyed, mapped, and fought Indians and nature across the continent. . . . They made surveys for work on the early canals and railroads. They extended the National Road from Cumberland to the Ohio and beyond. They made the Ohio, Missouri, and Mississippi safe for navigation in the Middle West. They opened up harbors for steamships on the Great Lakes." After the war with Mexico, in which "the part played by the Army Engineer officers was impressive . . . the last segment of the great Western Empire was soon annexed. These things were all accomplished by the application of America's greatest power. That is the power of Engineering Character, Engineering Leadership, and Engineering Knowledge. All employed to fulfill our destiny." Following the Civil War, the civil works program of the Corps "was revived to benefit all sections of the reunited nation," and that is how the Corps has been fulfilling our destiny ever since. In 1936 the Corps was given major responsibility for flood control (until then largely a local function).

The major activities of the Corps are the damming, widening, straightening, and deepening of rivers for barge navigation, building harbors for shipping, and construction of dams and levees and reservoirs for flood control. It also works on disaster relief and tries to prevent beach erosion. A project can serve several purposes: building waterways, providing flood control, hydroelectric power, or water supply. As the Corps completed the most clearly needed projects in these categories, it found new purposes, or rationales, for its dams. The newer justifications are recreation and pollution treatment.

Pollution treatment (the government calls it "low-flow augmentation") is provided by releasing water from a dam to wash the wastes downstream. But there are now more effective and less expensive ways of dealing with pollution.

Recreation is provided in the form of still-water lakes behind the dam, for speedboating, swimming, and fishing. But the fish that were previously there often do not continue to breed in the stilled water. And the recreation, not to mention the scenery, of the natural river that used to be there, is gone. A flood-control channel is usually surrounded by cement banks, and the trees are cut down when a levee is built. When the water in a reservoir is let out during the dry months, or for "low-flow augmentation," the "recreation" area can become a mud flat.

These problems arise because the Corps of Engineers' mission has been narrowly defined. Other ways of dealing with transportation, power, and pollution are not in the Corps' jurisdiction, so the Corps is left to justifying what it is permitted to do. What hydroelectric power is left to be developed will make a very small contribution to the nation's power needs. The Corps builds its projects on sound engineering principles. If a highway cuts through a park or a city, or a dam floods more land than it protects, those are the breaks. A "straight" river is an engineer's idea of what a river ought to be. A talk with a Corps man will bring out a phrase like, "When we built the Ohio River . . ."

The Corps argues that having military men conduct civil works "is an advantage of outstanding importance to national defense." Actually, the military men in the civil works section of the Army Corps of Engineers represent only a thin superstructure over a large civilian bureaucracy. Most of the 1100-man uniformed Corps work solely on military construction. The civil works section of the Corps, in contrast, comprises about 200 military men, and under their direction, 32,000 civilians.

Generally, the career military engineers come from the top of their class at West Point, or from engineering schools. Once they join the Corps, they rotate between military and civil work, usually serving in the civil works division for three-year tours. The civil work is sought after, because it offers unusual responsibility and independence in the military system, and the experience is necessary for reaching the high ranks of the Corps. Through the civil work, a Corps officer can gain a sharpening of political acumen that is necessary for getting to the top. And there is the tradition: "The Corps built the Panama Canal," one officer said, "and every Corps man knows that Robert E. Lee worked on flood control on the Mississippi." It is a secure life, and when he retires, a military corps officer can get a good job with a large engineering firm or become director of a port authority.

The civilian bureaucracy is something else. The Corps, like other government agencies, does not attract the brightest civilian engineering graduates, for it does not offer either the most lucrative or the most interesting engineering careers. The Corps work is largely what is known in the trade as "cookbook engineering." A ready-made formula is on hand for each problem. The Corps' bureaucracy draws heavily from the South, where the engineers who built the first dams and controlled the floods are still heroes.

The military patina gives the Corps its professionad aura, its local popularity, its political success, and its independence. The military engineers are, as a group, polite, calm, and efficient, and their uniforms impress the politicians and the local citizens. The engineer who heads one of the Corps' forty district offices, usually a colonel, is a big man in his area; the newspapers herald his coming, and he is a star speaker at the Chamber of Commerce and Rotary lunches. But the military man gets transferred, so smart money also befriends the civilian officials in the district office. These men stay in the area, and want to see it progress. The Tulsa office of the Corps, for example, has about 1500 employees, of whom only three are military. The local offices are highly autonomous, for the Corps operates by the military principles that you never give a man an order he can't carry out, and that you trust your field commanders. If a district engineer believes strongly in a project, it is likely to get Corps endorsement. The Corps has mastered the art of convincing people that its projects are desirable, and so the projects are not examined very closely. Corps engineers are impressive in their command of details that non-engineers cannot understand, as-

siduous in publishing books that show what the Corps has done for each state, and punctilious about seeing that all the right politicians are invited to each dedication of a dam.

And so the Army Corps of Engineers has become one of the most independent bureaucracies in the federal government. The Corps' civil works section is neither of great interest to the Pentagon nor answerable to more relevant civilian bureaucracies. It makes its own living arrangements with the Congress, and deals not with the Armed Services Committees of the House and Senate, but with the Public Works Committees. Theoretically, the Corps reports to the appointed civilian chiefs of the Department of the Army, but these men are usually preoccupied with more urgent matters than Corps projects, and after a spell of trying to figure out what the Corps is doing, or even to control it, the civilians usually give up. "It was," said one man who tried not long ago, "like trying to round up the Viet Cong for an appearance on the *Lawrence Welk Show.*"

"I THINK I UNDERSTAND . . ."

The power of the Corps stems from its relationships with Congress. It is the pet of the men from the areas it has helped the most, who also usually happen to be among the most senior and powerful members, and the ones on the committees which give the Corps its authority and its money. Thus, when the late Senator Robert Kerr of Oklahoma was a key member of the Senate Public Works Committee as well as the Senate Finance Committee, he devoted his considable swashbuckling talents to winning final approval of a plan to build a navigation system stretching 450 miles from the Mississippi, up the Arkansas River, to Catoosa, Oklahoma, giving nearby Tulsa an outlet to the sea. The $1.2 billion project is said to be the largest since the Tennessee Valley Authority was built. The entire Oklahoma and Arkansas delegations, quarter-backed by a member of Kerr's staff, carried it through. The story goes that President Kennedy, having been advised to oppose the Arkansas River project, met with Kerr to seek his help on a tax bill. Kerr, not a very subtle man, told the President "I hope you understand how difficult I will find it to move the tax bill with the people of Oklahoma needing this river transportation." "You know, Bob," the President is said to have replied, "I think I understand the Arkansas River project for the first time." After Kerr's death, Senator John McClellan inherited the mantle of chief protector of the project, which reached the Arkansas-Oklahoma border last December, an event that was marked by a grand dedication.

The legislation that authorizes and appropriates the money for Corps projects encourages manipulation and swapping because of the unusual way in which it parcels out the money on a project-by-project basis. It is as if a housing bill had designated X dollars for a development here and Y dollars for a development there.

A very formal document—known around Capitol Hill as "eighteen steps to glory" explains the procedures by which a project is initiated. In actuality, what happens is that local interests who stand to gain from a Corps project—barge companies, industrialists, contractors, real estate speculators—get together, often through the Chamber of Commerce, with the district engineer and ask for a project. The Corps literature is quite explicit about this: "When local interests feel that a need exists for any type of flood control, navigation, or other improvement, it will be most profitable for them to consult at the outset with the District Engineer. He will provide full information as to what might be done to solve their particular problem, the authorities under which it might be accomplished, and the procedures necessary to initiate the action desired." Then the local groups ask their congressman, who is responsive to this particular segment of his constituency, to secure legislation authorizing the Corps to make a study of the project. Usually the Corps man is already aboard, but if not, he is not very far behind. "Sometimes," said a congressman who, like most of his colleagues, declined to be named when talking about the Corps, "the Chamber of Commerce will call me, and I'll say get in touch with Colonel So-and-so in the district office and he's over there like a shot; or the Corps will make an area survey and go to the community and drop hints that they might have a dam if they work on it." Freqeuently the project's promoters will form a group—the Mississippi Valley Association, the Tennessee-Tombigbee Association, the Arkansas Basin Development Association, and so on. The Florida Waterways Association, for example, boosters of the controversial Cross-Florida Barge Canal, has among its directors a realtor, representatives of a consulting engineering company, a dredging company, chambers of commerce, port authorities, newspapers, and a construction company. The associations meet and entertain and lobby. The Lower Mississippi Valley Association is noted for its days-long barge parties. Some twenty- to thirty-odd people from an association descend on Washington from time to time, to testify and to see the right people in Congress and the Executive Branch.

The power to authorize the study of a project, then to initiate it, and to appropriate the money for it is held by the Senate and House Public Works Committees, and by the Public Works Subcommittees of the Appropriations Committees of the two bodies. This is a total of seventy-one men; as is usual with congressional committees, a very few of the most senior men wield the key influence. It all comes down to a chess game played by the same players over the years—the committees, their staffs, and the Corps. There are always demands for more projects than can be studied, authorized, or financed, and so the Corps and the politicians are always in a position to do each other favors. One study can be moved ahead of another by the Corps if a man votes correctly. One project can get priority in the authorizing or appropriating stages. "Everyone is in everyone else's thrall," said a man who has been involved in the process, "unless he never wants a project."

The Corps has managed to arbitrate the demands for more projects than its budget can include through its highly developed sense of the relative political strengths within the Congress, and by making sure that each region of the country gets a little something each time. "We try to satisfy 10 percent of the needs of each region," said a Corps official. From time to time, the Corps has been pressed by the Budget Bureau to recommend instead the most feasible projects in the nation as a whole, but the Corps has resisted this impolitic approach. The Secretary of the Army rarely changes the Corps' proposals. The Budget Bureau does examine the Corps' proposals on a project-by-project basis, but it runs a poor third to the Corps and Capitol Hill in deciding what the Corps program should be. The President, who is but a passerby, cannot establish control over the public works process unless he decides to make the kind of major political fight that Presidents usually do not think is worth it. On occasion, the White House will oppose a particularly outrageous project—or, out of political exigency, support one. Outsiders are unable to penetrate the continuing feedback between the Corps and the congressional committees, and are insufficiently informed to examine the rationale, the nature, and the alternatives of each project.

There may have been a Corps of Engineers project that was rejected on the floor of Congress, but no one can recall it. Every two years—in election years—a rivers and harbors and flood-control authorization bill is passed by Congress, and every year, money is appropriated. It has been calculated that, on the average, the authorization bills have provided something for 113 congressional districts (or more than one fourth of the House of Representatives) at a time, and the appropriations bills for 91 districts. "We used to say," said a man involved in the process, "that we could put our mortgage in that bill and no one would notice, and then the appropriations committees would cut it by 15 percent." The most recent appropriation carried something for 48 states. On occasion, a senator, Paul Douglas of Illinois for one, or William Proxmire of Wisconsin for another, has spoken out against a particular Corps project, or the "pork-barrel" technique of legislating Corps projects, but they have not been taken seriously. "One hundred fifty-five million dollars has been spent as a starter," Proxmire once argued on the Senate floor in futile opposition to the Cross-Florida Barge Canal, "that is what it is, a starter—to make many more jobs, to make a great deal of money, and a great deal of profit. That is the essence of pork. That is why senators and congressmen fight for it and win re-election on it. Of course people who will benefit from these tens of millions of pork profit and jobs are in favor of it. That is perfectly natural and understandable. It will snow in Washington in July when a member of Congress arises and says spare my district the pork. What a day that will be."

Douglas fought rivers and harbors projects for years and then, in 1956, made a speech saying that he was giving up. "I think it is almost hopeless," he said, "for any senator to try to do what I tried to do when I first came to this body, namely, to consider these projects one by one. The bill is built up out of a whole system of mutual accommodations, in which the favors are widely distributed, with the implicit promise that no one will kick over the applecart; that if senators do not object to the bill as a whole, they will 'get theirs.' It is a process, if I may use an inelegant expression, of mutual back scratching and mutual logrolling. Any member who tries to buck the system is confronted with an impossible amount of work in trying to ascertain the relative merits of a given project."

"GROWING BANANAS"

The difficulty in understanding what a given Corps project will do, and what its merits are, comes not from a lack of material supplied by the Corps, but from an overabundance of it. A Corps report on a proposed project—the result of a survey that may take three to five years—is a shelf-long collection of volumes of technical material. Opponents of the project are on the defensive and unequipped to respond in kind.

Most of the projects that Congress asks the Corps to survey are, of course, turned down, because a congressman will pass along a request for a survey of almost anything. By the time a project moves through the Corps' Bureaucracy to the Board of Engineers for Rivers and Harbors in Washington—what the Corps calls an "independent review group"—it has a promising future. The Board is made up of the Corps' various division engineers, who present their own projects and have learned to trust each other's judgment.

The supposedly objective standard for deciding whether a project is worthy of approval is the "benefit-to-cost" ratio. The potential benefits of a project are measured against the estimated costs, and the resulting ratio must be at least one-to-one—that is, one dollar of benefit for each dollar spent (the Corps prefers the term "invested")—to qualify. There is, however, considerable flexi-

bility in the process, and at times the benefit-cost ratios of controversial projects are recomputed until they come out right. This was true of the Trinity River project to make Fort Worth a seaport, the Cross-Florida Barge Canal, and projects along the Potomac River. "There is enough room in the benefit-cost ratio," said a man who has worked with the Corps on Capitol Hill, "for the Corps to be responsive to strong members of Congress who really want a project." It has been remarked that the measurements are pliant enough to prove the feasibility of growing bananas on Pikes Peak.

There is much argument over the Corps' method of arriving at prospective benefits. For example, business that might be drawn by a project is considered among the benefits, even though there is no real way of knowing what business the project will attract and what the effects will be. The lower prices to a shipper of sending his goods by barge rather than by rail is also considered a national benefit; such a benefit may involve the fact that a wheat farmer is growing and shipping more wheat because of the lower prices, even though we do not need the wheat. The windfalls to real estate investors who have been lucky or clever enough to have bought inexpensive land—some of it underwater—in the path of a future project can turn up as a boon to us all in the form of "enhanced land values." The land, which can then be sold and developed for industrial, housing, or resort development, undergoes extraordinary value increases.

There are serious questions about how to estimate future benefits of flood control; the 1955 Hoover Commission report said that they are often "considerably overstated." In any event, in the three decades since the Flood Control Act was passed, annual losses due to floods have increased (in real prices). The apparent explanation is that the construction of flood-control dams, which cannot be built to guarantee protection against all manner of floods, do nevertheless encourage developers to build expensive properties on lands that will still be hit by floods. The protection of buildings which a flood-control dam attracts is counted as a national benefit, even though the buildings might have been built in a safer place, and there are less expensive ways to protect them. Anti-pollution treatment and hydroelectric power are counted as benefits even though there are cheaper ways of cleaning water and providing power. The benefits and costs are not compared with the benefits and costs of doing these things any other way. Promised benefits appear higher than they will turn out to be because of an unrealistic way of projecting the decline of the value of the dollar. Projected recreation benefits, which have accounted for an increasing proportion of the benefit to the nation from building these projects, are based on an assumption of how much people would be willing to pay for recreation privileges, even though they don't. The Corps lobbies to keep its parks free, in contrast to other national parks. The life of a project used to be estimated at 50 years in adding up the benefits; as fewer projects qualified, the Corps has simply shifted to a basis of 100 years. The cost of the loss of a wilderness, or a quiet river valley, is not deducted, there being no market value for that.

Since more projects are authorized than are given money to be begun, hundreds of them lie around for years, forgotten by all but the sponsors, or the sponsors' sons, and the Corps. If a project becomes too controversial, its backers can simply outwait the opponents. When old projects, sometimes thirty years old, are dusted off, they may be started without reconsideration of either the original purposes or the benefits and costs.

Once a project is begun, it costs almost invariably outrun the estimates. Project proponents, on the other hand, argue that the benefits are consistently underestimated. The Corps is very sensitive about cost "overruns." They say that one must keep inflation in mind, and that such projects get changed and enlarged as they go along. Such changes, undermining the original benefit-cost rationale, do not seem to trouble the Congress. The Trinity River project, estimated at $790 million when it was authorized in 1962, is now expected to cost a little over $1 billion, and construction has not yet begun. The increases are not limited to the controversial projects. A look at project costs in a 1967 Corps report, the most recent one available, shows "overruns" of over 300 percent.

"THE WILDEST SCHEME"

Last year, despite a tight budget policy against "new starts," money to begin the Trinity River project was included in Lyndon Johnson's final budget, and was approved by the Congress. During most of his White House years, Mr. Johnson was sensitive about bestowing federal rewards upon Texas, which had benefited so handsomely from his congressional career. Nonetheless, in the end, he overcame his scruples. The fact that he did can be credited to the persistence, and the excellent connections, of the Texas lobbyists for the project.

The major purpose of the Trinity project is to build a navigable channel from the Fort Worth-Dallas area 370 miles to the Gulf of Mexico. Like many other projects, this one has been boosted for a long, long time. It is said that Will Rogers was brought down to Texas once to make a speech in behalf of the Trinity, which is barely wet during some of the year. "I think you're right," Rogers told the Trinity Improvement Association, "I think you ought to go ahead and pave it." There have been a number of restudies of the feasibility of the Trinity project. At first it was justified on the basis of the shipping of wheat. The current justification assures a great deal of shipping of gravel, although there is some question as to the need to ship gravel from one end of Texas to the other. "It's the wildest scheme I ever saw," said a Texas politician who dared not be quoted. "They have to dig every foot of it. Then they have to put expensive locks in. You could put five railroads in for that price. I'm not carrying any brief for the railroads. You could put in a railroad and make the government pay for every inch of it and call it the United States Short Line and save a hell of a lot of money."

The Trinity River will feed barge traffic into another Texas-based waterways scheme, the Gulf Intracoastal Canal, which, when completed, will run from Brownsville, Texas, on the Mexican border, to the west coast of Florida. From there it will link up with the Cross-Florida Barge Canal, and then another channel all the way to Trenton, New Jersey. This has given the whole network a great deal of backing, which comes together in Washington through the efforts of Dale Miller, a longtime representative of a number of Texas interests. Miller, a white-haired, soft-spoken Texan came to town in 1941 with his ambitious, ebullient wife, Scooter, and took up his father's work in promoting projects for Texas. Miller represents the Gulf Intracoastal Canal Association, the Port of Corpus Christi, the Texas Gulf Sulphur Company, and the Chamber of Commerce of Dallas, for which the Trinity project is "the number-one program." He is also the vice president of the Trinity Improvement Association. ("So I have a direct interest in the Trinity at both ends.")

From the time they arrived in Washington, Dale and Scooter Miller played bridge almost every weekend with the young Corps lieutenants who lived at Fort Belvoir, just outside Washington, and now they are "good friends" with the important members of the Corps. "We move in military social circles," says Miller. "We have them to our parties, and they have us to theirs." The Millers also moved in Washington's political circles, and were close friends of Lyndon and Lady Bird Johnson's, and other powerful Washingtonians. Miller was the chairman of Johnson's inauguration in 1965. But he and his wife had the good sense to maintain bipartisan contacts. Last year they gave a large party that was described in the social pages as "50–50 Democrats and Republicans." Miller says that the coming of a Republican Administration has not hindered his work: "I just put on a more conservative tie, and I'm still in business." He works out of a suite in the Mayflower Hotel, its rooms filled with photographs of Johnson and Sam Rayburn, a harp, and a painting of the Dale Miller Bridge over the Intracoastal Canal in Corpus Christi. "It gives me an opportunity for that wonderful line," says Miller, "'I'm not too big for my bridges.'"

Miller is also president and chairman of the board of the National Rivers and Harbors Congress, an unusual lobbying organization made up of politicians and private interests who support federal water projects. The chairman emeritus of the Rivers and Harbors Congress is Senator John McClellan. Among its directors are Senators Allen Ellender of Louisiana (chairman of the Public Works Appropriations Subcommittee) and Ralph Yarborough of Texas, and Congressmen Hale Boggs of Louisiana and Robert Sikes of Florida. Other officers of the group represent industries which use water transportation for their bulk cargo—such as Ashland Oil, farmers, and the coal business—and the Detroit Harbor and dredging companies. The resident executive director in Washington is George Gettinger, an elderly Indianan who has been in and out of a number of businesses and was a founder of the Wabash Valley Association, and "learned from my cash register" the value of federal water projects. "Your directors of your churches have businesses," says Gettinger, "your trustees of your universities have businesses. Sure our people make a living in water resources, just like other people. So help me, it's time we sat down and started looking at the benefits that have derived from this program. It's one of the bright spots in solving the population problem. It has settled people along rivers so they don't have to live in the inner city. The ghettos in this country are something it's not good to live with."

COST INCREASES ON CORPS PROJECTS

Name of project	Cost estimate at time project was authorized	Amount spent through fiscal year 1966	Percentage overrun
Whitney (Texas)	$8,350,000	$41,000,000	391
John H. Kerr (North Carolina and Virginia)	30,900,000	87,733,000	185
Blakely Mountain (Arkansas)	11,080,000	31,500,000	184
Oahe Reservoir (North and South Dakota)	72,800,000	334,000,000	359
Jim Woodruff (Florida)	24,139,000	46,400,000	92
Chief Joseph (Washington)	104,050,000	144,734,000	39
Fork Peck (Montana)	86,000,000	156,859,000	82
Clark Hill (Georgia and South Carolina)	28,000,000	79,695,000	185
Bull Shoals (Arkansas)	40,000,000	88,824,000	122

In its pursuit of a solution to the urban crisis, the Rivers and Harbors Congress meets every year in Washington, at the Mayflower Hotel. Its members discuss their mutual interests and then fan out about town to talk to politicians and government officials. There is a projects committee which chooses priorities among the various proposed projects. "It asks the federal agencies about the projects," explains Gettinger. "Until the Rivers and Harbors Congress there was no kind of national clearance. Their endorse-

ment has meant so much because it comes from a group that serves without pay." The project committee holds hearings at each convention, and then it adjourns to Dale Miller's suite to decide the public works priorities. As it turns out, the projects that are mainly for navigation receive the most support. "We have no axes to grind," says Miller. "We're just in favor of development of water resources."

The nationwide coalition of interested groups keeps the momentum behind the public works program, and gives the barge industry, probably the program's largest single beneficiary, and an important national industry some seventy-five years ago, the strength to continue to win its federal largesse. Besides working with the Rivers and Harbors Congress, the barge companies have their own trade associations, which have warded off tolls for the use of the federally constructed waterways.

The only major group that opposes most Corps projects is the railroad industry, which inevitably resists federally subsidized competition. On occasion, it succeeds. It is generally believed, for example, that the railroads, working through the Pennsylvania state government, blocked "Kirwan's ditch," a controversial project named after Mike Kirwan of Ohio, the chairman of the House Public Works Appropriations Subcommittee. At a cost of almost $1 billion, "Kirwan's ditch" was to link Lake Erie and the Ohio River.

The railroads also opposed the Trinity River project, but they did not succeed. Trinity had too much going for it: Jim Wright, a congressman from Fort Worth and a friend of President Johnson's, is a senior member of the House Public Works Committee. Dale Miller, with valuable assistance from Marvin Watson when Watson was the President's appointments secretary and later when he was the Postmaster General, was able to help the representatives of the Trinity Improvement Association get a sympathetic hearing from all the important people, including the President. Balky officials were called into Postmaster General Watson's office to be persuaded of the value of the Trinity project.

Watson, as Miller put it, had "great familiarity with water projects in the Southwest." He had worked for the Red River Valley Association, and the Chamber of Commerce of Daingerfield, Texas, and then Lone Star Steel, which is located just outside Daingerfield. Watson had been a major force in securing, with the help of then Senator Johnson, a Corps water project which left Lone Star Steel with water and several of the surrounding little towns with higher taxes to pay off bonds which they had approved, in the mistaken impression that they too could draw water from the project. (It was later determined that they were too far away, and Watson became a very controversial figure in East Texas.) Watson maintained his efforts on behalf of the Red River Valley projects after he took up official positions in Washington. The Red River navigation project, to build a waterway from Daingerfield, Texas, to the Mississippi River, was authorized in 1968 to go as far as Shreveport.

After many years of success, Dale Miller's projects, like so many others, are now coming under fire because of what they will do to the environment. There is a "missing link" between the Gulf Intracoastal Canal and the Cross-Florida Barge Canal on the long way from Brownsville, Texas, to Trenton, New Jersey. The link has been authorized, but construction is being opposed. A navigation channel from Miami to Trenton already exists. "That doesn't carry a tremendous amount of tonnage," Miller says, "but it carries a tremendous amount of recreational traffic, people in their yachts and everything.

"The problem which all developers—which we are—now face is the growing awareness of environmental problems. I mean ecological change. It's a very difficult area because we don't know too much about it—what effects dredging will have on baby shrimp, or marine life. It cuts both ways. We had developed that whole Gulf part of it before anyone raised the question of the effects. Nature is much more resilient than people think it is. In dredging, you may disturb an estuary where baby shrimp and marine life were, but it didn't mean permanent destruction, just change. They were breeding somewhere else in a year. In this missing link we're going to have to satisfy the ecologists in advance, and it's going to be very difficult. I'm convinced that the developers and the preservationists are not as far apart as people think. I think the difference can be reconciled and then we can move even faster. The problem a lot of us have, paraphrasing the little-old-ladies-in-tennis-shoes approach, is that we're not dealing with the knowledgeable and experienced people in ecology, but the bird watchers and butterfly-net people who don't want anything changed anywhere, and you can't deal with them."

As the country runs out of choice land near the cities, the solution has been to fill in the adjacent waterways. Besides what such schemes do to the scenery, it is now beginning to be understood what they do to natural life. Estuaries, or those places where rivers meet the sea, provide a special balance of salt and fresh water that is essential to certain fish, such as oysters and shrimp. They also provide food and habitats for waterfowl. The damming of rivers has also damaged estuarine life. Local governments are often willing to have the estuaries dredged and filled, for this raises the real estate values, and hence the local tax base. One third of San Francisco Bay, for example, has already been filled in, most of it for airport runways, industrial parks, and areas proposed for residential subdivisions. "It is conceivable," said Congressman Paul McCloskey, who had fought for conservation as a lawyer before coming to Congress in 1967, "that by 1990 the filling of shallow waters of the Bay could reduce it to the status of a river across which our grandchildren will be skipping rocks."

In response to criticism of its easiness with granting land-fill permits, and to a recent federal requirement that the Corps consider the effects on fish and wildlife, the Corps has begun to deny some permits. One such denial, however, was challenged in court, and a district judge in Florida ruled that the Corps did not have discretion to deny a permit on any grounds other than that it would impede navigation. The case is still in the courts. The Corps argues, with some validity, that it should not be making zoning decisions for local governments. This points up the fact," said McCloskey, that some new national land-use authority must be created which will have the power to put federal zoning on waterways, historic sites, and land areas of particular national significance." Such a policy would protect such areas as the Everglades. Congressman Richard Ottinger of New York, also a man interested in conservation before it became fashionable, has been pushing legislation to require that the effects on the environment must be taken into account in any federal program which contributes to construction or issues licenses—the Corps, airport and highway programs, and so on.

"LUXURIOUS AREAS"

The Corps of Engineers public works program has been, among other things, an income-transfer program, and this is a good time to look more closely at who has been transferring what to whom. The federal government has been paying for the Corps program—or rather, all of the taxpayers have. And the Corps program consists in the main of subsidies for irrigation, navigation, and flood control. Some projects have been for the benefit of only one particular industry. Former Senator Douglas has charged, for example, that a project to deepen the Detroit River was for the benefit of the Detroit Edison Company alone, and that a project to deepen the Delaware River from Philadelphia to Trenton was to serve one mill of the United States Steel Corporation, which was quite able to pay for the project itself. An industry or developer builds on a flood plain and then asks the federal government to save it from floods. A wild river is converted for use by an industry; subsequently a federal subsidy is given to clean up the industry's pollution of the river. The barge industry is kept afloat because it is there.

Robert Haveman, an economist and author of *Voter Resource Investment and the Public Interest,* has shown that the preponderance of Corps projects has gone to three regions; the South and Southwest, the Far West, and North and South Dakota, but mainly to the South, in particular the lower Mississippi River area. Within an area, the rewards are not evenly spread. The major beneficiaries of the flood-control projects which also provide water for irrigation have been the large landholders—in particular, in the Mississippi Delta and San Joaquin Valley. These are the same landowners who are paid the largest federal farm subsidies for not growing the crops which the federal water projects make it possible for them to grow. The Corps is still preparing to produce more farmland, in the name of flood control in the Mississippi Delta region.

The Corps, in a publication called "The Army Engineers' Contributions to American Beauty," notes: "Dallas, the flood-control project for channeling the flood waters of the Trinity River through the center of town (once some of the least desirable real estate in the city) is being made into a long, winding stretch of parkway. In Los Angeles and other Pacific Coast cities built below mountain slopes, the development of attractive and sometimes luxurious residential areas has been made possible by Army Engineer projects which curb flash floods."

"AN IDEA"

The Corps established an environmental division a few years ago to advise on the environmental effects of its projects. This summer it is sponsoring a seminar on how it can better "communicate" with the public. Corps officials have been urging greater environmental concerns on the Corps members, and on their clientele, appealing, among other things, to their self-interest. In a recent speech, Major General F. P. Koisch, director of the Corps' Civil Works Division, told the Gulf Intercoastal Canal Association to listen to "the voice of the so-called 'New Conservation.'

"By and large," he said, "its advocates oppose the old concepts of expansion and development. Yet they are not merely negative, for they are willing to lavish huge sums on programs which embody their own conceptions of natural resource management. Their theories and concepts are not always consistent nor fully worked out. They are less concerned with means than with ends and goals—their vision of a better America. But they do seem to represent an idea whose time has come. So it grows clearer every day that it is up to us, who like to think of ourselves as scientific, practical men who know how to get things done, to make this new idea our own and make it work. . . . This can open a whole new career for the Gulf Intercoastal Canal Association. . . . This business of ecology," says General Koisch, "we're concerned, but people don't know enough about it to give good advice. You have to stand still and study life cycles, and we don't have time. We have to develop before 1980 as much water

resource development as has taken place in the whole history of the nation."

"It is a fact," said General Richard H. Groves, his deputy, in a speech, "that our nation is engaged in a struggle to survive its technology and its habits. It is a fact, too, that we are defiling our waters, polluting our air, littering our land, and infecting our soil and ourselves with the wastes which our civilization produces. These are serious problems, but we cannot permit ourselves to yield to an emotional impulse that would make their cure the central purpose of our society. Nor is there any reason why we should feel guilty about the alterations which we have to make in the natural environment as we meet our water-related needs."

In an interview, General Groves said he did not believe that the basic role of the Corps would change. "Certainly, parts of it will. One part that is obvious is control of pollution, control of the ecology, which is more or less the same. There are very heavy pressures that have developed, and nobody in this business can ignore them. We would hope that in responding to these pressures we don't lose sight of the need to keep everything in perspective. The program keeps growing. The program as you know is tied to people, and the people double every forty years. . . . We build the program," he said—and here is the heart of it all—"on the notion that people want an ever-increasing standard of living, and the standard of living is tied to water programs. If you conserve undeveloped areas, you're not going to be able to do it. If you double the population and they double their standard of living you have to keep going. It's not as simple as the people who take an extreme view say."

Clearly, no rational settlement of the conflict between "progress" and the environment is going to come from dam-by-dam fights between the Corps and the conservationists. The conservationists have been out there all alone all these years, and they have worked hard, but they have lacked a national strategy. In some instances, they have tried to have it all ways: opposing not only hydroelectric projects but also alternatives such as generating power through burning fuels (air pollution) or building a nuclear plant (thermal pollution and radiation hazards). Some conservationists have been interested in "preserving" the wildlife so that they could shoot it. Where engineers have been pitted against engineers, as in the case of the Oakley and Potomac dams, the opponents have been more successful. "The only way to resist," says Representative John Saylor of Pennsylvania, a critic of the Corps for years, "is to know a little more about the Corps than the Chambers of Commerce do." The new approach of trying to build a body of law on the basis of the "rights of the people" against a public works project could be of profound importance.

Some water economists have suggested quite seriously a ten-year moratorium on water projects. There is an ample supply of water, they say. Problems arise where industries use it inefficiently because it is provided so cheaply, and pollute much of it. The answer for the pollution, the experts say, is sewage treatment at the point where the pollution originates.

So one solution to the problems the Corps program creates would be simply to stop it. The Corps and the Public Works Committees and the river associations could give themselves a grand testimonial dinner, congratulate themselves on their good works, and go out of business. There are more effective ways of transferring money—for instance, directly—if that is what we want to do; there are others who need the money more. But such suggestions are not, of course, "practical."

For as long as anyone can remember, there have been proposals for removing the public works program from the military, and transferring the Corps' civil functions, or at least the planning functions, to the Interior Department or a new department dealing with natural resources. President Nixon considered similar ideas, but rejected them in preparing his message on the environment. The Corps likes being where it is, and the powerful Forest Service and Soil Conservation Service, which are secure in the Agriculture Department, and the congressional committees whose power derives from the present arrangements, have habitually and successfully resisted up to now. "The two most powerful intragovernmental lobbies in Washington are the Forest Service and the Army Engineers," wrote FDR's Interior Secretary Harold Ickes in his diary in 1937, in the midst of a vain effort to reorganize them and Interior into a new Department of Conservation. Whatever the chances for reform, it has never been clear who would be swallowing whom as a result of such a change. The closed-circuit system by which public works decisions are made should be opened to other interested parties. Certainly a federal program that is more than a century old should be overhauled. The Corps is now at work on some internal improvements, but bureaucracies are not notably rigorous about self change, and the water interests do not want change.

If there are to be a Corps and a Corps public works program, then proposals to expand the Corps' functions make sense. Making the Corps responsible for sewage treatment, for example, would give it a task that needs to be done, local governments a benefit which they really need and which would be widely shared, and politicians a new form of largesse to hand around. Antipollution could be spared the pork barrel through a combination of requirements for local action and federal incentives, and through adequate financing. Yet making antipollution part of the pork barrel may be just what it needs. Programs which appeal to greed are notably more politically successful than those that do not. The Corps' engineering expertise, in any event, could be put to use for something other than building dams and straightening rivers. It is the judgment of just about every economist who has studied the public works program that there should be cost-sharing and user charges. There have been proposals for making the beneficiaries of flood-control and navigation projects and harbors pay for them, or at least part of them.

In a period of great needs and limited resources, a high proportion of the public works program amounts to inefficient expenditures and long-range commitments of money on behalf of those who make the most noise and pull the most strings. Despite all the talk about "reordering priorities," the Nixon Administration's budget for the next year increases the money for the Corps. Even if the nation should want to double its standard of living (leaving aside for the moment the question of whose standard of living) and even if the public works programs really could help bring that about, it would be good to know more about the nature and price of such a commitment. At a time when a number of our domestic arrangements are coming under re-examination, this one is a prime candidate for reform. Meanwhile, the changes it is making in the nation are irreversible.

Controversial Corps of Engineers Projects

Cross-Florida Barge Canal

The Oklawaha River in northern Florida is—or was—one of the few remaining wild rivers in the nation. A fast-moving clear river, the Oklawaha runs through cypress swamps and wilderness. The river itself holds bass, sunfish, and other fish, and the woods contain deer, bear, and wild turkey; this was the country of *The Yearling*. But it was also in the path of the Cross-Florida Barge Canal, whose dams will turn some 45 miles of the Oklawaha into shallow lakes, and flood 27,000 acres of the surrounding forests.

The Cross-Florida Barge Canal was talked about as a possibility as far back as the early 1800s, at that point as a way of protecting shipping from pirates. The idea was revived in the 1930s as a job-producing program, and then again in the 1940s as a way of defending shipping from enemy submarines. It is now under way. Work on it finally began in 1964 as a navigation and recreation project. A Florida legislator who is taking the unusual posture of opposition to the project says, "The villain in the case of the barge canal is like an octopus. One of the tentacles is the Corps of Engineers and its blundering construction. Another consists of self-serving politicians, and still another is made up of the special interests, such as the phosphate, transportation, and paper industries. And finally, there are the state agencies, which from the start ignored the conservationists' warnings."

The benefit-cost ratio of the project has been a thing of change. From time to time new "benefits" have been added—flood control, "land-enhancement benefits" from the improved real estate around the reservoirs, and recreation. The interest rate charged against benefits is unusually low. Still, the benefits are to be only $1.50 for every $1.00 "invested."

At one time the U.S. Fish and Wildlife Service wrote a report on the project predicting that the dredging and damming and flooding of the area would destroy the game, the fishing, and the land; that the habitats supporting waterfowl, deer, and squirrel would be ruined. The Florida Board of Conservation, however, said that "it is inaccurate to think of the river as being destroyed or despoiled. Instead, a different set of wildlife and esthetic values will emerge. . . . The river in its original form is admittedly a stream of great beauty, but its retention in its original state would become a preservationist ideal involving enjoyment by a comparatively small group of elite purists rather than fuller use and greater enjoyment by a broad segment of the people. The economic benefits that would be foregone by a failure to complete the canal would place an extraordinarily high premium and economic burden on a less elite but overwhelming majority." The Florida Board of Conservation (now with a new title) contains the Division of Waterways Development. The head of the division was the Corps' district engineer for the project at the time it was revived in 1962.

One dam on the Oklawaha has already been completed. Behind it was created a giant, shallow, still pool filled with debris, logs, and weeds. The Corps has been trying to clear the pool; it sprayed the weeds with chemicals, which led to rotting weeds. This is expected to lead to algae and dead fish. The pool caused a new outcry over the project, and conservationists and ecologists from around the country have joined to try to stop it or move it. In a new approach a suit has been filed against the Corps to stop the canal. The grounds are that the Corps committed the people of the United States to expenditures "far in excess of the amounts contemplated" and that it denies "the rights of the people . . . to the full benefit, use and enjoyment of the economic, recreational, educational, social, cultural and historic values of the *Oklawaha Regional Ecosystem*."

The project's defenders suggest that the railroads are behind the uproar. The canal's supporters have been holding meetings and ceremonies and fish fries to drum up enthusiasm for the project. They stress that the canal will provide business growth and add to the national defense.

EVERGLADES NATIONAL PARK

To the south of the canal, the Everglades National Park has been endangered by Corps projects. The park's plant life, fish, alligators, and birds are linked in a complicated state of mutual dependence, all dependent in turn on a steady flow of fresh water from the North. A good part of that water has been diverted by the Corps for the benefit of farmers and developers in South Florida, and during a drought a few years ago, the park did not receive the necessary water from the flood-control project. This led to the death of thousands of birds and fish, and turned grassy areas into cracked, lifeless flatlands. The park has not yet recovered.

Now the Corps proposes to expand the South Florida water project. Yet it refuses to guarantee that in times of water shortages the park would receive the necessary water. It says that it cannot impose such a requirement on the state of Florida. Senator Nelson, who had been leading the fight in Washington to protect the park, charges that "the Corps is playing the game with the industrial development of Florida, and not protecting the other constituency, the Everglades, a park that belongs to the country."

The controversial plan to build a jetport in the Everglades does not involve the Corps. The plan has now been scaled down to one for a temporary training strip, which some predict will still have serious consequences for the park. There are yet other schemes for developing South Florida that would change the flow of the water in the park. Without some national protection, the Everglades could well be doomed.

THE OAKLEY DAM

In Illinois, a dam to supply water to the city of Decatur, population 100,000, has been filling with silt, and so the city's Chamber of Commerce and the Corps dusted off a 1939 plan for a larger dam, the Oakley Dam. The new dam is to provide water, flood control, and recreation, with the water supply being the smallest component of the project. When the benefit-cost ratio came out negative, the Corps added "low-flow augmentation" as a purpose. Decatur real estate developers have formed the Oakley Land Owners Association in anticipation of the real estate profits—they expect the price to go from $300 to $3000 an acre—from the land near the new dam. The opposition to the dam arose when it was realized that the reservoir would flood Allerton Park, a 1500-acre nature area maintained by the University of Illinois.

The Allerton Park opposition was better equipped than opponents in the usual Corps controversy because the university hired an engineering consultant. The engineering report showed that there was an underground supply of water for Decatur, and that advanced waste treatment was more efficient than "low-flow augmentation." But both are alternatives which the Corps, by the definition of its job, does not consider. And both would cost Decatur, as opposed to the federal government, more money.

OTHER DAMS

In Indiana, conservationists are fighting a dam on a Wabash River tributary, Big Walnut Creek, which would flood one of the few virgin forests remaining in the Midwest.

In Arkansas, Corps plans to dam the free-flowing Buffalo River raised so much controversy that even the state's senators are proposing that it be preserved as a wild river.

There are disputes over proposals by the Corps to place some dams along the Potomac River, at one time justified on the basis of hydroelectric power, then on pollution treatment, and then on water supply and recreation. The basis of the opposition is that it would destroy a beautiful valley and the natural life that lies within it.

Opponents of the project retained a consulting engineer, who reported that there were more feasible methods of obtaining both a water supply and pollution abatement.

The Corps has plans to place a dam on the last natural stretch of the Columbia River in the Northwest, a breeding ground for salmon, bass, and other fish as well as birds; the main purpose is water navigation.

TREND IN MANY NATIONS IS TOWARD VOTE FOR YOUTHS

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I include the following:

[From the New York Times, Mar. 8, 1970]

TREND IN MANY NATIONS IS TOWARD VOTE FOR YOUTHS

LONDON, March 7.—Increasing numbers of young people around the world will soon be voting in national elections as a movement toward lowering the legal voting age steadily gathers momentum.

Britain, under the 1969 Family Reform Act, lowered the voting age from 21 to 18 on Jan. 1, and teen-agers will vote for the first time in a parliamentary special election next Thursday at Bridgewater in Somerset.

Several Commonwealth countries, including Canada, are debating whether to allow the British initiative. The United States also is considering a proposed constitutional amendment to lower the voting age from 21 to 18.

In many parts of the world, the movement toward younger voters is not new. Most Communist and Latin-American nations granted 18-year-olds the franchise many years ago.

The Soviet Union lowered the voting age to 18 in its 1936 Constitution. The same rules apply in Bulgaria, Rumania and Hungary.

SOCIALISTS APPARENTLY GAINED

Austria, adjoining the Communist nations of eastern Europe, lowered the voting age from 20 to 19 in 1968. Judging by returns in a general election March 1, the youth ballot helped increase the Socialist vote.

In Britain, Prime Minister Wilson hopes that the three million additional votes of people in the 18-to-21 age bracket will help get his Labor Government elected for another five years. But public opinion polls indicate that the new voters are as divided as their parents.

The election at Bridgewater, to fill a parliamentary vacancy, should provide an indication of how the teen-agers will vote in the next British general election, expected anytime between this spring and the end of Mr. Wilson's five-year term in May 1971.

It is estimated that 4,000 youngsters will be able to vote in the three-cornered contest at Bridgewater, where the Conservatives had a majority of 3,000 votes against Labor and Liberal candidates four years ago.

Britain's last major change in the franchise came in 1928 when the vote was given to women over the age of 21. At the time women won the vote in 1918, the minimum age was 30.

CAUTION BY ELDER VOTERS

A principal argument for suffrage for teen-agers is that television, radio and other modern means of communication enable youth to comprehend the major issues of the day far better than their parents did at the same age.

Their vote and interest in politics would channel youthful energies in the ballot box instead of into street demonstrations, according to the politicians.

But the older generation fears that the teen-agers are too impetuous, that they might vote to overthrow the established order or elect a dangerous demagogue.

Many Latin-American nations now allow 18-year-old youths to vote as a result of recent changes in their constitutions.

Chileans over 18 will get the vote Nov. 4—after a general election in September. Colombia promises a change in April—after presidential elections.

In Mexico, the voting age is 18 for men and women, as it is in Ecuador, Uruguay, Venezuela, El Salvador, Guatemala and the Dominican Republic. Brazil permits 18-year-olds to vote if they are literate and can speak Portuguese, the national language.

The trend toward the younger voter transcends geographical and even ideological boundaries. Some Latin-American nations still cling to the 21-year-old principle while countries in other parts of the world strike a compromise at 20.

Sweden lowered the voting age last year to 20—the same age accepted by Japan and the Swiss national Government. But several cantons in Switzerland are seeking to lower the voting age in local elections to 19 or 18.

In Ceylon, the voting age was lowered from 21 to 18 a decade ago, New Zealand reduced the age to 20 last year.

South Africa has allowed 18-year-olds to vote since 1958; but in Black Africa, the general level so far has been 21.

EMERGENCY OPERATIONS CENTER

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. HOGAN. Mr. Speaker, I am pleased to call the attention of my colleagues to an article in the April 1970 issue of the FBI Law Enforcement Bulletin, entitled "Emergency Operations Center." This article describes the efficient emergency communications operation of the Prince Georges County Police Department in my congressional district and is written by an outstanding police officer and one of my good friends, Capt. John J. Magruder, Sr., special operations commander of the Prince Georges County Police Department.

Organization and efficiency are the hallmark of excellence in any emergency situation. There are no groups which encounter such situations more frequently and deserve assistance and support for their efforts than our policemen and fire fighters.

The communications operation which Captain Magruder describes in this article will be of interest to police departments throughout the country. It will be of particular usefulness, however, to the adjoining police departments in the Washington Metropolitan area who are especially aware of the problems incidental to emergency situations in the wake of riots, marches, and demonstrations.

The article follows:

EMERGENCY OPERATIONS CENTER

(By Capt. John J. Magruder, Sr.)

In our modern society, communities are so structured that near total dependence is placed on government and community resources when an event takes place which causes apprehension or emotional tension among the citizenry. While procedures and techniques for the proper solutions may differ with each type of incident, the basic responsibility for effective performance by all concerned lies with the elected head of local government. Coordination and cooperation must be effected with all participating units by and through him.

If a program is being considered that will affect each and every person within a given locale, citizen involvement is a necessity. To be successful, government programs must have the support and cooperation of a majority of the people. In some instances, total community effort and involvement could be as important as the project or program being considered.

If the goal of total effort and cooperation is to be accomplished, we must first organize the entire government structure to facilitate continuity of thought and action within our organizations.

In Prince Georges County, we are represented by five elected commissioners who have total responsibility and accountability for all government activity. The county itself is purported to be one of the fastest growing communities in the Nation. Over 600 people move into the county each week. Prince Georges County has an area of 494 square miles and over 650,000 population. Geographically, it is located east of Washington, D.C., and north of Virginia. There is dense urbanization for at least 10 miles from the Nation's Capital; then the area begins to include larger estate-type homes, while the southern portion is still mostly rural tobacco growing farmlands. The inhabitants are extremely mobile. Many are employed in the District of Columbia, Virginia, or other sections of Maryland.

EMERGENCY "CALL-OUT"

During the past several years, we have experienced times when consolidation of effort was required to accomplish specific purposes. On these occasions, conventional methods of communications have been overloaded and at times inadequate.

Recognizing the communications problem, our county commissioners arranged a meeting of all department heads and their assistants. The purpose of the meeting was to establish plans to streamline methods, procedures, and facilities of all departments so that the entire county operational resources could be quickly mobilized in the event of a natural disaster—fire, flood, epidemic—internal disorder or any other type of local or national emergency. The chief of police, who is more involved in daily contacts of the citizen than most county officials, was designated to develop an operational plan to achieve the desired results. Each executive was aware that cooperation was essential to the success of any plan developed and that his department's support was needed.

Capt. John Rhoads, Commanding Officer of the Planning and Research Unit, and I, at the time head of the Training Unit, and our staffs, were given the assignment to coordinate the logistical problems. As always, the first problem was "money." However, Chief of Police Vincent S. Free was given assurance of adequate financing by the commissioners.

Each executive was required to provide complete lists of all manpower, vehicles, and other equipment and supplies available through his particular organization.

Each department was asked to develop an emergency "call-out" procedure and furnish plans for the procedure, as well as the names of four other officials in the agency who would be authorized to act with complete authority for the department under emergency conditions. Response and cooperation from all departments were beyond all expectations. The excellent cooperation demonstrated that each official visualized the potential of this effort. No doubt, each departmental head could recall occasions in the past when such procedures would have been of immense help.

The concept of this operation revolves around the principal of having the agencies involved in an operational problem in one area assist each other by consolidating management, communications, and equipment.

BASE OF OPERATIONS

In order to consolidate management and communications, we decided to set up an Emergency Operations Center (EOC) similar to a military "situation room" with modifications which would make the basic idea workable for civilian operation. Because of its location, the auditorium of the Police Academy was selected to be the base of operations. It is located near the Capital Beltway (Rt. 495) which encircles Washington, D.C., and, therefore, is easily accessible to all participants. Response time to and from this location is minimal to all parts of the county. The academy has no security problem to speak of and does not affect the needs of the general public when operating as an emergency center as there is little civilian activity within the building. The auditorium affords the necessary space for the command center and other offices and classrooms can be used without disrupting any vital installation or normal operation of the police department.

Within the county, many radio frequencies are allotted to various public service agencies, such as, building inspections, electrical inspections, plumbing inspections, board of education, park and planning commission, suburban sanitary commission (water department), fire department, civil defense, sheriff's department, four State police frequencies, as well as our four police operational frequencies. Transmitter-receivers on all these frequencies were installed in a small room adjacent to the auditorium to provide complete control of equipment from agencies involved in emergency operations. Remote desk sets were placed on desks normally assigned to officers of the Planning and Research Unit.

The Maryland State Police furnished a base station on the frequency allotted to our patrol area. Also, a classroom was reserved for their use as a staff command post where the barrack commander would establish a headquarters command for any emergency operation in the county. A radio on the headquarters frequency was installed in this room, permitting radio communication between the barrack commander and his headquarters in Pikesville, Md.

COMMUNICATIONS

We bought monitors for the radio frequencies used in the adjoining precincts of our neighboring police jurisdiction, the Metropolitan Police of Washington, D.C. (All of this is in addition to the normal intercommunications within the Washington suburban area. There has been a metroradio facility among nine police agencies of the area for a number of years; but, the capability exists within the central communications complex at our headquarters in Seat Pleasant, about 7 miles away. Tie-in is available, however, by using a direct telephone line from the Academy to headquarters.)

The telephone company installed a bank of call directors capable of using all of the 25 existing telephone lines within the Academy. Switches were placed in the lines so that the normal telephone operation can be cut off and diverted to the EOC.

Our County Public Works Department built map cases on two walls of the auditorium for 10 4' x 9' county maps. Telephone communication is available from the map areas to the communication hub, but at police and fire maps, two-way radios are installed. This enables personnel assigned to the maps to communicate with the communications area, headquarters, or field personnel by telephone or radio. All telephones from the map and the communication areas of the Academy to the central communications complex at headquarters are on a direct "hot line" status.

The facility for the fire department is similar, except its connection is with the Fire Control Center in Hyattsville, Md.

The police and fire departments are assigned two maps each, one for status guide and the other for existing problem operation. The remaining maps are allocated to other agencies on a need and priority basis. During normal auditorium use the map areas are encased with painted plywood enclosures.

All emergency telephones are stored in locked cabinets, and installation is accomplished by a normal "telephone jack" on each phone which has previously been numbered for a particular location.

An extra telephone (red) is located on the stage with the number known only to the Governor's office and the superintendent of the Maryland State Police. By law, should our commissioners need assistance from the National Guard, it is necessary to request this aid either through the superintendent of the State Police or directly from the Governor.

"PROBLEM TABLE"

A large conference table is on the stage for the five commissioners and their administrative assistants enabling them to set up operation at the EOC and to conduct any business necessary.

Other large conference tables are placed in a line down the center of the auditorium with space provided for representatives of the FBI, the Maryland State Police, the Prince Georges County Police, the Board of Education, Washington Suburban Sanitary Commission, the Public Works Department, the Sheriff's Department, the Maryland National Capital Park and Planning Commission, and the National Guard. These agencies and units can provide information, personnel, equipment, supplies, and/or facilities needed in an emergency. Together, they make up what is known as the "Problem Table" representatives. The chief of police has been designated as chairman of the Problem Table. Under existing instructions, the chief of police takes command of any emergency arising within the county.

Other smaller tables are located around the room for organizations which are considered to be important supporting elements. These include civil defense, disaster analysis (composed of the offices of the building inspector and the fire marshal) press relations, purchasing department, State attorney's office, county attorney, welfare department, health department, and community relations groups.

EOC IN EFFECT

The physical facility was completed, with radios installed and telephone service, 5 days after the project commenced. The telephone company worked two shifts on a 24-hour basis for 4 days to complete their portion. The radio supplier excelled in speedy delivery and installation of the radio units. Public Works completed and painted the map cases, and the Park and Planning Commission provided the special-sized maps necessary. To those of us involved in the planning, it was like a dream unfolding—everyone putting forth maximum effort, harmoniously and cheerfully cooperating to complete his portion of the plan ahead of schedule. In less that a week after the project started, our EOC was operational.

The entire program is designed to assist

the man doing the job on the street. I am sure many officers have had the experience of trying to call the power company during a storm to report hot wires down, or the highway department to request sand on icy roadways, and found it virtually impossible to make contact through the usual means.

What we have done is to bring, during emergencies, representatives of vital county units together in one room. Thus, emergency calls from workers and officers on the streets are received at a central headquarters. Response and supervision are immediately available through restricted telephone numbers and two-way radios.

When operating, the EOC is staffed by dividing each department into two shifts to provide 24-hour coverage. Each department is responsible for its own manpower. All police cadets are assigned to EOC as runners or telephone operators. Central communications personnel serve as radio operators. Female clerks and secretaries, normally assigned to units within the Academy, work as EOC telephone operators.

A complete list of information data, and services available from each participating organization, filed earlier with EOC, is ready for the use of each group's representative when he reports for duty during an emergency. Each organization has one head representative who may have a staff of not more than two assistants. Accurate records must be maintained during an emergency to show exactly what has been allocated for use, to give current availability of manpower and equipment, and to reflect the number of personnel and equipment ready for reassignment after completing their projects.

The representatives at the Problem Table play a most important role. When a problem is presented, they must know if the requested resource is available or obtainable, and, if so, its present location and time of availability.

With the cooperation of all concerned, EOC was ready for a "shakedown run" at the end of one week. One of our first problems encountered was the need for distinguishable, visible identification for those persons authorized to enter the EOC room. Blue identification cards were issued to all persons permitted to enter the building and the EOC room without challenge by the security guard. Red identification cards were issued to persons who had free access to all areas, including the communications section where access was very limited. All participants were required to use the front entrance, and all other entrances were secured. An intercom was installed for the security guard between the front entrance and the communications section so that names of people requesting entry could be checked.

NEWS MEDIA

Accommodations were also made for newsmen. Since they were not permitted in the EOC, a classroom was set aside as a pressroom and telephones installed for their use. Under actual emergency conditions, the community-press relations officer will prepare press releases, have them approved by the chief of police or the county commissioners, and then make the release in the pressroom. He will have a schedule for appearances at the pressroom, and will try to keep reporters informed of all activities.

Theoretical problems were forwarded to the EOC during the shakedown experiment, and all were resolved promptly and efficiently. A problem relayed from a field commander is taken from the radio section to the Problem Table by a cadet runner. The chairman evaluates the problem and gives it to the proper person or group for solution.

For example: The field commander needs two bulldozers, plywood, a streetsweeper, 100 policemen, and men to board up three business establishments. Public Works, the Park and Planning Commission, and the Washington Suburban Sanitary Commission could provide the bulldozers. Public Works has the streetsweeper and carpenters to board up the stores. The County Purchasing Department has, by prior planning, listed certain lumber companies which have agreed to maintain an inventory of specific lumber and material; they would tell Public Works where the plywood could be obtained, and give them the purchase order number at the same time. The police agencies would determine where the police manpower could be obtained. Each representative would prepare a written communication order for his portion of the problem and the cadet would relay all orders to the communications section for transmission and further action.

The problem is plotted by each group on its assigned map with the personnel and equipment allocated. Upon completion of the problem, the map is cleared, and the representative at the table notified that his group is ready for another assignment.

During these trial runs, we found many agencies had facilities and equipment that would be available or could be adapted for use in ways we had never considered. Also, we try to plan for any situation, and the problems presented were considered to be within the scope of reality.

As to emergency supplies, our fiscal officer and the Purchasing Department have arranged with various private sources to keep inventories of certain items such as plywood, food, ammunition, tear gas, and other essentials on hand at all times. We can send trucks to these business establishments to pick up the required material. Open purchase numbers have already been established and placed in the emergency category.

During the disorders of April 1968, there came a time when police agencies needed food, rest areas, and shower facilities. The representative from the Board of Education was queried, and a junior high school 1 mile from the EOC was set aside for our use. Cafeteria facilities were staffed by cafeteria personnel from four high schools that were closed because of the disorders. Food in large quantities was supplied by three large warehouse distributors, by prior commitment of the Purchasing Department, and transported in Public Works trucks. The junior high school housed 275 riot-trained police officers and staff, and hot food was prepared for distribution to the patrol force. The entire EOC had hot meals on a 24-hour basis for 6 days. Over 900 people were fed daily.

Some changes have been found necessary as a result of our experiences. Our radio communications unit has been tied in with the existing public address system so that conversations with the patrol can be broadcast throughout the Center. During the past year, the police department has enlarged its units in the building, and a switchboard is being installed which will improve operations.

An area has been set aside for intelligence evaluation where information is gathered from all available sources and forwarded to the chief for consideration and possible preventive action.

The Sheriff's Department has been designated to transport and incarcerate all prisoners. In addition to the county jail at Upper Marlboro and a lockup facility at Hyattsville, arrangements have been made to use other compounds at strategic locations throughout the jurisdiction. Also, court hearings at the place of confinement have been approved by the Chief Judge of the Peoples Court. For the most part, school buildings will be used with the gymnasiums serving as the compound. These were selected because almost all of the equipment was removable, there were no low windows, and a minimum number of deputies could provide security.

BETTER UNDERSTANDING

Originally, many people were of the opinion that this facility was solely for civil disturbance operations, but it has proved invaluable to our governmental structure on many instances. Snowstorms in the Washington area are notorious for the traffic problems they create. The EOC has helped involved agencies to alleviate some of the congestion resulting from these storms. Much duplication of effort has been eliminated. Better decisions are being made due to more accurate information and a deeper appreciation of the problem by all involved.

As a result of the interaction between the administrators of the various departments, they are now on a first-name basis and have a better understanding of each other's problems.

In order to gain greater public support, most of the civic clubs and organizations in the county were invited to attend demonstrations of the EOC. For the most part, citizens throughout the country have given full support to the project.

The understanding of the total problem and the need for cooperation have not only made this endeavor successful, but have also improved relations between the agencies on a day-to-day basis. We hope, of course, that the Center will never have to be used in a man-made problem again.

RHODESIA

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. GROSS. Mr. Speaker, Mr. Anthony Lejeune is a British journalist whose articles appear in American newspapers, including the Indianapolis Star, from which this is reprinted.

The efforts of Great Britain, joined in by misguided officials of the United States, to destroy the Government of Rhodesia are disgraceful and if persisted in may result in engulfing a substantial area of Africa in a bloody war.

The well-reasoned article follows:

BRITAIN, UNITED STATES UNREALISTIC ON RHODESIA

(By Anthony Lejeune)

LONDON.—The first rule in international affairs is "Be realistic." To deceive oneself is, at best, folly; at worst, an invitation to catastrophe. As an example of obstinate unrealizing it would be hard to beat the policies adopted by the Western powers, particularly Britain and America, toward Rhodesia.

So let's state a few plain truths.

1. Everything which has happened in Rhodesia has been inevitable and predictable for at least 10 years—since Britain first tried to push the white Rhodesians into accepting constitutional changes which would have meant the loss, in a very short while, of their country as they had built it and known it.

2. It was equally inevitable and predictable that sanctions would fail. When Harold Wilson said, four years ago, that the Rhodesian rebellion would be over "within weeks, not months" he was either being flagrantly and short-sightedly dishonest, in the hope of warding off pressure from the Afro-Asian members of the Commonwealth, or else he was crassly refusing to believe what everybody who knew anything about Africa must have told him.

3. International disapproval matters very little to Rhodesia, so long as the back door to South Africa remains open. And South Africa must, in practice, support Rhodesia, because if Rhodesia could be brought down, the same

weapons would certainly be turned against South Africa.

4. Rhodesia, South Africa and the Portuguese provinces are perfectly capable of dealing with any foreseeable threat, whether from internal subversion or from Communist-equipped infiltrators.

5. Short of some lunatic and (one hopes) inconceivable military adventure, there is nothing the outside world, however disapproving, can do about the Republic of South Africa or the Republic of Rhodesia.

Ian Smith's declaration of a republic is, we are told, "illegal." But very few republics were born legally—certainly neither the United States nor the Soviet Union was. Sooner or later, and generally sooner, the world had to accept them. There is nothing uniquely wicked about Rhodesia; on the contrary, there is far less cruelty and injustice there than in many states which occupy honored places at the United Nations.

The only difference lies in the sanctions which Wilson was foolish enough to invoke, and the United Nations to impose, on the ludicrously false grounds that it was Rhodesia, not the African nationalists menacing her from neighboring territories, which constituted "a threat to world peace."

It is a great pity that America connived at this hypocrisy, this foolishness, this unrealism. And it is a pity that the secretary of state, Rogers, should still be identfying America with the "unfinished business" of trying to overthrow the government of Rhodesia, South Africa and Portuguese Africa.

Let's be realistic again. What are, or should be, the objects of British and American policy in southern Africa?

First, surely, the protection of our own interests, the West's interests, in this strategically and commercially very important part of the world. We need the sea routes around the Cape. We need Rhodesian chrome. We need friendly governments there.

Secondly, we desire the happiness, freedom and well-being of the people, both white and black, who live there. Can we really believe that they would be better off under the sorts of regime which now prevail north of the Zambezi?

All we have succeeded in doing so far is to drive Rhodesia into South Africa's arms, and to make South Africa a more united country than she has ever been before. Sanctions have strengthened Rhodesia: It is Britain and the West they hurt.

The wisest and kindest course for America would be to help Britain off the hook on which a decade of unrealism has impaled her.

RHODESIAN SANCTIONS MEANT TO CONCEAL TRUTH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, it is more than likely that the silly sanctions imposed by the UNO Security Council on the Republic of Rhodesia are intended to conceal from the world the truth rather than have any significant effect on the growth and development of the Rhodesian people.

In any event, they have been a blessing to Rhodesian industry—and to the making of a nation. Hardships conquered have a way of building morale among free men, and it is more than likely that the Rhodesians of the future will remember this time somewhat as we remember our Valley Forge.

The self-development hastened by the sanctions also add another similarity between the Rhodesian and the American people—our status as a viable nation in the 18th century and a world power in the 20th century is due in large part to the development of our own manufacturing industry—against the will of the London government. The error of the present government in London has forced the Rhodesians to develop their own basic industries, as did a similar error and attempted isolation lead to a similar development of self-sufficiency in South Africa.

I include in my remarks pertinent extracts from the Rhodesian Commentary.

MR. SMITH LUNCHES WITH ACE FIGHTER PILOT

Air Vice-Marshal Johnny Johnson, one of Britain's greatest flying aces in World War Two, lunched in Salisbury with Prime Minister Ian Smith who flew in Spitfires in the wing commanded by the Vice-Marshal. The picture shows them in the garden of the Prime Minister's residence.

Describing himself in an interview as a friend of Rhodesia, he said he was very interested still in the defense of the English-speaking nations, and in particular the countries around the Indian Ocean.

"It baffles some of us in Britain to see the stupidity of our own Government.

"We must be losing hundreds of millions of pounds in trade.

"We hope that when we get a sensible Government, we can once again take an interest in this tremendous area of strategic importance."

He warned that Communism was becoming more aggressive in the struggle between the two super powers.

The Russians had now achieved parity in military strength and were poised to begin their struggle for world domination.

BRIGHT FUTURE PREDICTED FOR RHODESIA BY MINISTER OF FINANCE

The outlook for Rhodesia in the 1970s is one of sustained growth and unbounded opportunities, according to the Rhodesian Minister of Finance, Mr. John Wrathall.

He said recently that the extent to which the national economy has recovered in recent years to reach the buoyant conditions that now exist, even in the face of international restraints, clearly demonstrates Rhodesia's inherent strength and the determination and drive of the Rhodesian people.

One of the most significant features, he said, has been the high level of investment in the economy in recent years. There was every indication that capital formation in 1969 will be even greater than the impressive level of R.$138m. achieved in 1968.

This level will be entirely matched by domestic savings.

Fixed investment in 1968 at constant prices was more than 34 per cent higher than the previous year and about one-third above its 1965 pre-sanctions level.

Fixed investment in mining increased by 80 per cent, compared with 1965 and investment in building and works in the private sector increased two and a half times over that period.

The 1968 total of almost R.$38 was the highest since 1960 and there is every likelihood that building activity in 1969 will have surpassed the 1960 total of R.$46m.

Industrial production has shown a steady increase and the 1969 output from mining can be expected to exceed the 1968 record of R.$68m. substantially.

Other indicators showing buoyancy include a marked increase in retail trade; the remarkable improvement in the operations of the Rhodesia Railways and the appreciable rise in electrical energy consumed.

There are no signs, said the Minister, of any slackening in building or manufacturing activity nor in investment in plant and machinery; and prospecting is continuing on an unprecedented scale.

Mandatory sanctions have been an inhibiting factor since 1965 but they are already eroding and can be expected to erode at a faster rate as time goes on.

The balance of payments position is sound and will enable Rhodesia to generate the major part of its foreign currency requirements of capital goods.

There are tremendous prospects for the mining industry, the Minister said. In the next few years the value of mineral production already topping previous record levels, can be expected to show an upsurge.

In agriculture great strides had been made in diversifying crop production.

Government policy in the past few years of introducing and supporting Local Government enable one to look forward to the Tribal Trust Lands making a major contribution to the country's export effort as well as providing for its own needs.

MOVE TOWARD A GREATER FREEDOM IN THE ECONOMY

Reviews of policy affecting both commercial and industrial sectors and representing the first step towards a return to conditions of greater freedom in the economy, were announced by the Minister of Commerce and Industry, Mr. Jack Mussett, in a statement presented to the Midlands Chamber of Industries.

"No country has achieved greatness without the development of a soundly based industry," said the Minister.

"By 'manufacturing' I refer to the increasing variety of goods that are now coming out of our factories.

"They range from shoe laces and Christmas cards at the bottom end through ploughs and plough shares, fertilizers, diamond drills and hydraulic pumps to alloys and steel at the top end—the latter being comparable with the best in the world as to quality and price.

RAW MATERIALS

"One does not require much of an imagination to appreciate the value of the contribution to the national economy of converting the raw materials of Selukwe, and Bukwa through the proper use of Kariba power and Wankie coal into the products I have mentioned.

"Greater advances are just around the corner. Without consulting the management of RISCO, I forecast that by the turn of this decade we will be fabricating our railway trucks entirely from the raw material of our own iron ore mines. This is real positive development and continued success in this direction means success over-all.

"Government has set its sights high in the knowledge that, despite certain limitations in the availability of foreign exchange, industry is in a position to expand at an even faster rate towards our ultimate objective of a balanced, broadly based economy.

"It is intended furthermore, that this development should be spread over the entire country so that the benefits that must inevitably flow will be felt by as many people as possible."

DECENTRALIZATION

He had appealed to industrialists to give serious consideration to the question of decentralization of industry. The inherent dangers and disadvantages which result from the concentration of industrial development

in a few select areas—social and health problems aside—were apparent to all.

"Government has long been conscious of the necessity for an in-depth study of the question of industrial development on a nation-wide basis, in the belief that a more dispersed distribution of development will be to the ultimate benefit of the economies of the smaller centres.

"I am pleased to be able to announce that I am shortly setting up a committee to examine and report on this subject."

Its terms of reference would embrace the examination of the possibility of providing inducements to overcome the locational attractiveness of the larger centres for industrial expansion and of controlling the urban migration of work-seekers.

The question of decentralization of industry could not, however, remain one-sided. Whilst the exercise will be aimed at encouraging the establishment of industry in the smaller centres, it remained the responsibility of the smaller centres to look after their own interest with every means at their command.

NORMAL TIMES

While on the subject of expansion, said the Minister, it had become evident that the time for holding back, to see if sanctions would be lifted, must end.

"These are normal times for Rhodesia and we know how we stand in relation to the rest of the world.

"We know who our friends are and that, in spite of all efforts to the contrary, we can still sell our products on world markets.

"We must prepare and proceed now to secure those world markets, and where possible, obtain a larger share of international trade. We cannot afford to wait because if we do others will take over what is rightfully ours."

If we could make the words "Made in Rhodesia" synonymous with value, we would find a ready export market for our products.

DIRECT PROTECTION

"If it is uncertainty over the future of the local market, when import controls are lifted, that is causing hesitation, let me assure you that in such circumstances not only will certain industries continue to be afforded direct protection if it is in the national interest to do so, but so also will those industries which are potentially viable but underdeveloped.

"Whilst, therefore, the ultimate object is to return to the use of the Customs tariff as the major means of protecting industry against outside competition, assistance will also include protection by means of import control for selected industries for specified periods of time."

IMPORT CONTROLS

Mr. Mussett said although import controls might have seemed somewhat harsh and restrictive, there was no doubt they had had the desired effect.

"Not only have we established a reputation for prompt payment in the international field, thereby engendering goodwill towards the country as a whole, but internally our financial position is such that we can look into the seventies with thoughts of greater foreign earnings, expansion, increased production and a quickening of the over-all tempo of development."

Government had been able to review policy on import allocations in respect of the industrial sector.

Policy on the distribution of local industrial products had also been reviewed.

NEW PROJECTS

The Minister finally spoke about the system of approval of new industrial projects, a system much maligned in the past, but which was vital in determining the rate and direction of expansion, and the over-all balance of the economy.

"When considering approval of industrial projects in the past we have taken into account a total of some 16 factors.

"Although in considering future applications these factors will continue to be taken into account, even greater emphasis will now be placed on four particular aspects which we consider to be of prime importance to our future rate of economic development, namely;

"(a) Where the project has substantial export potential.

"(b) Where such project utilizes local sources of raw materials.

"(c) Where it increases industrial efficiency or quality.

"(d) Where the savings in foreign exchange on imports would, in a short period, cover the outlay of currency involved in establishing the project.

"Since our assumption of independence in 1965 almost every sector of the economy has developed to a greater or lesser extent. But looking ahead it is becoming increasingly evident that we must, more and more, depend upon manufacturing industry for the future prosperity of this country.

GENERAL STABILITY

"Manufacturing has one marked advantage over the primary sectors of the economy; that of general stability.

Primary producers are, to a greater or lesser degree, susceptible to conditions over which the producer has very little control. Agriculture in particular is prone to the vagaries of the weather, and mining to the prevailing conditions of demand. Both these factors can have severe consequences on the country as a whole.

"The continued growth of manufacturing industry will help to iron out the effect of droughts, surpluses and falling world commodity prices.

"This is not to say that we must become a nation of industrialists. Our future lies in a balanced economy with the three productive sectors moving forward in unison.

RACIAL EQUALITY IN JOBS, AND UNIONS, COLLECTIVE BARGAINING, AND THE BURGER COURT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS: Mr. Speaker, I include the following:

[From Michigan Law Review, December 1969]

RACIAL EQUALITY IN JOBS AND UNIONS, COLLECTIVE BARGAINING, AND THE BURGER COURT

(By William B. Gould*)

"Makin' a road
For the rich old white men
To sweep over in their big cars
And leave me standin' here."
—Langston Hughes [1]

I. INTRODUCTION

In the foreseeable future, the Supreme Court of the United States will be called upon to resolve many disputes resulting from the existence of racial inequality in the collective bargaining process and from the lack of full integration in union leadership. Those disputes will arise primarily because black workers are now challenging employers' and unions' practices which have hitherto been thought to be protected under the rubric of free collective bargaining.

No one can deny that there is a new-found willingness among black workers to challenge previously accepted practices. Yet some courts seem unaware of that developing militancy. The recent decision of the Court of Appeals for the District of Columbia Circuit in *United Packinghouse, Food and Allied Workers v. NLRB*,[2] provides an example. In that case, the court, speaking through Judge Skelly Wright, held that an employer's "invidious discrimination on account of race or national origin," [3] was impermissible under the National Labor Relations Act (NLRA). Judge Wright observed that such discrimination has a twofold effect: it leads to apathy on the part of those who are discriminated against, and it results in an "unjustified clash of interests" [4] between black workers and white workers and thereby considerably reduces the effectiveness of the bargaining unit. Undoubtedly, some will object to the result reached in that case on the ground that the NLRA was not intended to be a fair employment practices statute.[5] But there is another significant flaw in the opinion. That flaw is the attempt to equate the effects of racial inequality in public education—effects that existed in the situation in *Brown v. Board of Education* [6]—with the effects of racial discrimination in employment. Such an equation is not at all in step with current events. Thus, Judge Skelly Wright's conclusion, in *Packinghouse Workers* that "racial discrimination creates in its victims an apathy or docility which inhibits them from asserting their rights against the perpetrator of the discrimination" [7] is arguably anachronistic.

The problem with such an observation is that it comes at a time when the black worker is anything but docile. Indeed, employers and unions in such metropolitan areas as Detroit and Chicago are well aware of the new militancy of Negro employees who are frustrated by what they regard as discriminatory or poor working conditions and by the failure of the almost lily-white union leadership to correct those conditions.

The explosiveness of the situation can be seen not only in the frustrations of the black workers, but also in the increasingly organized hostility of those white workers who are just a rung above the Negro on the economic ladder, and who constitute what is probably the most alienated group in our society today. Moreover, the measures which have been taken to assist the cause of racial equality in employment, and which appear threatening to the white workers, have been ineffective to eliminate the practices which arouse the blacks. Indeed, Congress has thus far failed to provide the appropriations and the enforcement authority which are necessary if the Equal Employment Opportunity Commission (EEOC) is to enhance the likelihood that racial equality in jobs will become a reality for blacks. As EEOC Chairman Brown recently said, "[t]he only thing we can do if we find discrimination is to sit down with the employer or with the union and negotiate or conciliate the particular case. . . . It is almost impossible for us to do the job that has to be done unless and until we get cease-and-desist powers." [8] Thus, the net effect of the remedial steps that have been taken has been to increase the frustrations of both groups. While increased hostility on the part of white workers may be an inevitable side-effect of curing racially discriminatory employment practices, the situation would be considerably less explosive if the cure could eliminate the frustrations of at least the black workers.

When the rules of the collective bargaining game were being created and developed under the NLRA, discrimination in employment was still being openly engaged in; in fact, Congress did not address itself to the problem until 1964.[9] But when Congress did enact title VII of the Civil Rights Act of 1964[10] (title VII), and when it voted appropriations for the Executive Order which the Act took cognizance of,[11] it operated under the assumption that in a substantial number of instances black workers were not being dealt

Footnotes at end of speech.

with fairly in the collective bargaining process. Had it not thought so, the detailed debate[12] and the comprehensive legislation would have been unnecessary. Accordingly, if the national labor law is to reflect current congressional views of collective bargaining activities insofar as race is concerned, then the NLRA, and the assumptions and practices which have developed under it, must be accommodated to the objectives of civil rights legislation. But until the principle of equality for black and white workers is effectuated in the labor-management context, it is the duty of the courts, operating under both the NLRA and title VII, to root out the past practices and to fashion remedies which mirror the more recently developed policy against discrimination.

The Supreme Court has taken such action in many similar areas. It has demonstrated an unflagging hostility to racial discrimination in voting, education, selection of juries, and housing. With respect to voting, the Court has held that eligibility requirements which were not applied to whites when discrimination was previously practiced must be set aside in order to root out the remnants of past inequality.[13] The Court's inclination to read civil rights statutes and constitutional guarantees of equality expansively is also typified by its treatment of the Voting Rights Act of 1965 in *Allen* v. *State Board of Elections*.[14] In that case, the legislature had enacted laws which altered the previously existing election procedures in three ways: they changed the basis of county elections from district-wide voting to at-large voting; they provided that some county officials were to be appointed rather than elected; and they created more difficulties for potential third party candidates than had previously existed. Despite damaging indications in the legislative history of the Act, the Court held that these laws had to be submitted for approval either to the Attorney General of the United States or to the District Court for the District of Columbia, since they constituted a "voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting,"[15] as contemplated by the Voting Rights Act. The Court stated: "The Voting Rights Act was aimed at the subtle, as well as the obvious, state regulations which have the effect of denying citizens their right to vote because of their race."[16]

In education, the Court has announced that the test for compliance with the fourteenth amendment is whether the school board's desegregation plan *in fact* accomplishes the stated objective—integration of the races.[17] Thus, in order to devise an effective remedy in this area, race must be consciously taken into account.[18] Discrimination in the jury system has been measured to some extent, although perhaps not as much as it should be, by statistics.[19] Finally, with respect to housing, the Court recently held in *Jones* v. *Alfred H. Mayer Company*[20] that the Civil Rights Act of 1866 prohibits racial discrimination in housing, and it indicated that the Constitution is especially concerned with remedying the vestiges of slavery for the American Negro.[21]

But the Warren Court never had the opportunity to interpret the provisions of title VII or to accommodate the NLRA to the legally recognized problems faced by racial minorities.[22] Indeed, the Court's last holding of major significance in this area was *Steele v. Louisville & Nashville Railroad Company*[23] which is a quarter of a century old and thus antedates Chief Justice Warren's appointment by almost ten years. Therefore, for better or worse, it is the Burger Court which will have the chance to shape the law of employment discrimination. That Court will be faced with few problems, if any, which will be more important than the question of the precise limitations on discriminatory employment practices. On those decisions will hinge the ability of Negro workers to compete economically with whites and to educate their children effectively. If the decisions interpret civil rights law expansively, the cost pressures of the black protest will be imposed upon employers; and the business community may perforce become more interested in correcting the many other ailments of the ghetto.

In dealing with the problems of employment discrimination, the Burger Court will have to face several new and major issues. This Article is concerned with two of the most important of those issues. The first is whether the present requirement that workers seek redress of their grievances through the exclusive representation of the union is applicable to victims of racial discrimination; and if not, what other remedies should be available to those workers. The second is whether quotas and ratios based on race are permissible; and if so, whether it is required that they be used to integrate union leadership after a merger of two previously segregated unions. While the main focus of this Article is on these problems, it will also deal briefly with the effect of the Supreme Court's decision in *Gaston County v. United States*[24] on remedies for existing discriminatory employment practices resulting from past segregation.

II. THE FAILURE OF THE UNION AS EXCLUSIVE BARGAINING REPRESENTATIVE IN DISCRIMINATION CASES AND POSSIBLE REMEDIES

Both the NLRA[25] and the Railway Labor Act[26] provide that a union selected by a majority of the workers within a particular craft or industrial unit is the exclusive bargaining agent for each worker in that unit, whether or not he is a member of the elected union. In interpreting those statutory provisions, the Supreme Court has held that individual employment contacts can be contravened by the union's exclusive authority, and that an employer is prohibited by statute from negotiating with individual employees rather than with the exclusive agent.[27] The neat order lines of those principles, coupled with a faith in the benefits of the arbitration process,[28] convinced the Warren Court that proceeding to arbitration is the union's prerogative unless the union has engaged in bad faith conduct,[29] and that an individual worker cannot obtain a judicial hearing of a complaint until he has exhausted any negotiated grievance-arbitration machinery which is applicable to his situation.[30] Moreover, since resort to the judiciary for the adjudication of contract claims would undermine arbitration, the employee in most instances cannot have his case reviewed on the merits.[31] These principles of law, however, were articulated in a nonracial context, and they should, ideally, have no adverse impact on the interests of workers of minority races.

In *Steele v. Louisville & Nashville Railway Company*,[32] the Supreme Court imposed on unions a duty of fair representation.[33] In that case, the Court held that a union acting as the exclusive bargaining representative of a craft or class of employees has the obligation to represent all employees in the craft without discrimination on the basis of their race, and that the courts have jurisdiction to protect the minority of the craft or class from a violation of that obligation.[34] Nevertheless, history has shown that the procedures requiring workers to seek redress solely through the exclusive representative have been inadequate to solve the problems of victims of racial discrimination.[35] Accordingly, in some situations involving racial discrimination against a worker, the Court has abandoned its ordinary rules and has allowed the worker to go directly to court without first proceeding through the union. Thus, the courts have agreed that when a worker alleges racial discrimination, but not a contractual violation, exaustion of the grievance-arbitration machinery is not required.[36] When both are alleged, however, it is much more doubtful that bypassing the union's procedures will be permitted.[37] Nonetheless, in *Glover v. St. Louis-San Francisco Railway*,[38] a case presenting allegations of both racial discrimination and contract violation, the Court unanimously held that exhaustion is not required when the reactions of union officials plainly indicate that the processing of grievances through machinery controlled by the union and the employer would be a futile act. In that case, which concerned a dispute over seniority and promotions, the Court relied heavily upon the demonstrated failure of the union to respond when the plaintiffs had "called upon" it to seek redress. As of this date, the question whether a mere *allegation* of racial discrimination and contract violation, without the union hostility demonstrated in *Glover*, permits a plaintiff to bypass privately negotiated arbitration procedures has not been answered.[39]

The significance of *Glover* and the need for an extension of the doctrine expressed in that case can best be seen by reference to the enactment of title VII of the Civil Rights Act of 1964. Title VII implicitly recognized both the ineffectiveness of the *Steele* doctrine of fair representation[40] and the unwillingness of labor and management to take affirmative action against discrimination. By enacting that statute, Congress determined that, despite the plaudits which American unions and employers had given one another for good race relations, and despite the supposed "bulwark" provided by *Steele* and the duty of fair representation,[41] legislation was necessary. Yet although some commentators have praised both the craft and the industrial unions for their progress after the enactment of title VII,[42] that progress has, on the whole, been quite insignificant. Developments during the five years since the passage of the Act do not support any greater confidence in the handling of racial issues at the bargaining table than that expressed by Congress in 1964. The rise of the black militant, whose logic is sometimes unsteady and irrational, is evidence of the distance between the white leaders of organized labor and the young Negro rank-and-file which is not afraid to challenge authority. Thus, it appears that the present procedures for handling the grievances of black workers—procedures requiring that those workers proceed through their union—are inadequate.

In some cases, the use of the *Glover* decision will be able to cure that inadequacy. Such cases are those in which the conflict between the collective agreement and the law clearly demonstrates that arbitration through the union would be inappropriate and useless.[43] But in situations in which the futility of using established arbitration procedures is not clear, other solutions must be sought. One possible solution involves an extension of the *Glover* decision to exempt *all* cases involving racial discrimination from the exhaustion doctrine.

But if *Glover* is not so extended, then some other type of protection for the Negro worker, who is less than confident about how the parties to the bargaining agreement will dispose of his claim, is necessary if the exhaustion doctrine is to be upheld as fair. In formulating that protection, it is imperative that the minority group worker himself become involved in the adjudication of his grievances, and that he have, if he wishes, the assistance of a representative who has his trust and confidence, such as a civil rights organization or a black worker's committee. Even if *Glover* is extended, so that the exhaustion requirement becomes totally inapplicable to racial discrimination cases, some kind of third party involvement should still be available to black workers. That conclusion is supported by three considerations.

Footnotes at end of speech.

First, the other principal avenues for relief—those established by title VII—are heavily congested because of a lack of appropriations and because of the statutory defects alluded to by Chairman Brown.[44] Second, while the grievant may allege racial discrimination, the heart of the issue may be white insensitivity about the conditions of employment which are not cognizable either as a violation of a no-discrimination clause or as a statutory violation. Third, the availability of third party intervention would eliminate any need for resort to the courts, and it would thus make possible the use of arbitrators who, as the Court so clearly indicated in the *Steelworkers* trilogy,[45] have a good deal of expertise to bring to bear on plant grievances of all kinds.

Thus far, the courts have not looked with favor on the principle of third party intervention and have viewed it as an unnecessary intrusion on a stable collective relationship. The leading case in this area is *Acuff* v. *United Paperworkers*[46] which did not involve consideration of race. In that case, the United States Court of Appeals for the Fifth Circuit held that wildcat strikers had no right to separate representation in an arbitration proceeding because there was no evidence of bad faith on the part of the union. The court reasoned that since the union has almost plenary authority to decide whether a grievance is to be pursued to the highest step of the conflict-resolution ladder,[47] it should also be able to control every phase of the grievance procedure, including the question of participation in the hearing.

There is, however, some question as to the continuing validity of the *Acuff* decision, for it is at least arguable that the tendency of the Warren Court toward adulation for union-negotiated grievance machinery will not be the pattern of the Burger Court. Furthermore, *Vaca v. Sipes*[48]—which initially set the stringent standards for establishing a violation of the fair representation duty,[49] and thus laid the foundation for *Acuff*—is hardly a balanced opinion. More important, the logic of *Vaca* does not require the result reached in *Acuff*. Indeed, *Vaca*'s reasoning that the union has broad discretion to decide whether to go to arbitration does not compel, as the court in *Acuff* apparently thought it did, the conclusion that the union has absolute control over the grievance procedure. If the court's reasoning in *Acuff* were sound, it would follow that whenever an employee had a grievance, the union could fashion that grievance into whatever form it desired—even one to which the employee was unalterably opposed. Finally, in *Humphrey v. Moore*,[50] Justice White seriously discussed the possible need for third party representation and thereby gave credence to the notion that its availability is a necessary element in the duty of fair representation.[51]

However, the Court can devise effective arbitral remedies for racial discrimination in employment without rejecting either *Vaca* or *Acuff*. That fact is clear from the approach taken by Justice Douglas in *Textile Workers Union v. Lincoln Mills*.[52]

"The Labor Management Relations Act expressly furnishes some substantive law. It points out what the parties may or may not do in certain situations. *Other problems will lie in the penumbra of expressed statutory mandate. Some will lack expressed statutory sanction but will be solved by looking at the policy of legislation and the fashioning of remedies that will effectuate that policy. The range of judicial inventiveness will be determined by the nature of the problem.*" [53]

Certainly the labor and management practices which give rise to title VII's prohibitions against racial discrimination make proposals for representation of workers by third parties compatible with the Court's instructions in *Lincoln Mills*, since civil rights legislation dealing with employment practices must be regarded as part of the substantive law to which the Court referred. In addition, the nation has a special obligation to Negro workers—an obligation which results from the existence of slavery and from the systematic discrimination that followed it.[54] Thus, some form of third party involvement is a minimum protection for the black worker who desires it and whose grievance alleges both racial discrimination and contract violation. Such a procedure is hardly at variance with the principle of exclusivity or with the objective of uniformity, since it incorporates the dissidents within the union-employer structure rather than forcing them out of that structure. It is therefore much more consistent with the uniformity principle than is the procedure allowed in *Glover*, which permits the circumvention of the private machinery.

Third party intervention would be particularly important when "disadvantaged" workers are hired, because the employment of such persons is likely to lead to disputes over the discharges and disciplinary measures that result from absenteeism and poor work habits. Such disputes will probably be common in these circumstances, because a tradition of inferior housing, poor environment, and inadequate education frequently makes adjustment difficult for the newly hired black worker, particularly if he has never held a long-term job. Moreover, the lack of free or inexpensive transportation for the worker to his job-site increases the likelihood that he will miss numerous days of work.[55] Although a dual standard of discipline for blacks and whites is a possible solution to the problems which arise in this area, it is not a satisfactory one. The resentment of the white worker who is given a two-day suspension for excessive tardiness, while his black counterpart goes unpunished, would know no bounds.[56] Although that factor normally should not be taken into account in civil rights controversies[57]—even those in the employment area[58]—any management operating under such a system is likely to have severe morale problems. Furthermore, it would not be economically desirable to require employers to ignore absenteeism and poor work habits. Indeed, it would be extremely difficult for a company which is in competition with other businesses for a profit to tolerate practices which impair productivity.[59] Thus, a dual standard of discipline would probably be an ineffective method for dealing with the adjustment problems of a new disadvantaged worker.

A preventive approach is another solution. Under it, labor and management would provide temporary help during the period of adjustment for the employee who has not previously been exposed to the discipline of the work place. But for that solution to be effective, unions and employers must be willing to teach new employees how to tell time, how to read bus stop signs, and so on; and they must also be willing, perhaps, to provide free or inexpensive transportation to work. These efforts require both a substantial expenditure of time and money and a great deal of willingness on the part of labor and management, and neither is to be anticipated. Indeed, the infrequency with which such assistance has been provided was pointed out by Saul Wallen:

"[S]ome unions have been willing to negotiate special probationary arrangements to apply to their company's hard-core employment problems. But this has been far from universal. No data are available and one can only speculate on the extent to which rigid agreement provisions, drawn for typical labor market conditions, have thwarted the recruitment and training of the special population that makes up the hard-core unemployed.[60]"

Since no solution appears to be easy, then, the difficult practical problems involved in hiring disadvantaged workers are likely to lead to discharges and disciplinary measures. Those measures, in turn, lead to complex disputes which cannot, or will not, be solved either by employers or by unions. Thus, third party representation—the "triangular relationship," as one court referred to it[61]—is necessary for the resolution of such disputes.

III. THE PERMISSIBILITY OF QUOTAS BASED ON RACE AND THEIR USE IN INTEGRATING UNION LEADERSHIP

Nearly twenty years have passed since the Supreme Court unanimously decided in *Hughes* v. *Superior Court*,[62] that the California courts could enjoin civil rights picketing which was aimed at the alleged practice of job discrimination and which was designed to result in the hiring of Negroes in proportion to the Negro patronage of the picketed establishment. Justice Frankfurter, who wrote the opinion, was careful to qualify the Court's holding by emphasizing that the injunction was permissible only in light of California's good judicial record in dealing with racial discrimination in employment.[63] The *Hughes* opinion contains many defects, but its primary effect was to inhibit race consciousness in devising remedies for employment discrimination and to encourage the labeling of all such attempts as forbidden "quotas." That situation is changing now. Outside the labor area, the most notable recent instance of a policy reversal is *United States* v. *Montgomery County Board of Education*.[64] In that case, a unanimous Court, speaking through Justice Black, held that the use of a "ratio" of white to Negro faculty members was an appropriate means of dealing with past discrimination in the public school system. The Court specifically noted that it was not holding that racially balanced faculties were constitutionally required on all instances; but it also rejected the holding of the court of appeals that the ratio should be "substantially or approximately" complied with and that compliance with the desegregation orders should not be tested solely in terms of ratio.[65] Although the Supreme Court admitted that the ratio would be "troublesome" if it were regarded as an inflexible approach which might cause an injustice to the school board, it stated that such was not the case in the circumstances before it.[66] The Court based that conclusion on the district court's careful analysis of prior discriminatory practices[67] and on the facility with which the school board could achieve the required ratio.

There is a similar trend in the labor area. That trend can be seen in the Department of Labor's recent announcement of the Revised Philadelphia Plan.[68] There the Department took the position that an "effective affirmative action program" under the President's Executive Order[69] requires that certain racially oriented factors be considered in determining a definite standard for minority employment in the better-paid trades in Philadelphia. Those standards are (1) the current extent of minority group participation in the trade; (2) the availability of minority group persons for employment in the trade; (3) the need for training programs in the area or the need to assure a demand for those who are in an existing program or who have recently left one; and (4) the impact of the proposed program upon the existing labor force. The Department of Labor has argued persuasively that its plan is not prohibited by the antipreferential-treatment provision of the Civil Rights Act of 1964.[70] But without regard to the legal issues, the very existence of such a plan provides an indication, as do some recent court rulings,[71] that the mere thought of a quota no longer prevents the implementation of truly effective remedies for past discrimination.

Footnotes at end of speech.

It is unclear, however, whether the principles of race consciousness enunciated in *Montgomery County* and the Revised Philadelphia Plan are pertinent to the critical problem of integrating union leadership so that the races may share power equitably. Many of the difficulties that were discussed in connection with third party intervention and the black workers' distrust of union leadership [72] result from a confrontation between a black rank-and-file and a predominantly white union officialdom. The problem of integrating union leadership is particularly important when two local unions that have been segregated in the past—one all white and the other all black—merge as required by title VII.[73] Great tension will arise after such a merger if Negro local officers are voted out by a white majority, especially when past discrimination in employment conditions has been engaged in by the white local.[74] Can title VII be said to require the use of a quota or a ratio in order to insure that in these circumstances the minority group will have some representation?

Since it was the white leadership which initially negotiated the discriminatory conditions, and which probably imposed the segregation of the locals, that leadership's unchecked control of the union's position after a merger hardly bodes well for a collective bargaining process which is supposed to be fair to the Negro minority. If black elected officers are not able to participate in policy judgments, then the union's policy-making body is akin to a malapportioned or gerrymandered legislature. Even more analogous to the situation at hand is that which arose in *Allen v. State Board of Elections*.[75] In that case, the Supreme Court held that a state which is within the coverage of the Voting Rights Act of 1965 cannot convert its district system of election to an at-large system without a declaratory judgment or approval by the Attorney General, because the proposed conversion might result in a dilution of the Negro vote. The Court found that, "[v]oters who are members of a racial minority might well be in the majority in one district, but in a decided minority in the county as a whole. This type of change could therefore nullify their ability to elect the candidate of their choice just as would prohibiting some of them from voting." [76] Similarly, in the labor situation, when two segregated unions merge and black workers become the minority, the merger could cause those workers to lose all representation in the union leadership as effectively as would a total prohibition on their right to vote.[77]

Some of these issues arose in *Chicago Federation of Musicians, Local 10 v. American Federation of Musicians*.[78] In that case, the international union proposed to merge a local which was all Negro with one which was all white. Its merger plan provided that members of the black local would have the right to select a certain number of local union officials during a transitional period consisting of the first six years of the merged local's existence. The white local then challenged the international's proposal on two grounds: that a trusteeship had been formed in violation of the Landrum-Griffin Act,[79] and that such a trusteeship, together with the merger proposal, violated title VII of the 1964 Civil Rights Act.[80] A federal district court rejected those contentions and held that the merger arrangement was not improper from a "practical standpoint," since the international union was attempting to induce the merger through a guarantee of representation to members of the black locals.[81] Although the court noted that title VII was not effective at the time that the suit was filed, it did indicate that, because the plan was designed to promote integration and to protect the smaller local, the statute was not violated.[82]

The *Chicago Federation* case indicates only that a plan which allocates seats to each local is permissible under title VII; it does not deal with the question whether the statute can be read to *impose* black representation upon the merged local in certain circumstances. But the clear intent of title VII would be undermined if the use of subtle devices—such as the voting out of black leaders—to lessen the value of the black vote were permitted. As the *Allen* case demonstrated in connection with the Voting Rights Act of 1965, the use of such evasionary measures cannot be allowed.[83] Thus, it appears that title VII should be read to require some fixed or proportionate number of blacks in union leadership positions when the alternative is complete exclusion. The EEOC apparently accepted that type of reasoning, for, by holding in a recent case that title VII prohibits the dismissal of a black local's officials by white leadership after a merger,[84] it indicated that it will review merger terms.[85]

The problem of using ratios to integrate union leadership will presumably become more intense as the statute's effect becomes stronger in dealing with segregation. It is extremely unrealistic to believe that the election of white trade unionists who have practiced segregation in the past is compatible with the even-handed treatment which title VII supposedly contemplates for the plant community. Assuming, then, that the statute does require that there be some Negro representation, the extent of that required representation and the size of the quota or ratio necessary for implementing it depend upon the size of the merged local and, perhaps, upon the severity of the discrimination previously practiced. It is clear that when the EEOC and the courts make judgments of this nature, they must articulate them on an ad hoc basis, in order to provide the kind of flexibility contained in both *Montgomery County* and the Philadelphia Plan.

Required representation in leadership is hardly inconsistent with the Landrum-Griffin Act, since such a requirement simply adheres to the democratic choice of the employees in each local union. Furthermore, required integrated leadership is a necessary step, because the alternative to it, black separatism, is not a feasible, let alone desirable, objective in this country. If a merger of two segregated locals is allowed to dilute existing black power in the unions, there will surely be industrial strife of a racial nature which is antithetical to the policies of the NLRA; [86] and the circumstances of that dispute will be bound to favor the rhetoric of the separatists. Thus, the color line in unions, as well as in jobs, must be erased, and integrated leadership must be ensured by an active and compulsory use of quotas and ratios.

IV. GASTON COUNTY AND THE GRANTING OF COMPENSATORY SENIORITY AND TRAINING

While it is clear that black leadership in elected policy-making positions at both the international [87] and local level is a *sine qua non* for equality, the matter cannot be considered in a vacuum. Discriminatory employment conditions, which have their origins prior to the effective date of the Civil Rights Act of 1964, still exist and must be completely eliminated. During the past three years this subject has been examined in detail, particularly with respect to the problems of seniority and advancement,[88] and there is no need to reiterate those views here. However, a recent development may shed some light on one of the most perplexing of those problems—that faced by black workers who have been in an all-black department of a plant and who are transferred to a department which had previously been all white. In the usual case, those workers will have no seniority in their new positions, and they will have little opportunity for advancement since title VII expressly compels advancement only for those workers who are qualified [89] and the newly transferred black workers will usually have neither the experience nor the seniority to qualify them. Because this situation is the result of prior discrimination, it is reasonable to argue that title VII requires unions and management to rectify their previous practices by granting the transferred workers compensatory seniority credit in their new positions and by providing to those with adequate potential the additional training necessary to qualify them for promotion.[90] A recent decision of the Supreme Court, *Gaston County* v. *United States*,[91] in which analogous issues were raised, provides considerable support for that view.

The question in *Gaston County* was whether a state could escape coverage of the Voting Rights Act of 1965 because the low number of registered voters was attributable to their lack of literacy. The Court held that when the illiterate condition of Negro residents is attributable to past inferior educational opportunities, the statute is applicable and the state's literacy test must be suspended. The Court emphasized the relationship between the existing conditions and the past inequality:

"It is only reasonable to infer that among black children compelled to endure a segregated and inferior education, fewer will achieve any given degree of literacy than will be so among their better-educated white contemporaries. And, on the Government's showing, it was certainly proper to infer that Gaston County's inferior Negro schools provided many of its Negro residents with subliterate education, and gave many others little inducement to enter or remain in school." [92]

The lesson of *Gaston County* is that the state cannot take the illiterate Negro as it finds hi mif he state educational facilities are responsible for his condition. Much of the current fighting over seniority systems and other employment condiitons involves very similar issues and contentions. Like the state in *Gaston County*, unions and management argue that the denial of compensatory seniority and training results from the previous practice of discrimination, and that the denial is not discriminatory in itself; no more should be required to them than that they put an end to discriminatory employment practices. That viewpoint deserves no greater acceptance by the Burger Court than that which the Warren Court gave to the comparable defense in *Gaston County*.

In a recent case, however, the Court of Appeals for the Fifth Circuit failed to take cognizance of the full implications of *Gaston County*. In that case, *Local 189, United Papermakers v. United States*,[93] the court, while accepting the general principle that title VII does not permit unions and employers to carry forward the effects of past discrimination in the employment relationships, stated in dicta that the statute assists only those Negro workers who have "qualifications," that is, existing skills, which qualify them for promotion without training.[94] The court found that "business necessity" would preclude the employment of black workers in jobs for which the schools had failed to prepare them.[95] But the court did not take account of the situation in which unions and employers become involved in the discriminatory pattern by placing Negro workers in nonpromotable, unskilled jobs. *Gaston County* indicates that, in those circumstances, unions and managements, because they were originally responsible for the black workers' failure to build up seniority in the new department and to receive adequate training for advancement, must provide those workers with compensatory seniority and training.

Footnotes at end of speech.

V. CONCLUSION

As of this date, one cannot know whether the Burger Court will permit the Negro worker to be left "standin' there" like Langston Hughes' Florida road workers. The Court should not be deceived by those who say that the problem of racial discrimination can be dealt with effectively through full employment policies, although surely effectuation of those policies is the foremost hope of both races. But the immediate legal issues involve equity for the black worker in terms of the jobs that are available now. Without that kind of analysis, we must find ourselves saying with Mrs. Alving in Ibsen's *Ghosts:* "Oh, that perpetual law and order! I often think that that is what does all the mischief in this world of ours." [96]

The issue, then, is whether the law of racial equality will be made applicable to employment in a meaningful sense, that is, whether the Court will alter the black worker's current plight which Langston Hughes put so well when he said:

"Sure,
A road helps all of us!
White folks ride—
And I get to see 'em ride.
I ain't never seen nobody
Ride so fine before.
Hey buddy!
Look at me.
I'm makin' a road!" [97]

FOOTNOTES

†This Article is based on a speech presented by the author to the Labor Law Section of the American Bar Association at Dallas, Texas, on August 11, 1969.

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[1] *Florida Road Workers,* in MODERN AMERICAN POETRY 594 (L. Untermeyer ed. 1950).

[2] 70 L.R.R.M. 2489 (D.C. Cir. Feb 7) 1, *cert. denied,* 37 U.S.L.W. 3173 (U.S. Nov. 10, 1969). On remand from the court of appeals, the NLRB ordered a rehearing. Farmers' Cooperative Compress, 72 L.R.R.M. 1251 (Oct. 9, 1969).

[3] 70 L.R.R.M. at 2497.

[4] 70 L.R.R.M. at 2495.

[5] This argument first appeared with respect to the question whether a failure of a union to fulfill its duty of fair representation of its members constitutes an unfair labor practice. But despite the strong objections of Chairman McCulloch and Member Fanning, a majority of the National Labor Relations Board have never been troubled either by the argument presented in the text or by the absence of legislative history supporting the conclusion that a breach of the duty of fair representation constitutes an unfair labor practice; and they have come to that conclusion. *See* United Rubber Workers v. NLRB, 368 F.2d 12 (5th Cir. 1966), *cert. denied,* 389 U.S. 837 (1967); Miranda Fuel Co., 140 N.L.R.B. 181 (1962), *enforcement denied,* 326 F.2d 172 (2d Cir. 1963). But there are two differences between the duty found by Judge Wright in *Packinghouse Workers* and the duty of fair representation. First, when Congress passed the 1947 amendments to the NLRA, it was presumably aware that the Supreme Court had devised a judicial doctrine of fair representation. Second, the duty of fair representation is a logical corollary to the principle of the union as exclusive bargaining representative. Hence, there is a stronger argument for sustaining the administratively fashioned duty of fair representation than there is for upholding Judge Wright's attempt to make racial discrimination an unfair labor practice for an employer.

[6] 347 U.S. 483 (1954).

[7] 70 L.R.R.M. at 2495.

[8] N.Y. Times, July 21, 1969, at 30, col. 1. However, Chairman Brown's views on the matter have apparently changed. *See* N.Y. Times, Aug. 9, 1969, at 1, col. 5. *See also* JOBS AND CIVIL RIGHTS (Prepared for the U.S. Civil Rights Commission by the Brookings Institution, 1969).

[9] Civil Rights Act of 1964, 42 U.S.C. §§ 2000(a)-(h) (1964), *as amended,* 42 U.S.C. §§ 2000(d)-1(e), -1(g) (Supp. IV, 1965-1968).

[10] Civil Rights Act of 1964, § 703, 42 U.S.C. § 2000e–2 (1964).

[11] Exec. Order No. 10,925, 3 C.F.R. 448 (1959–1963 comp.), *as amended,* Exec. Order No. 11,162, 3 C.F.R. 215 (1964-1965 comp.). The Civil Rights Act of 1964 recognized this order in § 709(d), 42 U.S.C. § 2000e-8(d) (1964). Executive Order No. 10,925 has been superceded by Exec. Order No. 11,246, 3 C.F.R. 339 (1964-1965 comp.), *as amended,* Exec. Order No. 11,375, 3 C.F.R. 320 (1967 comp.), 42 U.S.C. § 2000c (Supp. IV, 1965-1968).

[12] *See,* e.g., 110 CONG. REC. 11,719 (1964) (remarks of Senator Tower); 110 CONG. REC. 12,595 (1964) (remarks of Senator Clark). *See generally* H.R. REP. No. 914, 88th Cong., 1st Sess. (1963); S. REP. No. 872, 88th Cong, 2d Sess. (1964).

[13] Louisiana v. United States, 380 U.S. 145, 154 (1965).

[14] 393 U.S. 544 (1969).

[15] 42 U.S.C. § 1973c (Supp. IV, 1965-1968).

[16] 393 U.S. at 565.

[17] Green v. County School Bd., 391 U.S. 430 (1968); Raney v. Board of Educ., 391 U.S. 443 (1968); Monroe v. Board of Commrs., 391 U.S. 450 (1968). The Court's most recent decision on school desegregation is Alexander v. Holmes County Bd. of Educ., 90 S. Ct. 14 (1969), in which the Court found that *Brown's* requirement of desegregation with "all deliberate speed" was no longer constitutionally permissible. 90 S. Ct. at 15-16. The Court then ordered the school districts involved in the case to begin desegregation "immediately."

[18] *See* United States v. Jefferson County Bd. of Educ., 372 F. 2d 836 (5th Cir.), *affd. with modifications on rehearing,* 380 F. 2d 385 (5th Cir. 1966) (en banc), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967). *But see* Vieira, *Racial Imbalance, Black Separatism, and Permissible Classification by Race,* 67 MICH. L. REV. 1553, 1603–04 (1969).

[19] Swain v. Alabama, 380 U.S. 202 (1965); Hernandez v. Texas, 347 U.S. 475 (1954); Cassell v. Texas, 339 U.S. 282 (1950); Aikins v. Texas, 325 U.S. 398 (1945); Hill v. Texas, 316 U.S. 400 (1942); Norris v. Alabama, 294 U.S. 587 (1935).

[20] 392 U.S. 409 (1968). *See* Larson, *The New Law of Race Relations,* 1969 Wis. L. REV. 470. *Compare* Dobbins v. Local 212, IBEW, 69 L.R.R.M. 2313 (S.D. Ohio 1968), *with* Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill July 14, 1969), and Harrison v. American Can Co., 2 FAIR EMPL. PRAC. CAS. 1 (S.D. Ala. July 8, 1969), on the applicability of *Jones* to racial discrimination in employment. *See also* Gould, *The Emerging Law Against Racial Discrimination in Employment,* 64 NW. U. L. REV. 359, 376–78 (1969).

[21] 392 U.S. at 437–44.

[22] *See generally* M. SOVERN, LEGAL RESTRAINTS ON RACIAL DISCRIMINATION IN EMPLOYMENT (1966); Aaron, *The Union's Duty of Fair Representation Under the Railway Labor and National Labor Relations Acts,* 34 J. AIR L. & COM. 167 (1968); Sovern, *The National Labor Relations Act and Racial Discrimination,* 62 COLUM. L. REV. 563 (1962).

[23] 323 U.S. 192 (1944). In that case, the Court held that the Railway Labor Act imposed on a union acting as the exclusive bargaining agent for a class of employees the duty to represent all employees without discrimination because of their race. This has become known as the doctrine of fair representation. *See* text accompanying notes, 33–34 *infra.* Of course, there have been a number of fair representation cases decided by the Court subsequent to *Steele* in both a racial and a nonracial context, and some of them were decided by the Warren Court. *See* Vaca v. Sipes, 386 U.S. 171 (1967); Humphrey v. Moore, 375 U.S. 335 (1964); Conley v. Gibson, 355 U.S. 41 (1957); Syres v. Oil Workers, 350 U.S. 892 (1956); Ford v. Huffman, 345 U.S. 330 (1953); Graham v. Brotherhood of Locomotive Firemen, 338 U.S. 232 (1949); Tunstall v. Brotherhood of Locomotive Firemen, 323 U.S. 210 (1944). *See generally* St. Antoine, *Judicial Valour and the Warren Court's Labor Decisions,* 67 MICH. L. REV. 317 (1968), on the role of the Warren Court and labor law.

[24] 395 U.S. 285 (1969).

[25] 29 U.S.C. § 159(a) (1964).

[26] 45 U.S.C. § 152(fourth) (1964).

[27] Medo Photo Supply Corp. v. NLRB, 321 U.S. 678 (1944); J. I. Case Co. v. NLRB, 321 U.S. 332 (1944).

[28] United Steelworkers v. Warrior & Gulf Nav. Corp., 363 U.S. 574 (1960); United Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960); United Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960).

[29] Vaca v. Sipes, 386 U.S. 171 (1967).

[30] Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965).

[31] Vaca v. Sipes, 386 U.S. 171, 185–86 (1968). It is not entirely clear, however, whether the Court is addressing itself to union exhaustion or to employee exhaustion when it speaks of exhaustion of contractual remedies and indicates that a worker may bring suit against an employer despite the absence of exhaustion in the event that the union has breached its duty of fair representation. The requirement is probably union exhaustion.

[32] 323 U.S. 192 (1944).

[33] *See* note 23 *supra* and accompanying text.

[34] 323 U.S. at 199.

[35] *See* test accompanying notes 40–42 *infra.*

[36] *See* United States v. Georgia Power Co., 71 L.R.R.M., 2784 (N.D. Ga. May 16, 1969); Dent v. St. Louis—San Francisco Ry., 265 F. Supp. 56 (N.D. Ala. 1969), *revd. on other grounds,* 406 F.2d 339 (5th Cir. 1969); King v. Georgia Power Co., 69 L.R.R.M. 2094 (N.D. Ga. 1968); Reese v. Atlantic Steel Co., 282 F. Supp. 905 (N.D. Ga. 1967); Bowe v. Colgate-Palmolive Co., 272 F. Supp. 332 (S.D. Ind. 1967), *revd.,* 2 Fair Empl. Prac. Cas. 121 (7th Cir. Sept. 26, 1969).

[37] *See* Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill. July 14, 1969); *cf.* NLRB v. Industrial Union of Marine & Shipbuilding Workers, 391 U.S. 418 (1968); Brady v. Trans-World Airlines, Inc., 401 F.2d 87 (3d Cir. 1968), *cert. denied,* 393 U.S. 1048 (1969).

[38] 393 U.S. 324 (1969).

[39] *See* note 37 *supra.* In Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill. July 14, 1969), *Glover* was distinguished because there was no showing of futility

[40] *See* text accompanying notes 33–34 *supra.*

In essence, this is the analysis initially set forth in Gould, *Non-Governmental Remedies in Employment Discrimination,* in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969) [reprinted in 20 SYRACUSE L. REV. 865 (1969)]. That basic theme applies to various aspects of the existing industrial relations system. *See* Gould, *Labor Arbitration of Grievances Involving Racial Discrimination,* 118 U. PA. L. REV. 40 (1969); Gould, *Black Power in the Unions: The Impact upon Collective Bargaining Relationships,* 79 YALE L.J. 46 (1969).

[41] *See* Vaca v. Sipes, 386 U.S. 171 (1968), in which the Warren Court made this exaggerated claim.

[42] *See, e.g.,* F. RAY MARSHALL & V. BIGGS, EQUAL APPRENTICESHIP OPPORTUNITIES: THE NATURE OF THE ISSUE AND THE NEW YORK EXPERIENCE (1968). *Compare id., with* Blumrosen, *The Duty of Fair Recruitment Under the Civil Rights Act of 1964,* 22 RUTGERS L. REV. 465 (1968); Gould, *The Negro Revolution and Trade Unionism,* CONGRESSIONAL

RECORD, vol. 114, pt. 19, p. 24872; O'Hanlon, *The Case Against the Unions*, FORTUNE, Jan. 1968, at 170. *See generally* U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, EQUAL EMPLOYMENT OPPORTUNITY REPORT No. 1 (1967).

[43] *Cf.* United Rubber Workers v. NLRB, 368 F.2d 12 (5th Cir. 1966), *cert. denied*, 389 U.S. 837 (1967); Goodyear Tire & Rubber Co., 45 Lab. Arb. 240 (1965).

[44] *See* text accompanying note 8 *supra*.

[45] *See* note 28 *supra*.

[46] 404 F.2d 169 (5th Cir. 1968), *cert. denied*, 394 U.S. 987 (1969). Justice Black was of the opinion that certiorari should have been granted. *See* Fleming, *Some Problems of Due Process and the Fair Procedure in Labor Arbitration*, 13 STAN. L. REV. 235 (1961); WIRTZ, *Due Process of Arbitration*, in PROC. OF THE 11TH ANNUAL MEETING, NATIONAL ACADEMY OF ARBITRATORS, THE ARBITRATOR AND THE PARTIES 1 (1958).

[47] *See* text accompanying notes 29–30 *supra*.

[48] 386 U.S. 171 (1967).

[49] Those standards are discussed in text accompanying notes 29–31 *supra*.

[50] 375 U.S. 335 (1964).

[51] 375 U.S. at 349.

[52] 353 U.S. 448 (1957).

[53] 353 U.S. at 457 (emphasis added).

[54] *See* Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968); *Developments in the Law—Equal Protection*, 82 HARV. L. REV. 1065 (1969); Comment, *The "New" Thirteenth Amendment: A Preliminary Analysis*, 82 HARV. L. REV. 1295 (1969). With respect to industrial relations, see Gould, *Labor Arbitration Grievances Involving Racial Discrimination*, 118 U. PA. L. *Rev.* 40 (1969); Gould, *Black Power in the Union: The Impact upon Collective Bargaining Relationships*, 79 YALE L.J. 46 (1969).

[55] The problem of overly expensive transportation to work has been a point of dispute for some time in the Detroit area.

[56] *See* St. Antoine, *Litigation and Meditation Under Title VII of the Civil Rights Act of 1964*, in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969).

[57] *Cf.* Brown v. Boa.d of Educ., 349 U.S. 300 (1955).

[58] *Cf.* Cooper v. Aaron, 358 U.S. 1 (1958)

[59] Unfortunately, the situation under discussion here cannot be equated with the refusal of Orthodox Jews and Seventh Day Adventists to work at certain times, because in those cases the minority is small and thus the harm to the employer is slight. To the contrary, in the area of programs to hire the disadvantaged, the hope is that the minority will become a sizeable one.

[60] Wallen *Industrial Relations Problems of Employing the Disadvantaged*, PROC. OF THE 22D ANNUAL MEETING, NATIONAL ACADEMY OF ARBITRATORS (1969).

[61] United States v. Hayes Intl. Corp., 70 L.R.R.M. 2926 (N.D Ala. 19683, *revd on other* grounds, 2 FAIR EMPL. PRAC. CAS. 67 (5th Cir. Aug. 19, 1969).

[62] 339 U.S. 460 (1950).

[63] 339 U.S. at 463–64.

[64] 395 U.S. 225 (1969).

[65] United States v. Montgomery County Bd. of Educ., 400 F.2d 1 (5th Cir.), *affg.* 289 F. Supp. 647 (M.D. Ala. 1968).

[66] 395 U.S. at 234–35.

[67] 289 F. Supp. at 649–52.

[68] Department of Labor, Order Requiring Specific Goals for Hiring Minorities in Better-Paying Philadelphia Construction Jobs, June 27, 1969; Memorandum from Assistant Secretary of Labor Fletcher to Heads of All Agencies, June 27, 1969.

[69] *See* Exec. Order No. 11,246, 3 C.F.R. 339 (1964–1965 comp.), *as amended*, Exec. Order No. 11,375, 3 C.F.R. 320 (1967 comp.), 42 U.S.C. § 2000e (Supp. IV, 1965–1968). For a discussion of Executive Order No. 11,246, see JOBS AND CIVIL RIGHTS, *supra* note 8; Powers, *Federal Procurement and Equal Employment Opportunity*, 29 LAW & CONTEMP. PROB. 468 (1964).

[70] 42 U.S.C. § 2000e–2(j) (1964). The Attorney General has approved the Plan. *See* Opinion of Attorney General John N. Mitchell on Legality of Revised Philadelphia Plan, DAILY LABOR REPORT No. 184, at E–1 (Sept. 23, 1969).

[71] Local 53, Intl. Assn. of Heat & Frost Insulators v. Vogel, 407 F.2d 1047 (5th Cir. 1969); Ethridge v. Rhodes, 268 F. Supp. 83 (S.D. Ohio 1967); Weiner v. Cuyahoga Community College Dist., 19 Ohio St. 2d 35, 249 N.E.2d 907 (1969).

[72] *See* text accompanying notes 36–45 *supra*.

[73] 42 U.S.C. § 2000e-2(c) (1964).

[74] Moreover, severe eligibility requirements can often effectively discourage newly hired black workers from participating in internal union political activities and from electing other blacks to leadership positions. *Cf.* Wirtz v. Hotel, Motel & Club Employees, Local 6, 391 U.S. 492 (1968); Wirtz v. National Maritime Union, 284 F. Supp. 47 (S.D.N.Y.), *affd.*, 399 F.2d 544 (2d Cir. 1968).

[75] 393 U.S. 544 (1969).

[76] 393 U.S. at 569.

[77] *See also* note 74 *supra*.

[78] L.R.R.M. 2227 (N.D. Ill. 1964). *Cf.* Gould, *The Negro Revolution and the Law of Collective Bargaining*, 34 FORDHAM L REV. 207, 255–57 (1965). In United States v. Local 189, United Papermakers, 57 CCH Lab. Cas. ¶ 9120 (E.D. La. 1968), a consent decree was issued providing that, during a transitional period, formerly segregated locals would have separate representation. *See also* Daye v. Tobacco Workers, 234 F. Supp. 815 (D.D.C. 1964).

[79] 57 L.R.R.M. at 2230. Section 3(h) of the Landrum-Griffin Act, 29 U.S.C. 403(h) (1964) defines trusteeship as, "any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws." When a trusteeship is formed, various requirements are imposed upon the labor organization which forms it. *See* Landrum-Griffin Act tit. III, 29 U.S.C. §§ 419–24 (1964).

[80] 57 L.R.R.M. at 2230. Section 703(c) of of title VII, 42 U.S.C. § 2000e-2(c), provides:

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

[81] 57 L.R.R.M. at 2227.

[82] 57 L.R.R.M. at 2236.

[83] *See* text accompanying notes 75–76 *supra*.

[84] Case No. NO 7–3–336U, 71 LAB. REL. REP. 339 (EEOC June 18, 1969).

[85] The Commission relied, in part, on the lack of any attempt "to merge the staffs of the two unions on a nondiscriminatory basis so as to approximate the proportions of membership contributed by the two previously segregated locals." 71 LAB. REL. REP. at 340.

[86] 29 U.S.C. §§ 202(a), (b), 203 (1964).

[87] On an international level, the problem is that district lines are drawn on a regional basis, and Negroes are in a minority in each region, even in unions having a large Negro membership, such as the United Automobile Workers and the United Steelworkers. *See Steelworkers Debate Black Representation*, 91 MONTHLY LAB. REV. 16–17 (1968). The UAW circumvented this problem in 1962 by electing to the Board a Negro Member-at-Large, Nelson Jack Edwards. More recently, the first Negro Regional Director-Board Member, Marcellius Ivory, was elected. *See* N.Y. Times, Aug. 1, 1968, at 11, col. 8; Owens, *Negro Is Pilot for 74,000-Member UAW Region*, Detroit Free Press, Aug. 15, 1968, at 2E. *See generally* Henle, *Some Reflections on Militants*, 92 MONTHLY LAB. REV. 20 (1969); Hill, *Black Protest and the Struggle for Union Democracy*, 1 ISSUES IN INDUS. SOCY. 19 (1969); Gannon, *Black Unionists: Militant Negroes Press for a Stronger Voice in the Labor Movement*, Wall St. J., Nov. 29, 1968, at 1, col. 1; Berstein, *Fervor of Racial Protest Starting To Press Unions*, Denver Post, June 15, 1969, § J, at 1; Stetson, *Negro Members Are Challenging Union Leaders*, N.Y. Times, June 29, 1969, at 37, col. 2.

[88] *See* Gould, *Employment Security, Seniority and Race: The Role of Title VII of the Civil Rights Act of 1964*, 13 How. L.J. 1 (1967); Gould, *Seniority and the Black Worker: Reflections on Quarles and Its Implications*, 47 TEXAS L. REV. 1039 (1969); Cooper & Sobol, *Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion*, 82 HARV. L. REV. 1598 (1969); St. Antoine, *Litigation and Mediation Under Title VII of the Civil Rights Act of 1964*, in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969); Aaron, *Reflections on the Legal Nature and Enforceability of Seniority Rights*, 75 HARV. L. REV. 1532 (1962); Note, *Title VII Seniority Discrimination and the Incumbent Negro*, 80 HARV. L. REV. 1260 (1967). *See also* Local 189, United Papermakers v. United States, 71 L.R.R.M. 3070 (5th Cir. July 28, 1969).

[89] 42 U.S.C. § 2000E–2(h) (1964). For discussions of the comparable "affirmative action" remedial provision contained in § 10(c) of the NLRA, see St. Antoine, *A Touchstone for Labor Board Remedies*, 14 WAYNE L. REV. 1039 (1968); Note, *The Need for Creative Orders Under Section 10(c) of the National Labor Relations Act*, 112 U. PA. L. REV. 69 (1963). Section 10(c) authorizes the NLRB "to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this [Act] . . ." 29 U.S.C. § 160(c) (1964).

[90] I have made this argument before. *See* Gould, 13 How. L.J. 1 (1967), *supra* note 88; Gould, 47 Texas L. Rev. 1039 (1969), *supra* note 88.

[91] 395 U.S. 285 (1969).

[92] 395 U.S. at 295–296.

[93] 71 L.R.R.M. 3070 (5th Cir. July 28, 1969).

[94] 71 L.R.R.M. at 3071. Judge Wisdom's opinion did cite *Gaston County* for the proposition that, in order for title VII to be operative, past discrimination need not be unlawful at the time at which it was engaged in.

[95] The court stated:

Not all "but-for" consequences of pre-Act racial classification warrant relief under Title VII. For example, unquestionably Negroes, as a class, educated at all-Negro schools in certain communities have been denied skills available to their white contemporaries. That fact would not, however, prevent employers from requiring that applicants for secretarial positions know how to type, even though this requirement might prevent Negroes from being secretaries.

. . . Secretaries must be able to type. There is no way around that necessity . . . 71 L.R.R.M. at 3076.

[96] H. IBSEN, *Ghosts*, in 7 THE COLLECTED WORKS OF HENRIK IBSEN 220 (1924).

[97] *Florida Road Workers*, in MODERN AMERICAN POETRY 594 (L. Untermeyer ed. 1950).

YEAR-ROUND SCHOOLS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, there have been many suggestions and

experiments to obtain a more economical utilization of the multibillion-dollar investment that the Nation has made in school buildings and equipment. One suggestion has been that school buildings might be utilized on a more comprehensive basis than the traditional 8-hour day for 10 months of the year. The Atlanta, Ga., school system has conducted an experiment using this concept. They have tried operating some of their schools on a year-round program. On February 28, 1970, the Christian Science Monitor carried an article which assessed the year-round experience in Atlanta which I insert in the RECORD for the attention of all Members of the House having an interest in education:

YEAR-ROUND SCHOOLS—GEORGIA DISTRICTS VIEW FLEXIBILITY AS A MAJOR GAIN

(By Leon W. Lindsay)

ATLANTA.—Year-round school, a concept bandied about in the United States for the better part of the last 100 years, is today an established fact in Atlanta.

Educators here not only figured out why the idea had not caught on, despite many sound arguments in its favor, they also came up with a number of new reasons for having year-round school, and a formula for making it attractive to the community.

In the process, they accomplished a revolution in high-school curriculum.

It's known here as the four-quarter school year, and the designation is one key to surmounting the logistic, scholastic, and public relations problems which have stymied previous attempts at year-round schools. More than 30 tries in the United States since 1900 have failed.

Actually, eight separate school systems in metropolitan Atlanta joined in working out the year-round plan. High-school systems in the cities of Atlanta, Decatur, and Marietta and in Clayton, Cobb, DeKalb, Fulton, and Gwinnet Counties are in various stages of implementing the four-quarter plan.

But Atlanta has gone further than the others. In this city the plan is being fully implemented.

Dr. John W. Letson, Atlanta superintendent of schools, and Dr. Curtis Henson, assistant superintendent for instruction, emphatically state that Atlanta did not adopt the year-round plan in order to cut down on building and operating costs.

The aim is to provide expanded opportunity for students to learn. Flexibility is a basic element in making the plan work.

No one is assigned to attend the summer quarterly—or any other quarter. Students may choose to attend any three of the four quarters—or all four if they wish to graduate early or "enrich" their high-school experience.

Teachers are not assigned to work during the summer quarter. They are given the opportunity to do so, and may increase their annual earnings this way. They still end up with a two-week August vacation, plus the usual school holidays.

Students who have failed courses can use the extra quarter to make up lost ground.

And the opportunity is increased for students to carry a limited school load and hold regular jobs. This is particularly attractive to youths from disadvantaged homes.

Perhaps the greatest indication of the new flexibility, however, is in the curriculum which was devised along with the four-quarter system. No less than 860 course selections are available to Atlanta high-school students. And among these are some not to be found in any traditional high-school curriculum.

Flexibility is also evident in the elimination of sequential arrangement of courses in most subject-matter areas. Of course, there are some, such as mathematics, in which sequential learning must be maintained. But as far as possible rigid requirements of this sort have been dropped.

Not only may high-school students under the four-quarter system take a quarter off at any point to work or travel; they may also devote a quarter solely to one educational activity. The Atlanta school system provides such opportunities.

Six of the eight systems initiated the quarter system in September, 1968. But only Atlanta planned a tuition-free-fourth quarter for the summer of 1969. The others went ahead with their traditional summer schools, for which tuition is required.

Some 12,000 Atlanta high-school pupils indicated they would attend the summer quarter in 1969. Since in this initial year of the new system all students were required to attend the first three quarters, this advance of almost 30 percent enrollment was considered good, says Dr. Henson.

Most of the 12,000 did, indeed, enroll for the fourth quarter. Slightly more than half these took a full load—five academic courses a day, Dr. Henson disclosed. Others were enrolled for the purpose of making up failures or for "enrichment."

That first summer quarter increased Atlanta's overall $70 million school budget by $1.2 million. So much for the old theory that year-round school would save money.

But since Atlanta is emphasizing improved educational quality and opportunity, Dr. Letson and his staff feel that fourth quarter is a bargain at the $1.2 million price.

The public apparently agrees. Despite the fact that 3½ mills was added to the city tax rate to finance the four-quarter plan, objections have been few.

JAYCEES—50 YEARS OF SELFLESS SERVICE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FUQUA. Mr. Speaker, the measure of any man or organization is in results.

Truly it can be said of the Jaycees that here is an organization that has gotten results and this Nation and the world is richer for the vision of those young men who a half-century ago began the movement that was to become the world organization we know today.

This year the Jaycees are commemorating the 50th anniversary of their founding. I like the progressive spirit of this celebration, for instead of looking back, the attention is on the future.

Jaycees are young men between the ages of 21 to 35 who are motivated in "service to humanity." Their record of accomplishment in every corner of this Nation is the living tribute to these "Young Men in Action."

My own State is a good example. It was the Jaycees who took the leadership in the development of many of the programs that led to the formation of the Florida Highway Patrol. They were the leaders in developing our welcome stations which have meant so much to our vital tourist industry. They have been in the forefront of fighting for better government and for better communities. There is no area for civic betterment throughout our State which does not carry the imprint of the Jaycees.

Florida was the second State organization of the U.S. Junior Chamber of Commerce. The name Junior Chamber of Commerce came into being because the original group met in a Chamber of Commerce headquarters and a few years ago the name was changed to more accurately reflect its image as an organization of young men who are changing the world—the Jaycees.

From a beginning of a single chapter with an idea for bettering their community through the energy and initiative of young men has come an organization that spread throughout the United States and now as Junior Chamber International, has transported its precepts of selfless service throughout the world.

What has been accomplished in the past half century only portends that which will be done in the next 50 years. The Jaycee movement is founded on sound ground and truly its creed reflects all that is good and needed in this troubled world.

The creed of the Jaycees expresses a belief in God to give meaning and purpose to human life, that hte brotherhood of man transcends the sovereignty of nations, that economic justice is best achieved by free men through free enterprise, that Government should be of laws rather than of men, that the real treasure of earth is man's personality, and that service to humanity is the best work of life.

I have been a Jaycee myself and the thing that impressed me the most about the organization was the opportunity for leadership training for young men during their formative years.

The Jaycees are an active and ever-changing organization, for by its nature, it is of, by, and for the young leader. Here he has an opportunity to experiment with new ideas, to articulate the problems that he feels a community, State or Nation faces, and to attempt to do something about that problem.

I have been particularly impressed with the relevance which this organization gives to current problems. In every decade, the Jaycees have been a moving force of meeting the changing problems of society—ever in the forefront and quite often ahead of Government and other organizations in seeing the real problems that confront our society.

It would be impossible to recount the contributions which the 19 clubs in my congressional district have rendered. Young men who belong to the clubs in Apalachicola, Blountstown, Chattahoochee, Crescent City, Tallahassee, and East Tallahassee, Fernandina Beach, Gainesville, Green Cove Springs, Jasper, High Springs, Monticello, Lake City, Live Oak, Mayo, Orange Park, Palatka, Perry, and Quincy, have made tremendous contributions to our area of the State through the years.

Florida has furnished the leadership of the national presidency in the late, revered Selden Waldo of Gainesville, and 12 other national officers.

Florida Jaycees have come a long way from their beginning in 1923 with Jacksonville to the vibrant organization of

today of over 150 local clubs and a membership of over 10,000 in our State.

This Nation and the world is richer for their having existed. I am proud to have this opportunity to pay tribute to a movement I consider to be one of the finest forces for progress and leadership training that man has ever devised.

All of us have a right to be proud of their accomplishments and to wish for them a second half century of service to humanity.

COURT MAY DEFEND ITSELF—AT LEAST AGAINST CRIMINALS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, last February 16—H852—I called to the attention of the House the agitation and propaganda technique of the Communist movement in relation to the abuse of the courts.

It is worth summarizing the purpose and the nature of such assaults on justice at this time.

The radical in the hands of justice does not cease to be a soldier of the conspiracy—he simply adopts a new role. He uses the very concern of our judicial system for the protection of his rights to make that system unworkable. At the same time, he utilizes the stage as an agitation soapbox and as a platform from which to disseminate his propaganda. If he can so disturb the judicial machinery as to make his conviction impossible, so much the better, from the viewpoint of the conspirator.

Today the Supreme Court handed down what will probably become a landmark decision in a criminal case. I say probably, because Justice Douglas has already suggested that this was only an ordinary criminal and he probably did not have the same rights to constitutional protection which will be found in a "political" trial—such as that of a Communist, a subversive, a Negro, or a "civil rights worker" perhaps.

Misbehavior of a defendant, or his attorney, or of anyone else in a court in such a manner as to interfere with the proceedings of the court, and to tend to make the judicial process impossible is a direct and criminal contempt of that court—and has been from a very early time. This is so well settled in our law that the casebook example used in law school is written in the old law French.

The court has an inherent right of "self-defense" and when it is directly attacked it invokes this power of contempt punishments—for the purpose of protecting its very existence. We, in this House, have the same power. Were an unruly body to invade our Chamber and make our proceedings impossible, this House could direct its Sergeant at Arms to secure and incarcerate the miscreants for such time as necessary to enable the House to get about its business. Indeed, we have seen just an event occur in the legislature of one of the States, in Madison, Wis., not too long ago.

Because of the importance to all of us, and to the readers of the RECORD as well, I include in my remarks pertinent newspaper clippings relating to the actions of the U.S. district court in the Chicago conspiracy trial, the current press comments on today's Supreme Court decision, and the decision and opinions of the Supreme Court in Illinois against Allen, the case to which I refer.

The material follows:

[From the Chicago (Ill.) Tribune, Feb. 18, 1970]

HOW CAN A JUDGE PROTECT HIMSELF?

Protests against the contempt-of-court sentences in the riot conspiracy trial are coming from the usual mixed bag of professional liberals, dreamy idealists, and nuts. One of their complaints is that the sentences were too severe. Six months is long enough for contempt of court, they say.

The critics overlook the fact that when the defendants and their lawyers insulted Judge Hoffman and caused frequent disorders in the courtroom they were not merely trying to show off or to exercise exuberance. They were trying deliberately to provoke the judge into declaring a mistrial and sending them to jail for contempt. They figured that the worst they would get would be six-month sentences.

If six months were the limit for the worst possible misbehavior in a courtroom, no defendant ever could be sentenced to more severe punishment, no matter what the offense charged against him. He could simply insult the judge and accept a contempt sentence. When called back for another trial, he could repeat the contemptuous behavior and get another mistrial. This process could be continued indefinitely until witnesses died or disappeared and the prosecution's evidence was gone.

Judge Hoffman outfoxed the riot conspiracy group by submitting to their outrageous abuse and by keeping a careful record of every contemptuous act. At the end of the trial he sentenced the defendants for separate actions and made the sentences run consecutively.

Whether the cumulative sentences are upheld on appeal remains to be seen. If Judge Hoffman is upheld, the stiff sentences should serve as a healthy deterrent to others tempted to use the same tactics. On the other hand, if Judge Hoffman is reversed by the higher courts, they should specify what else he might have done to protect himself.

The only alternative so far suggested is that courtrooms be equipped with soundproofed plastic booths or separate rooms where unruly defendants, could be sequestered. Loudspeakers would permit them to hear the proceedings, and they would have telephones to communicate with their lawyers. Israel used a booth in the 1962 trial of Adolf Eichmann, not because he was contemptuous but to protect him from assassination.

A committee of architects, judges, and lawyers is investigating the possibility of designing courtrooms so that quiet, if not decorum, can be maintained in the trial of revolutionaries. A separate study is being made by a committee of the American Bar Association with the aim of establishing guidelines for dealing with disrupters. Such committees take forever to make reports.

Plastic booths or similar cages for defendants would be a confession of failure by our court system. Surely every judge should have authority to use jail sentences severe enough to maintain the dignity of the court against those trying to force mistrials. Appeals should be available to prevent the abuse of this authority by tyrannical judges.

If there are many more trials like the one recently concluded in Chicago, the riot conspiracy group will have won a major victory in their campaign to destroy the judicial process.

[From the Chicago (Ill.) Tribune, Feb. 26, 1970]

THE JUDICIAL PROCESS MUST BE PROTECTED

Judge Edwin A. Robson of the United States District court, who soon will be its chief judge, has issued an order forbidding defendants, counsel, witnesses, and court personnel to make out-of-court comments about a forthcoming trial of 15 radicals accused of breaking into and destroying the records of a draft center.

Judge Robson's drastic order was necessitated, he said, by the out-of-court activities of defendants, defense counsel, and certain news media during the riot-conspiracy trial of seven revolutionaries in Judge Julius J. Hoffman's court. In an obvious attempt to transfer their case from the courtroom to the country, the defendants held daily press conferences at which they made outrageous statements about the judge, witnesses, the government and its prosecutors, the law under which they were tried, etc., before ever-present television cameras.

Judge Robson asserted that William M. Kunstler, one of the defense lawyers, "repeatedly and brazenly" transgressed court rules and the canons of ethics by "continuous inflammatory statements concerning jurors, witnesses, evidence, the judge, and rulings by the court during the trial."

These extrajudicial activities, together with obstructive conduct by the defendants and their lawyers inside the courtroom, radicalized a considerable section of the nation's youth and resulted in a display of incredible ignorance of the law, the rules of evidence, and the facts of the case by liberal newspapers all over the country.

This newspaper has never condoned restrictions on sources of information to which the press has a legitimate right of access. Restrictions on the right of the press to obtain and to publish information which it deems essential to the public interest, even while a trial is in progress, would not be permissible under the Constitution. We do not believe, however, that Judge Robson's order has any such intent or will have that effect. It simply prevents extrajudicial comments about a judicial proceeding by defendants, witnesses, counsel, and court personnel.

Judge Robson's order, based upon the Supreme Court's decision in the murder case of Dr. Samuel Sheppard, was made necessary by the attempt of revolutionaries in this country to sabotage and undermine the judicial process, which they rightly regard as a bulwark of the system they seek to overthrow. Defendants in the riot-conspiracy case, of whom five were found guilty and all seven were jailed for contempt, together with their lawyers, because of their outrageous conduct during the trial, disdain to conceal their purpose to destroy the courts.

Justices of the United States Supreme Court took cognizance of this threat to the judicial process Tuesday during an oral argument on the case of William Allen, who was convicted of holding up a Chicago tavern and sentenced to 30 years in prison. Allen was sent to jail for disruptive conduct before his trial was concluded, and the question before the Supreme Court is whether this violated his constitutional right to confront his accusers.

Chief Justice Warren E. Burger, Justice Hugo L. Black, and Justice Thurgood Marshall all indicated agreement with the state of Illinois that Allen's conduct was an "ef-

fective waiver" of his right to be present throughout the trial.

"Something has to be done to protect the courts from such indignities and frustrations," said Justice Black.

If the Supreme Court rules against Allen, the courts will have ample authority to protect themselves. Unruly defendants can be dragged off to jail without waiting, as Judge Hoffman did, until their trial is over. Judge Robson has shown how to prevent inflammatory extrajudicial activities by defendants and their lawyers. We may have to enlarge our prison facilities, but the revolutionaries can be contained.

[From the Washington (D.C.) Star, Mar. 31, 1970]

RULING ASSERTS TRIAL DISRUPTERS MAY BE OUSTED

(By Lyle Denniston)

An accused person who disrupts his own trial may be barred from the courtroom, punished for contempt or even bound and gagged, the Supreme Court ruled today.

In a precedent-setting decision which will control trial judges in a series of highly controversial cases, the justices said an unruly defendant had no constitutional right to be present during his trial.

Seven members of the high court supported the decision in full.

The eighth, Justice William O. Douglas, did not file a dissent, but said he thinks the court should not have laid down formal guidelines, particularly because of problems he foresees in "political trials."

Justice Hugo L. Black wrote the brief but far-ranging opinion insisting upon order during criminal trials.

"Our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity," the court's senior justice wrote.

BEARING ON HOFFMAN

"It would degrade our country and our judicial system to permit our courts to be bullied, insulted and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes."

Emphasizing the worry it apparently had about recent boisterous trials, the court took only five weeks to reach its decision. That is an unusually short time for a major constitutional ruling.

Black's opinion was supported by Chief Justice Warren E. Burger and Justices John M. Harlan, Potter Stewart, Byron R. White and Thurgood Marshall.

A seventh justice who said he agreed with the result, William J. Brennan, Jr., wrote his own opinion giving his reasons.

Brennan suggested, as Black had not, that an accused who is physically removed from his trial should have an opportunity to "communicate with his attorney and, if possible, to keep apprised of the progress of his trial."

Brennan did not say what he meant, except to refer to technological arrangements—presumably telephones or closed-circuit television facilities.

The court's ruling, while giving basic constitutional support to some of the actions of Federal Judge Julius J. Hoffman in the "Chicago Seven" conspiracy trial, did not endorse the precise actions the judge took.

For example, the decision today did not say whether the use of punishment for contempt may be delayed until the trial is all over, as Hoffman did, or must be used at the time the accused becomes unruly and disruptive.

The decision also does not settle the amount of punishment that may be given for contempt by a boisterous defendant.

The decision does give some implied support to a New York State judge, John M. Murtagh, who has refused to go ahead with a case against 13 Black Panthers accused of a bombing conspiracy until they promise to behave themselves in court.

The high court said flatly that a judge may "imprison an unruly defendant . . . and discontinue the trial until such time as the defendant promises to behave himself."

Today's ruling came in a case involving an Illinois man, William Allen, sentenced to a 10- to 30-year prison sentence in 1956 for robbing a bartender at gunpoint.

During his trial, Allen repeatedly spoke abusively, to the judge and said he would not allow his trial to go ahead. He was banished from the courtroom.

The 7th U.S. Court of Appeals ruled, however, that Allen had a constitutional right to be present during his trial. It ruled that he could be bound and gagged to make him behave.

The decision in Allen's case was applied Oct. 30 and 31 by Hoffman during the Chicago conspiracy trial. He ordered one of the defendants, Bobby Seale, bound and gagged to stop frequent outbursts.

Seale later was convicted of contempt of court and was ordered tried separately from the other accused. He is awaiting trial.

The high court ruling today emphasized that the justices felt that shackling and gagging should be used only as a last resort.

"Use of this technique," Black said, "is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold."

It is partly because of its distaste for that technique, the court said, that it approved other methods of keeping order.

The justices gave no indication of whether they favored contempt punishment or removal from the courtroom.

However, Black's opinion warned trial judges not to use their contempt power in such a way as to permit an accused to stay in jail while his trial is suspended in hopes of allowing enough time to pass to win an acquittal on the basis that important witnesses were unavailable.

"A court must guard against allowing a defendant to profit from his own wrong in this way," Black said.

Under the decision, a judge apparently has the discretion of whether to keep the trial going after he punishes a person for contempt or to stop the trial until he is assured that the accused will behave.

Black said that punishing for contempt or threatening such punishment might sometimes be enough to make an accused behave. But if that is not enough, he may then be banished, Black said.

Douglas, referring to past cases in which labor leaders, Communists or anarchists and left-wing dissidents were tried in highly controversial prosecutions, said in his separate opinion the court should wait for such a political case to come to it before deciding on rules of conduct.

But, he said, "The Constitution was not designed as an instrument for . . . rough-and-tumble contest. The social compact has room for tolerance, patience, and restraint, but not for sabotage and violence."

Brennan's separate opinion similarly did not endorse unruly behavior in court. "The nation cannot endure if we allow our precious heritage of ordered liberty to be ripped apart amid the sound and fury of our times."

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER *v.* WILLIAM ALLEN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MR. JUSTICE BLACK delivered the opinion of the Court.

The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him. . . ." We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. *Pointer* v. *Texas*, 380 U.S. 400 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. *Lewis* v. *United States*, 146 U.S. 370 (1892). The question presented in this case is whether an accused can claim the benefit of this constitutional right to remain in the courtroom while at the same time he engages in speech and conduct which is so noisy, disorderly, and disruptive that it is exceedingly difficult or wholly impossible to carry on the trial.

The issue arose in the following way. The respondent, Allen, was convicted by an Illinois jury of armed robbery and was sentenced to serve 10 to 30 years in the Illinois State Penitentiary. The evidence against him showed that on August 12, 1956, he entered a tavern in Illinois and, after ordering a drink, took $200 from the bartender at gunpoint. The Supreme Court of Illinois affirmed his conviction, *People* v. *Allen*, 37 Ill. 2d 167, 226 N. E. 2d 1 (1967), and this Court denied certiorari. 389 U.S. 907 (1967). Later Allen filed a petition for a writ of habeas corpus in federal court alleging that he had been wrongfully deprived by the Illinois trial judge of his constitutional right to remain present throughout his trial. Finding no constitutional violation, the District Court declined to issue the writ. The Court of Appeals reversed, 413 F. 2d 232 (1969), Judge Hastings dissenting. The facts surrounding Allen's expulsion from the courtroom are set out in the Court of Appeals' opinion sustaining Allen's contention:

"After his indictment and during the pretrial stage, the petitioner [Allen] refused court-appointed counsel and indicated to the trial court on several occasions that he wished to conduct his own defense. After considerable argument by the petitioner, the trial judge told him, 'I'll let you be your own lawyer, but I'll ask Mr. Kelly [court-appointed counsel] [to] sit in and protect the record for you, insofar as possible.'

"The trial began on September 9, 1956. After the State's Attorney had accepted the first four jurors following their *voir dire* examination, the petitioner began examining the first juror and continued at great length. Finally, the trial judge interrupted the petitioner, requesting him to confine his questions solely to matters relating to the prospective juror's qualifications. At that point, the petitioner started to argue with the judge in a most abusive and disrespectful manner. At last, and seemingly in desperation, the judge asked appointed counsel to proceed with the examination of the jurors. The petitioner continued to talk, proclaiming that the appointed attorney was not going to act as his lawyer. He terminated his remarks by saying, 'When I go out for lunchtime, you're [the judge] going to be a corpse here.' At that point he tore the file which his attorney had and threw the papers on the floor. The trial judge thereupon stated to the petitioner, 'One more outbreak of that sort and I'll remove you from the courtroom.' This warning had no effect on the petitioner. He continued to talk back to the judge, saying, 'There's not going to be no trial, either. I'm going to sit here and you're going to talk and you can bring your shackles out and straight jacket and put them on me and tape my mouth, but it will do no good because there's not going to be no trial.' After more abusive remarks by the petitioner, the trial judge ordered the trial to proceed in the petitioner's absence. The petitioner was removed from the courtroom. The *voire dire* examination

then continued and the jury was selected in the absence of the petitioner.

"After a noon recess and before the jury was brought into the courtroom, the petitioner, appearing before the judge, complained about the fairness of the trial and his appointed attorney. He also said he wanted to be present in the court during his trial. In reply, the judge said that the petitioner would be permitted to remain in the courtroom if he 'behaved [himself] and [did] not interfere with the introduction of the case.' The jury was brought in and seated. Counsel for the petitioner then moved to exclude the witnesses from the courtroom. The defendant protested this effort on the part of his attorney, saying: 'There is going to be no proceeding. I'm going to start talking and I'm going to keep on talking all through the trial. There's not going to be no trial like this. I want my sister and my friends here in court to testify for me.' The trial judge thereupon ordered the petitioner removed from the courtroom." 413 F. 2d, at 233–234.

After this second removal, Allen remained out of the courtroom during the presentation of the State's case-in-chief, except that he was brought in on several occasions for purposes of identification. During one of these latter appearances, Allen responded to one of the judge's questions with vile and abusive language. After the prosecution's case had been presented, the trial judge reiterated his promise to Allen that he could return to the courtroom whenever he agreed to conduct himself properly. Allen gave some assurance of proper conduct and was permitted to be present through the remainder of the trial, principally his defense, which was conducted by his appointed counsel.

The Court of Appeals went on to hold that the Supreme Court of Illinois was wrong in ruling that Allen had by his conduct relinquished his constitutional right to be present, declaring that:

"No conditions may be imposed on the absolute right of a criminal defendant to be present at all stages of the proceedings. The insistence of a defendant that he exercise this right under unreasonable conditions does not amount to a waiver. Such conditions, if insisted upon, should and must be dealt with in a manner that does not compel the relinquishment of his right.

"In light of the decision in *Hoyt* v. *Utah*, 110 U.S. 574 (1884) and *Shields* v. *United States*, 273 U.S. 583 (1927) as well as the constitutional mandate of the Sixth Amendment, we are of the view that the defendant should not have been excluded from the courtroom during his trial despite his disruptive and disrespectful conduct. The proper course for the trial judge was to have restrained the defendant by whatever means necessary, even if those means included his being shackled and gagged." 413 F. 2d, at 235.

The Court of Appeals felt that the defendant's Sixth Amendment right to be present at his own trial was so "absolute" that, no matter how unruly or disruptive the defendant's conduct might be, he could never be held to have lost that right so long as he continued to insist upon it, as Allen clearly did. Therefore the Court of Appeals concluded that a trial judge could never expel a defendant from his own trial and that the judge's ultimate remedy when faced with an obstreperous defendant like Allen who determines to make his trial impossible is to bind and gag him.[1] We cannot agree that the Sixth Amendment, the cases upon which the Court of Appeals relied, or any other cases of this Court so handicap a trial judge in conducting a criminal trial. The broad dicta in *Hoyt* v. *Utah*, *supra*, and *Lewis* v. *United States*, 146 U.S. 370 (1892), that a trial can never continue in the defendant's absence has been expressly rejected. *Diaz* v. *United States*, 223 U.S. 442 (1912).

We accept instead the statement of Mr. Justice Cardozo who, speaking for the Court in *Snyder* v. *Massachusetts*, 291 U.S. 97, 106 (1968), said: "No doubt the privilege [of personally confronting witnesses] may be lost by consent or at times even by misconduct." [2] Although mindful that courts must indulge every reasonable presumption against the loss of constitutional rights, *Johnson* v. *Zerbst*, 304 U.S. 458, 464 (1938), we explicitly hold today that a defendant can lose his right to be present at trial if, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom.[3] Once lost, the right to be present can, of course, be reclaimed as soon as the defendant is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

It is essential to the proper administration of criminal justice that dignity, order, and decorum be the hallmarks of all court proceedings in our country. The flagrant disregard in the courtroom of elementary standards of proper conduct should not and cannot be tolerated. We believe trial judges confronted with disruptive, contumacious, stubborn defiant defendants must be given sufficient discretion to meet the circumstances of each case. No one formula for maintaining the appropriate courtroom atmosphere will be best in all situations. We think there are at least three constitutionally permissible ways for a trial judge to handle an obstreperous defendant like Allen: (1) bind and gag him, thereby keeping him present; (2) cite him for contempt; (3) take him out of the courtroom until he promises to conduct himself properly.

I

Trying a defendant for a crime while he sits bound and gagged before the judge and jury would to an extent comply with that part of the Sixth Amendment's purposes that accords the defendant an opportunity to confront the witnesses at the trial. But even to contemplate such a technique, much less see it, arouses a feeling that no person should be tried while shackled and gagged except as a last resort. Not only is it possible that the sight of shackles and gags might have a significant effect on the jury's feelings about the defendant, but the use of this technique is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold. Moreover, one of the defendant's primary advantages of being present at the trial, his ability to communicate with his counsel, is greatly reduced when the defendant is in a condition of total physical restraint. It is in part because of these inherent disadvantages and limitations in this method of dealing with disorderly defendants that we decline to hold with the Court of Appeals that a defendant cannot under any possible circumstances be deprived of his right to be present at trial. However, in some situations which we need not attempt to foresee, binding and gagging might possibly be the fairest and most reasonable way to handle a defendant who acts as Allen did here.

II

In a footnote the Court of Appeals suggested the possible availability of contempt of court as a remedy to make Allen behave in his robbery trial, and it is true that citing or threatening to cite a contumacious defendant for criminal contempt might in itself be sufficient to make a defendant stop interrupting a trial. If so, the problem would be solved easily, and the defendant could remain in the courtroom. Of course, if the defendant is determined to prevent *any* trial, then a court in attempting to try the defendant for contempt is still confronted with the identical dilemma that the Illinois court faced in this case. And criminal contempt has obvious limitations as a sanction when the defendant is charged with a crime so serious that a very severe sentence such as death or life imprisonment is likely to be imposed. In such a case the defendant might not be affected by a mere contempt sentence when he ultimately faces a far more serious sanction. Nevertheless, the contempt remedy should be borne in mind by a judge in the circumstances of this case.

Another aspect of the contempt remedy is the judge's power, when exercised consistently with state and federal law, to imprison an unruly defendant such as Allen for civil contempt and discontinue the trial until such time as the defendant promises to behave himself. This procedure is consistent with the defendant's right to be present at trial, and yet it avoids the serious shortcomings of the use of shackles and gags. It must be recognized, however, that a defendant might conceivably, as a matter of calculated strategy, elect to spend a prolonged period in confinement for contempt in the hope that adverse witnesses might be unavailable after a lapse of time. A court must guard against allowing a defendant to profit from his own wrong in this way.

III

The trial court in this case decided under the circumstances to remove the defendant from the courtroom and to continue his trial in his absence until and unless he promised to conduct himself in a manner befitting an American courtroom. As we said earlier, we find nothing unconstitutional about this procedure. Allen's behavior was clearly of such an extreme and aggravated nature as to justify either his removal from the courtroom or his total physical restraint. Prior to his removal he was repeatedly warned by the trial judge that he would be removed from the courtroom if he persisted in his unruly conduct, and, as Judge Hastings observed in his dissenting opinion, the record demonstrates that Allen would not have been at all dissuaded by the trial judge's use of his criminal contempt powers. Allen was constantly informed that he could return to the trial when he would agree to conduct himself in an orderly manner. Under these circumstances we hold that Allen lost his right guaranteed by the Sixth and Fourteenth Amendments to be present throughout his trial.

It is not pleasant to hold that the respondent Allen was properly banished from the court for part of his own trial. But our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity. Nor can the accused be permitted by his disruptive conduct indefinitely to avoid being tried on the charges brought against him. It would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes. As guardians of the public welfare, our state and federal judicial systems strive to administer equal justice to the rich and the poor, the good and the bad, the native and foreign born of every race, nationality and religion. Being manned by humans, the courts are not perfect and are bound to make some errors. But, if our courts are to remain what the Founders intended, the citadels of justice, their proceedings cannot and must not be infected with the sort of scurrilous, abusive language and conduct paraded before the Illinois trial judge in this case. The record shows that the Illinois judge at all times conducted himself with that dignity, decorum, and patience that befits a judge. Even in holding that the trial judge had erred, the Court of Appeals praised his "commendable patience under severe provocation."

We do not hold that removing this defendant from his own trial was the only way the Illinois judge could have constitutionally solved the problem he had. We do hold, however, that there is nothing whatever in this record to show that the judge did not act completely within his discretion. Deplorable as it is to remove a man from his own trial, even for a short time, we hold that the judge did not commit legal error in doing what he did.

The judgment of the Court of Appeals is *Reversed*.

FOOTNOTES

[1] In a footnote the Court of Appeals also referred to the trial judge's contempt power. This subject is discussed in Part II of this opinion. *Infra*, at 7–8.

[2] Rule 43 of the Federal Rules of Criminal Procedure provides that "[i]n prosecutions for offenses not punishable by death, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict."

[3] See Murray, The Power to Expel a Criminal Defendant From His Own Trial: A Comparative View, 36 U. Colo. L. Rev. 171, 171–175 (1964); Goldin, Presence of the Defendant at Rendition of the Verdict in Felony Cases, 16 Col. L. Rev. 18, 18–31 (1916).

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER *v.* WILLIAM ALLEN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

NO. 606.—OCTOBER TERM, 1969

MR. JUSTICE BRENNAN, concurring.

The safeguards that the Constitution accords to criminal defendants presuppose that government has a sovereign prerogative to put on trial those accused in good faith of violating valid laws. Constitutional power to bring an accused to trial is fundamental to a scheme of "ordered liberty" and prerequisite to social justice and peace. History has known the breakdown of lawful penal authority—the feud, the vendetta and the terror of penalties meted out by mobs or roving bands of vigilantes. It has known, too, the perversion of that authority. In some societies the penal arm of the state has reached individual men through secret denunciation followed by summary punishment. In others the solemn power of condemnation has been confided to the caprice of tyrants. Down the corridors of history have echoed the cries of innocent men convicted by other irrational or arbitrary procedures. These are some of the alternatives history offers to the procedure adopted by our Constitution. The right of a defendant to trial—to trial by jury—has long been cherished by our people as a vital restraint on the penal authority of government. And it has never been doubted that under our constitutional traditions trial in accordance with the Constitution is the proper mode by which government exercises that authority.

Lincoln said this Nation was "conceived in liberty and dedicated to the proposition that all men are created equal." The Founders' dream of a society where all men are free and equal has not been easy to realize. The degree of liberty and equality that exists today has been the product of unceasing struggle and sacrifice. Much remains to be done—so much that the very institutions of our society have come under challenge. Hence, today, as in Lincoln's time, a man may ask "whether [this] nation or any nation so conceived and so dedicated can long endure." It cannot endure if the Nation falls short on the guarantees of liberty, justice, and equality embodied in our founding documents. But it also cannot endure if we allow our precious heritage of ordered liberty to be ripped apart amid the sound and fury of our time. It cannot endure if in individual cases the claims of social peace and order on the one side and of personal liberty on the other cannot be mutually resolved in the forum designated by the Constitution. If that resolution cannot be reached by judicial trial in a court of law, it will be reached elsewhere and by other means, and there will be grave danger that liberty, equality, and the order essential to both will be lost.

The constitutional right of an accused to be present at his trial must be considered in this context. Thus there can be no doubt whatever that the governmental prerogative to proceed with a trial may not be defeated by conduct of the accused that prevents the trial from going forward. Almost a half century ago this Court in *Diaz* v. *United States*, 223 U.S. 442, 457–458 (1912), approved what I believe is the governing principle. We there quoted from *Falk* v. *United States*, 15 App. D.C. 446 (1899), the case of an accused who appeared at his trial but fled the jurisdiction before it was completed. The court proceeded in his absence, and a verdict of guilty was returned. In affirming the conviction over the accused's objection that he could not be convicted in his absence, the Court of Appeals for the District of Columbia said:

"It does not seem to us to be consonant with the dictates of common sense that an accused person . . . should be at liberty, whenever he pleases, . . . to break up a trial already commenced. The practical result of such a proposition, if allowed to be law, would be to prevent any trial whatever until the accused person himself should be pleased to permit it. . . . This would be a travesty of justice which could not be tolerated. . . . [W]e do not think that any rule of law or constitutional principle leads us to any conclusion that would be so disastrous as well to the administration of justice as to the true interests of civil liberty. . . .

"The question is one of broad public policy, whether an accused person, placed upon trial for crime and protected by all the safeguards with which the humanity of our present criminal law sedulously surrounds him, can with impunity defy the processes of that law, paralyze the proceedings of courts and juries and turn them into a solemn farce, and ultimately compel society, for its own safety, to restrict the operation of the principle of personal liberty. Neither in criminal nor in civil cases will the law allow a person to take advantage of his own wrong."

To allow the disruptive activities of a defendant like respondent to prevent his trial is to allow him to profit from his own wrong. The Constitution would protect none of us if it prevented the courts from acting to preserve the very processes which the Constitution itself prescribes.

Of course, no action against an unruly defendant is permissible except after he has been fully and fairly informed that his conduct is wrong and intolerable, and warned of the possible consequences of continued misbehavior. The record makes clear that respondent was so informed and warned in this case. Thus there can be no doubt that respondent, by persisting in his reprehensible conduct, surrendered his right to be present at the trial.

As the Court points out, several remedies are available to the judge faced with a defendant bent on disrupting his trial. He can have him bound, shackled, and gagged; he can hold him in civil or criminal contempt; he can exclude him from the trial and carry on in his absence. No doubt other methods can be devised. I join the Court's opinion and agree that the Constitution does not require or prohibit the adoption of any of these courses. The constitutional right to be present can be surrendered if it is abused for the purpose of frustrating the trial. Due process does not require the presence of the defendant if his presence means that there will be no orderly process at all. However, I also agree with the Court that these three methods are not equally acceptable. In particular, shackling and gagging a defendant is surely the least of them. It offends not only judicial dignity and decorum, but also that respect for the individual which is the lifeblood of the law.

I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER v. WILLIAM ALLAN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

NO. 606 OCTOBER TERM, 1969

Mr. JUSTICE DOUGLAS.

I agree with the Court that a criminal trial, in the constitutional sense, cannot take place where the courtroom is a bedlam and either the accused or the judge is hurling epithets at the other. A courtroom is a hallowed place where trials must proceed with dignity and not become occasions for entertainment by the participants, by extraneous persons, by modern mass media or otherwise.

My difficulty is not with the basic hypothesis of this decision, but with the use of this case to establish the appropriate guidelines for judicial control.

This is a state case, the trial having taken place nearly 13 years ago. That elapse of time is not necessarily a barrier to a challenge of the constitutionality of a criminal conviction. But in this case it should be.

There is more than an intimation in the present record that the defendant was a mental case. The passage of time since 1957, the date of the trial, makes it, however, impossible to determine what the mental condition of the defendant was at that time. The fact that a defendant has been found to understand "the nature and object of the proceedings against him" and thus competent to stand trial[1] does not answer the difficult questions as to what a trial judge should do with an otherwise mentally ill defendant who creates a courtroom disturbance. What a judge should do with a defendant whose courtroom antics may not be volitional is a perplexing problem which we should not reach except on a clear record. This defendant had no lawyer and refused one, though the trial judge properly insisted that a member of the bar be present to represent him. He tried to be his own lawyer and what transpired was pathetic, as well as disgusting and disgraceful.

We should not reach the merits but should reverse the case for staleness of the record and affirm the denial of relief by the District Court. After all, behind the issuance of a writ of habeas corpus is the exercise of an informed discretion. The question, how to proceed in a criminal case against a defendant who is a mental case, should be resolved only on a full and adequate record.

Our real problems of this type lie not with this case but with other kinds of trials. *First* are the political trials. They frequently recur in our history [2] and insofar as they take place

Footnotes at end of speech.

in federal courts we have broad supervisory powers over them. That is one setting where the question arises whether the accused has rights of confrontation that the law invades at its peril.

In Anglo-American law, great injustices have at times been done to unpopular minorities by judges, as well as by prosecutors. I refer to London in 1670 when William Penn, the gentle Quaker, was tried for causing a riot when all that he did was to preach a sermon on Grace Church Street, his church having been closed under the Conventicle Act:

"Penn. I affirm I have broken no law, nor am I Guilty of the indictment that is laid to my charge; and to the end the bench, the jury, and myself, with these that hear us, may have a more direct understanding of this procedure, I desire you would let me know by what law it is you prosecute me, and upon what law you ground my indictment.

"Recorder. Upon the common-law.

"Penn. Where is that common-law?

"Recorder. You must not think that I am able to run up so many years, and over so many adjudged cases, which we call common-law, to answer your curiosity.

"Penn. This answer I am sure is very short of my question, for if it be common, it should not be so hard to produce.

"Recorder. Sir, will you plead to your indictment?

"Penn. Shall I plead to an Indictment that hath no foundation in law? If it contains that law you say I have broken, why should you decline to produce that law, since it will be impossible for the jury to determine, or agree to bring in their verdict, who have not the law produced, by which they should measure the truth of this indictment, and the guilt, or contrary of my fact?

"Recorder. You are a saucy fellow, speak to the Indictment.

"Penn. I say, it is my place to speak to matter of law; I am arraigned a prisoner; my liberty, which is next to life itself, is now concerned: you are many mouths and ears aaginst me, and if I must not be allowed to make the best of my case, it is hard, I say again, unless you show me, and the people, the law you ground your indictment upon, I shall take it for granted your proceedings are merely arbitrary.

"Recorder. The question is, whether you are Guilty of this Indictment?

"Penn. The question is not, whether I am Guilty of this Indictment, but whether this Indictment be legal. It is too general and imperfect an answer, to say it is the common-law, unless we knew both where and what it is. For where there is no law, there is no transgression; and that law which is not in being, is so far from being common, that it is no law at all.

"Recorder. You are an impertinent fellow, will you teach the court what law is? It is 'Lex non scripta,' that which many have studied 30 or 40 years to know, and would you have me to tell you in a moment?

"Penn. Certainly, if the common law be so hard to be understood, it is far from being very common; but if the lord Coke in his Institutes be of any consideration, he tells us, That Common-Law is common right, and that Common Right is the Great Charter-Privileges. . . .

"Recorder. Sir, you are a troublesome fellow, and it is not for the honour of the court to suffer you to go on.

"Penn. I have asked but one question, and you have not answered me; though the rights and privileges of every Englishman be concerned in it.

"Recorder. If I should suffer you to ask questions till to-morrow morning, you would be never the wiser.

"Penn. That is according as the answers are.

"Recorder. Sir, we must not stand to hear you talk all night.

"Penn. I design no affront to the court, but to be heard in my just plea: and I must plainly tell you, that if you will deny me Oyer of that law, which you suggest I have broken, you do at once deny me an acknowledged right, and evidence to the whole world your resolution to sacrifice the privileges of Englishmen to your sinister and arbitrary designs.

"Recorder. Take him away. My lord, if you take not some course with this pestilent fellow, to stop his mouth, we shall not be able to do anything to night.

"Mayor. Take him away, take him away, turn him into the bale-dock."[3] The Trial of William Penn, 6 How. St. Tr. 951, 958–959.

The panel of judges who tried William Penn were sincere, law-and-order men of their day. Though Penn was acquitted by the jury, he was jailed by the court for his contemptuous conduct. Would we tolerate removal of a defendant from the courtroom during a trial because he was insisting on his constitutional rights, albeit vociferously, no matter how obnoxious his philosophy might have been to the bench that tried him? Would we uphold contempt in that situation?

Problems of political indictments and of political judges raise profound questions going to the heart of the social compact. For that compact is two-sided: majorities undertake to press their grievances within limits of the Constitution and in accord with its procedures; minorities agree to abide by constitutional procedures in resisting those claims.

Does the answer to that problem involve defining the procedure for conducting political trials or does it involve the designing of constitutional methods for putting an end to them? This record is singularly inadequate to answer those questions. It will be time enough to resolve those weighty problems when a political trial reaches this Court for review.

Second are trials used by minorities to destroy the existing constitutional system and bring on repressive measures. Radicals on the left historically have used those tactics to incite the extreme right with the calculated design of fostering a regime of repression from which the radicals on the left hope to emerge as the ultimate victor.[4] The left in that role is the provocateur. The Constitution was not designed as an instrument for that form of rough-and-tumble contest. The social compact has room for tolerance, patience, and restraint, but not for sabotage and violence. Trials involving that spectacle strike at the very heart of constitutional government.

I would not try to provide in this case the guidelines for those two strikingly different types of cases. The case presented here is the classical criminal case without any political or subversive overtones. It involves a defendant who was a sick person and who may or may not have been insane in the classical sense[5] but who apparently had a diseased mind. And, as I have said, the record is so stale that it is now much too late to find out what the true facts really were.

FOOTNOTES

[1] See n. 5, *infra*.

[2] From *Spies* v. *People*, 122 Ill. 1, involving the Haymarket Riots. *In re Debs*, 158 U. S. 568, involving the Pullman strike, *Mooney* v. *Holohan*, 294 U. S. 103, involving the copper strikes of 1917; *Sacco & Vanzetti* v. *State*, 255 Mass. 369, 259 Mass. 128, 261 Mass. 12, involving the Red scare of the 20's; to *Dennis* v. *United States*, 341 U. S. 494, involving an agreement to teach Marxism.

As to the Haymarket riot resulting in the *Spies* case, see Commons, History of Labor in the United States, pp. 386 *et seq.* (1918); Swindler, Court & Constitution in the 20th Century, cc. 3 and 4 (1969).

As to the Pullman strike and the *Debs* case, see Pfeffer, This Honorable Court, pp. 215–216 (1966); Lindsey, The Pullman Strike, cc. XII and XIII (1942); Commons, History of Labor in the United States, pp. 502–508 (1918).

As to the *Mooney* case, see the January 18, 1922, issue of *The New Republic;* Frost, The Mooney Case (1968).

As to the *Sacco-Vanzetti case* see Fraenkel, The Sacco-Vanzetti Case; Frankfurter, The Case of Sacco-Vanzetti.

As to the repression of teaching involved in the *Dennis* case, see Kirchheimer, Political Justice, pp. 132–158 (1961).

[3] At Old Bailey, where the William Penn trial was held the baledock (or baildock) was "a small room taken from one of the corners of the court, and left open at the top; in which, during the trials, are put some of the malefactors." Oxford Eng. Dict.

[4] As respects the strategy of German Communists *vis-a-vis* the Nazis in the 1930's, see Heiden, Der Fuehrer, pp. 461, 462, 525, 551–552 (1944).

[5] In a 1956 pretrial sanity hearing, Allen was found to be incompetent to stand trial. Approximately a year later, however, on October 19, 1957, in a second competency hearing, he was declared sane and competent to stand trial.

Allen's sister and brother testified in Allen's behalf at the trial. They recited instances of Allen's unusual past behavior and stated that he was confined to a mental institution in 1953, although no reason for this latter confinement was given. A doctor called by the prosecution testified that he had examined Allen shortly after the commission of the crime which took place on August 12, 1956, and on other subsequent occasions, and that, in his opinion, Allen was sane at the time of each examination. This evidence was admitted on the question of Allen's sanity at the time of the offense. The jury found him sane at that time and the Illinois Supreme Court affirmed that finding. See *People* v. *Allen*, 37 Ill. 2d 167.

At the time of Allen's trial in 1957, the tests in Illinois for the defendant's sanity at the time of the criminal act were the M'Naghten Rules supplemented by the so-called "irresistible impulse test." *People* v. *Carpenter*, 11 Ill. 2d 60, 142 N. E. 2d 11. The tests for determining a defendant's sanity at the time of trial were that "[h]e should be capable of understanding the nature and object of the proceedings against him, his own condition in reference to such proceedings, and have sufficient mind to conduct his defense in a rational and reasonable manner," and, further, that "he should be capable of co-operating with his counsel to the end that any available defenses may be interposed." *People* v. *Burson*, 11 Ill. 2d 360, 369, —— N. E. 2d ——, ——.