The Senate, in executive session, met at 10 o’clock a.m., on the expiration of the recess, and was called to order by Hon. William B. Spong, Jr., a Senator from the State of Virginia.

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

O Thou supreme Judge, to whom men and nations are accountable, help us to walk uprightly, to work diligently, to contend fairly, and to judge wisely here that in the final judgment we may not be found wanting. Help us this day and every day to be obedient to conscience, the silent sentinel of the soul, and to be guided by the inner light of Thy truth.

May Thy spirit sustain us without blemish or regret to the end. Then in Thy mercy grant us a safe lodging, a holy rest, and peace at the last. Through Him whose name is above every name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER, the clerk will read a communication to the Senate. The bill clerkread the following letter:

U.S. SENATE,
President pro tempore,
Washington, D.C., April 8, 1970,

To the Senate:

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

Richard D. Russell,
President pro tempore.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed, with the time to be taken equally out of both sides.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

By Mr. MORSE:
H.R. 16858. A bill for the relief of Joseph A. Coon; to the Committee on the Judiciary.

By Mr. ROGERS of Florida (by request):
H.R. 16869. A bill for the relief of Ubel D. Polly; to the Committee on the Judiciary.

By Mr. THOMSON of Wisconsin:
H.R. 16860. A bill for the relief of Song Han Kyu; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

MEMORIALS

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be a number of votes today—and I ask the distinguished minority leader to confirm this, because we have discussed this with a number of Senators. After the Carvell nomination is disposed of, the Senate will proceed to the consideration of Calendar No. 781, Senate Joint Resolution 190, a joint resolution to provide for the settlement of the labor dispute between certain railroad companies and certain of their employees; and that will be followed, hopefully, after its disposition this afternoon, by Calendar No. 787, S. 3659, a bill to increase the pay of Federal employees.

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

Mr. MANSFIELD. I am delighted to yield to the Senator from Pennsylvania.

Mr. SCOTT. I should like to point out that today will be one of the most important days in this session of the Senate. I hope that all Senators and attaching will be particularly careful to be here because, as has been said, we have not only a vote on the confirmation of the nominee to the Supreme Court, but we have also the extremely difficult problem of what to do on settlement of the railroad labor dispute. We also have the Federal employee pay raise bill and that, in turn, will be a prelude to what I hope will be a further carrying out of the agreement reached among the heads of the various postal unions and the administration, whereby, as the first step in the act of good faith, the administration agrees to support the postal pay raise which will be before us today; and, in turn, the administration and the union leaders have agreed that before there shall be any additional pay raise to the postal unions as distinguished from the general pay raise, there will be a tie-in with postal reorganization and reform, which is a very much needed development, in my opinion, and a bonanza, if it is properly structured, in that we can save the budget about $1 billion a year.

Therefore, I think, if we are going to keep the faith all around, it should be remembered that the pay raise bill today, which applies to virtually all Federal employees, is only step No. 1 in a good faith commitment which involves two more steps, a further postal raise, a restructuring of the postal organization into a new kind of unit and, of course, the final phase, how to pay for it. That is the responsibility of the administration and Congress. The President has spoken out on that. We will have our opportunity here to work out the way in which it is to be paid.

Essentially, the money will have to be found for the fiscal 1971 budget, but if certain postal rates are approved later, then other budgets will, more or less, take care of themselves as regards this problem, but there will be a shortage in the fiscal 1971 budget unless we find some way to make it up.

I do thank the majority leader for yielding to me.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent, as in legislative session, that the Journal of the proceedings of Tuesday, April 7, 1970, be approved. The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carvell to be an Associate Justice of the Supreme Court of the United States.

Mr. BIBLE. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. How much time does the Senator require? Is his speech on Judge Carvell?

Mr. BIBLE. Yes; it will not be too long.

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the Senator from Nevada or, if the Senator needs it, more time.

Mr. BIBLE. I do not know whose time I shall speak on. I believe it will be apparent in a few moments, though.

I think I would ask the Senator from Michigan to allow me 5 minutes to proceed.

Mr. GRIFFIN. Mr. President, I yield 10 minutes to the Senator from Nevada.

The ACTING PRESIDENT pro tem-
Judge Carswell comes before the Senate on this nomination with the support and full confidence not only of the President of the United States. Eleven of his fellow judges on the Fifth Circuit endorsed his nomination. Of the 58 active Federal district judges and seven of the retired district judges in the Fifth Circuit. He has been found qualified for nomination by the Standing Committee on the Federal Judiciary of the American Bar Association, and there has been an impressive demonstration of support by attorneys who have practiced regularly in Judge Carswell's court.

Mr. President, these are impressive credentials. I view previous judicial experience as a positive factor in support of any nominee for the Supreme Court. One may certainly disagree with certain of this Judge's decisions. Indeed, it would be amazing if a judicial career as extensive as this one raised no disagreement. On the record as a whole, I am satisfied that Judge Carswell is a man of honesty and integrity who has practiced regularly in Judge Carswell's court.

Throughout my deliberations on this nomination, I have been very much aware that a good deal of the opposition to Judge Carswell has come from those concerned over civil rights. The charge has been made and broadcast across the Nation that Judge Carswell’s appointment would bring needed balance to the deliberations of the Supreme Court. Judge Carswell is a man of judgment with an extensive background in the day-to-day application of the law should be genuine assets. I also stated that as a strict constructionist of the law, this nominee would bring needed balance to the deliberations of the Supreme Court. Generally, I applauded the actions of the Supreme Court which has taken over the past 20 years to define and effectuate constitutional rights. However, I have long felt and still feel that too many of its decisions—particularly in the area of criminal law—have gone too far, and have unnecessarily impeded the processes of law enforcement and criminal justice all across the land. I feel that the addition of a thoughtful conservative is needed to enable the Court to take a more balanced view of this and other public areas.

Mr. President, I have studied the testimony before the Judiciary Committee, the committee’s report, and record, and I have followed the public record and broadcast across the land—so it should be.

On the question of his qualifications, I join those of our colleagues who have pointed out that the Senate has on three prior occasions unanimously confirmed Judge Carswell’s appointment as a U.S. attorney, a U.S. district judge, and as a U.S. circuit judge.

In 1953 the nominee was appointed U.S. attorney for the northern district of Florida—with unanimous Senate approval. In 1958, after some 5 years of service in that office, he was appointed U.S. judge for the northern district of Florida—and was again unanimously confirmed. In June 1969—less than 1 year ago and after some 11 years on the trial bench—he was appointed to his present position in the U.S. Court of Appeals for the Fifth Circuit. Again with the unanimous approval of the Senate.

I believe the Senate’s right to advise and consent to the President’s choice of nominees to the Supreme Court

should be directed to the nominee's legal qualifications, his honesty, or his integrity.

I say again, Mr. President, I have carefully weighed the evidence. The case sought to be made against the nominee has been good headline material, but it is not persuasive. In my judgment, the most credible evidence—that provided by Judge Simpson and other knowledgeable judges and lawyers—establishes that Judge Carswell is a man of “superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds.” In his letter to the Judiciary Committee, Judge Simpson states that Judge Carswell is a man of judgment with an openminded disposition to hear, consider and decide important questions without preconceptions or prejlictices. On the basis of long experience with the nominee and his work, Judge Simpson states that he “always found Judge Carswell to be a completely objective and detached in his approach to his judicial duties.”

Judge Ainsworth’s endorsement is equally laudatory, and the record is replete with endorsements by knowledgeable judges and lawyers.

Throughout the debate we have been repeatedly told that the President and Senate should never be based on a desire to seek another, perhaps better nominee. We are here to consider the qualifications of the present nominee. Our consideration should be directed to the nominee’s legal qualifications, his honesty, or his integrity.
and judicial qualifications and to his ethical conduct—not to his political or legal philosophy. Only a serious lack of experience and qualifications, or a very damaging record of ethical conduct, can give grounds for rejecting the nominee. I have looked very closely without finding these disqualifying elements. I have gone through all of these exercises of judging a man and agonizing as each of us does. In looking at those qualifications, I find nothing that, in my judgment, would not be fulfilling his responsibilities. I find him qualified, and I fully intend to vote for his confirmation.

Mr. GRIFFIN. Mr. President, will the distinguished Senator yield to me for 3 minutes?

Mr. BIBLE. I yield.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Nevada for what I think is a very excellent statement.

It was a very thoughtful statement, a well-reasoned statement. And whether one agrees with his conclusions or not, the Senator from Nevada has made an excellent contribution to the debate and the dialogue.

In doing so, I wanted to comment that he has very clearly laid out the record of the Members of the Senate on both sides of the aisle.

Mr. BIBLE. Mr. President, I thank the distinguished Senator from Michigan very much. I want to say that I think we all have to use objective judgments on these matters. We all judge the problems of the society. However, I do not want the Record to show that I always vote on a nonpartisan basis. I have on occasion voted on a strictly partisan basis, and I have been proud to do so. I do not wish to comment that he has very clearly laid out the record of the Members of the Senate on both sides of the aisle.

Mr. BIBLE. Mr. President, I thank the distinguished Senator from Montana for what I think is a very excellent statement.

Mr. BAYH. I yield to the Senator from Montana.

Mr. GRIFFIN. Mr. President, first, may I say that as far as the distinguished senior Senator from Nevada is concerned, he has the affection and respect of all of us on both sides of the aisle. He is a man of independent judgment, and I say that would apply to all other Members of this body as well. But at this time I wish to pay special tribute to the Senator from Nevada (Mr. BIBLE).

Mr. GRIFFIN. Mr. President, will the Senator yield to me for 3 minutes?

Mr. BAYH. I yield to the Senator from Montana.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Montana for what I think is a very excellent statement.

It was a very thoughtful statement, a well-reasoned statement. And whether one agrees with his conclusions or not, the Senator from Montana has made an excellent contribution to the debate and the dialogue.

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Mr. BAYH. Mr. President, I thank the distinguished Senator from Montana very much. I want to say that I think we all have to use objective judgments on these matters. We all judge the problems of the society. However, I do not want the Record to show that I always vote on a nonpartisan basis. I have on occasion voted on a strictly partisan basis, and I have been proud to do so. I do not wish to comment that he has very clearly laid out the record of the Members of the Senate on both sides of the aisle.

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CRIME IN THE DISTRICT OF COLUMBIA

Mr. MANSFIELD. Mr. President, whatever is done about the nomination of Judge Carswell today, we do hope the courts will enforce the law that the perpetrators of crime will be punished.

I am sorry to inform the Senate that two of our pages in the last 2 weeks have been assaulted, mugged, and in one instance, robbed. The first would have been robbed if he had not been fleet of foot.

The joint leadership has directed a letter to the U.S. attorney asking for an investigation of these matters because we feel it is incumbent on us to protect those who work here as well as the people of the District of Columbia as a whole.

I think it is a tragedy and a shame that within the shadow of this Nation’s Capitol incidents of this kind can be ignored. All we can say is the victims are black people. If the statistics I read are correct, three out of every five persons who are assaulted, robbed, mugged, or otherwise attacked, are black people.

Further, as his comment reflected, I think there is some lack of understanding on that particular issue. He questioned, Why does not the Congress pass a law trying to stamp out crime in Phoenix, Ariz.? To which James Kilpatrick in effect said, precisely for this reason: It happens that the responsibility for law enforcement in the District of Columbia is the exclusive responsibility of Congress. That is precisely what the facts are.

To those who try to say that we are getting too tough with too many people—and I refer to civil rightists and the entire group of people who feel that way—all I can say is the victims are black people. If the statistics I read are correct, three out of every five persons who are assaulted, robbed, mugged, or otherwise attacked, are black people.

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law and order. I think part of that responsibility has to be laid at the door of the courts. We have made it possible for every wrongdoer to take advantage of the law, in the way of getting out on bail, being released, being able to commit crimes, one time after another simply because we have gotten mixed up with a lot of different ideas, and one is that if you are tough on crime you are against black people, and that certainly is not true.

Mr. MANSFIELD. Mr. President, I appreciate the distinguished Senator from Wyoming.

Again, I want to reiterate that these youngsters who serve us so well come from long distances, live under unusually difficult circumstances, put in long hours, and I think they are entitled to a good deal of consideration.

I think the law is meant to apply to all people. I do not care what their color happens to be. I do not care what their ethnic background is. And I do not care what their religion may be or the status of their financial condition. This Republic is based on law and on its just application. That means it must apply to all of our citizens equally.

Again, I want to say that the joint leadership has directed a letter to the U.S. attorney asking for a complete investigation of these two incidents, just as there was requested by the Senator from Montana in regard to the Leuk and Gelsing incidents. As far as the former incident is concerned, the culprits were apprehended, tried, convicted and sentenced. In short, all criminals must be punished. In short, all criminals must be provided for the job. I hope the District crime bill is enacted into law just as soon as possible.

ORDER OF BUSINESS
The Acting President pro tempore. Who yields time?
Mr. BAYH. Mr. President, how much time is remaining?

The Acting President pro tempore. The Senator from Nebraska (Mr. HUSKIA) has 74 minutes remaining and the Senator from Indiana (Mr. BAYH) has 79 minutes remaining.

Mr. HANSEN. Mr. President, will the Senator yield to me?
Mr. GRINFIN. Mr. President, I yield 10 minutes to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I would like to express my appreciation to my good friend, the junior Senator from California. We are in executive session in the Committee on Interior and Insular Affairs this morning and I am very much in favor of try to help resolve some problems that concern the natives of Alaska.

Mr. President, I have but one question to ask today in this case, and I am asking it because perhaps the decision as to whether this body will confirm Judge G. Harrold Carswell for a seat on the Supreme Court rests on whether or not he has been candid in his dealings with the Senate Judiciary Committee.

Webster's new 20th Century Dictionary, published in 1968, says candor is "openness of heart; frankness, sincerity, honesty in expressing oneself."

Second, if I define junior as "a disposition to treat others with fairness, freedom from prejudice or disguise."

The question then, regarding the judge is, Did he deal with the committee in the open, frankly, with sincerity and honesty?

What are the charges? First, we are told that when Judge Elbert Tuttle decided not to testify on his behalf Judge Carswell should have asked for Judge Tuttle's letter on his behalf to be withdrawn from the Judiciary Committee. But should the President have done this?

After the first unfair and rather scurrilous charge against Judge Carswell made headlines, the fact came out that Judge Carswell was opposed by Judge Tuttle as to why he had decided not to testify. Even more important, it is clear that it was not Judge Carswell's place to seek to have the letter withdrawn. And finally, Judge Tuttle himself did not ask to have it withdrawn. There is no lack of candor here. At most, there is confusion, largely on the part of Judge Tuttle.

The second charge implies that Judge Carswell read in detail the night before the trial the articles of incorporation of the country club that he helped organize. We know now, however, that despite the rumors printed in the Washington Post as fact, this is not the case. Judge Carswell was shown the papers the night before, but in another context. There was no reason for him to look to see how he was identified in them.

Are we to assume that Judge Carswell read the story before the trials or the night before, then came to the committee, knowing it had access to those papers, and deliberately lied to it? It strains the credulity—even of those who might want to believe the worst. It is obvious to any fairminded person that in his testimony Judge Carswell was still searching his memory, still trying to remember just what he had signed 14 years earlier.

Mr. President, in all candor, who here could have done better?

Mr. President, in their efforts to defeat any candidate President Nixon might put forth who does not meet their philosophical standards, the President's political enemies have gone to great lengths to make mountains where no molehill exists.

So the real question we have to ask today is, Where does the lack of candor lie?

Mr. President, I would like to know: Are those who are charging mediocrity being frank, open, forthright?

Are they free from prejudice, free from disguising their real purposes?

Mr. President, I would like to know: Are those who are charging racism being candid? Are they disposed to treat Judge Carswell with the same fairness they treat other Members of this body who have been involved in all-white organizations or who have had restrictive covenants on their homes?

Are they being candid, Mr. President? Are they free from prejudice and disguise? Are they frank? Are they sincere?

Mr. President, I cannot answer these questions. But those who seek to deny him a seat on the Supreme Court can. I would hope, Mr. President, that they would rise to the occasion. I would hope that every Member of this body would observe the kind of candor he demands from Judge Carswell.

I yield the floor.

The Acting President pro tempore. Who yields time?

Mr. CRANSTON. Mr. President, I yield myself such time as I may need.

There were many, many reasons that led me to the conclusion that I could not support Judge Carswell for the Supreme Court vacancy. It was with regret that I came to that conclusion, for I would like to support the President, I would like to support his nominees, I would like to support a southerner, I would like to support a strict constructionist and a conservative on that Bench, if that is the will of the President in submitting nominees. I would like to do this because I believe he could, with ease, find a southerner, a strict constructionist, a conservative, who could win unanimous, or virtually unanimous, support from this body. But I failed to do so in the case of Judge Carswell.

Among the many matters that gave me concern in considering this nomination is the record of Judge Carswell's racial views as manifested in his past.

There was the 1948 speech, now not famous, but notorious, expressing his segregationist views and asserting that they would be forever held throughout his life. I believe that many men undergo changes. However, the subsequent record shows that Judge Carswell did not undergo any change in regard to those views. There was never any evidence in the record of the Senate or the Judiciary Committee that he was confronted with that speech in the course of the consideration by the Senate and the country of his qualifications for service on the Supreme Court.

I am greatly disturbed that one part of that evidence of no change in his views shows that while he was U.S. attorney, sworn to uphold the law, he participated in a scheme to avoid the law of the land as laid down by the Supreme Court. That is the golf course incident, where he was an incorporator of a golf club, and in that operation Judge Carswell's racial views as manifested in his past were made plain, in the words of the decision as to whether this body will confirm Judge G. Harrold Carswell for a seat on the Supreme Court rests on whether or not
Second. A private club was set up in the corporate form—profit or nonprofit.

Third. The city officials sold or leased for $1 the golf course to the private club.

Fourth. At this point the hearings inquired into how a private club with all the restrictions of a private club, Fifth. In order to make sure that the private club retained all of the attributes of the previously segregated public facility, the facility was open to all whites and closed to all blacks.

That, I believe, is a fair description of the scheme that Judge Carswell participated in as an incorporator.

Judge Carswell's performance, when quizzed on his part in all this by the Judiciary Committee, was hardly reassuring as to his qualifications and capacity. A study of the facts in the case and the committee transcript can lead to only two conclusions.

The most charitable conclusion is that he was unable to remember, so terrible that I wonder how he could perform adequately in any court. How, for example, could he sit on the bench and remember the precedents well enough to make fair and wise ruling in the heat of a trial on the admissibility of evidence? If his memory was so faulty on a matter of vast importance to himself personally, why, then, remember memory on matters of great importance to them personally?

The least charitable conclusion is that he was not candid with the committee, that he was not straightforward about his actual deeds.

Either conclusion adds to the case against Judge Carswell.

The evidence is overwhelming that Judge Carswell is not a man of talent, not a distinguished man who would bring grace and greatness to our highest court. The word "mediocre" has affixed itself so firmly to Judge Carswell, and has become so large a part of the debate over the qualities requisite for service on the Supreme Court, that a constituent of mediocrity, a man who cannot even get his young kids to study any more, says, "I think they are aiming for the Supreme Court."

This morning the Washington Post, in a fine editorial, made this comment:

"This is the time. The country and the nation need not just a run-of-the-mill man, but a very good man, very strong man, a wise man, a man who has or soon will have widespread respect and admiration, won not so much by the way he votes but by the force of his intellect and his personality."

I have been most disturbed by Judge Carswell's shying of bias and hostility to civil rights attorneys and civil rights litigants while serving as a district court judge. Mr. DOLE. Mr. President, before the debate ends and the voting begins, I would like to say a few kind words about Judge G. Harrold Carswell.

Too often, in the last few days the Judge's supporters have been so busy defending him against the innuendos, half-truths, and misstatements and misleadings that we have perhaps forgotten that there is much merit to the judge, and much to be said in his favor.

Let us first point out that despite the demonstrations of his bias, in the combing of his past for signs of moral turpitude, unethical conduct or racial bias, not one single thing of substance has been found.

Mr. President, Judge Carswell is obviously and beyond a doubt a good man, a good American, an ethical and moral man.

Mr. President, Judge Harrold Carswell has been a lawyer in private practice, a U.S. District Attorney, a Federal circuit judge, and a Federal district judge. He is an experienced man and a competent jurist and a qualified man, and he would not have been appointed to succeeding higher positions, else this body would not have confirmed him three times.

Mr. President, Judge Harrold Carswell is a patient man and a strong man and a man sure of his own conduct. Only this kind of a man could sit by patiently, quietly and coolly through the vilification and humiliation some have sought to bring on him in order to further their own aims.

Mr. President, he is a man who believes in the equality of the races.

There is an important concept, these days that a judge must always rule in favor of a minority, unless he is willing to be judged a racist. Judge Carswell has resisted that temptation. But he has ruled, for instance, to desegregate Florida's barber shops, he has ruled in favor of civil rights groups on several occasions.

The interesting thing is, he also wrote a letter of strong recommendation for a black attorney, and for this act of ordinariness he will probably be pilloried and accused of doing something for motives that were less than honest.

Mr. President, I ask, who is better fit to sit on the Supreme Court—the man who wrote the letter of commendation or those who attempt to smear him with it?

Mr. President, Judge Carswell is a decent man, an upright man, a moral man, and a qualified man.

I recognize that at this late hour Judge Carswell's fate is in the balance. We all recognize that perhaps one Member of this body will determine whether or not Judge Carswell will become a member of the U.S. Supreme Court. We recognize the right of Senators to differ. We recognize our responsibility under the Constitution concerning the advice and consent provisions. I recognize, as a Republican, that since in the inception of the Carswell nomination, the arguments have been about 99 percent political and 1 percent factual; and I would hope that, in the event Judge Carswell's nomination is not confirmed by this body today, President Nixon would withhold any further nominations.
Mr. BLEazard. Is he not in your view—
Mr. DOLE. I yield.
Mr. BLEazard. As I have said, my view is that neither the President nor the Senate should consider Judge Carswell until after the November election. Let them make up their minds without regard to the public interest.

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

Mr. BLEazard. No, I think the Senate should make up its mind on that question after the Senate has heard the evidence and after the public has had a chance to study the question and judge the evidence, and I am sure the public will do so. And if they decide that Judge Carswell is not qualified, then he should be rejected. if the nomination of G. Harrold Carswell is rejected, he withhold any further vote on him and go on to other business for at least 45 days.

Mr. DOLE. I yield.

Mr. BLEazard. Yes, I think the Senate should make up its mind on that question after the Senate has heard the evidence and after the public has had a chance to study the question and judge the evidence, and I am sure the public will do so. And if they decide that Judge Carswell is not qualified, then he should be rejected.
a week ago, there are better men than those of us who represent our States. They are probably better candidates for the U.S. Supreme Court than Judge Carswell. Perhaps such a man could be found. But I gave my own opinion; it must be that of the Senate, and I feel that we have been a long time without a ninth judge on the Supreme Court. We have had extended debate, if not a filibuster, on the floor of the Senate with reference to Judge Carswell. I would guess the same accusers could dredge up something against the next nominee. Will it be a week or two? Perhaps then there would not be quite the problem we have today in the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The clerk will call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL 10 O'CLOCK TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow.

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

(Later in the day the above order was modified to provide for the Senate to convene at 9:30 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR THURMOND AND SENATOR TYDINGS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the Chaplain has delivered the prayer, the Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 25 minutes; and, following that, the Senator from Maryland (Mr. TYDINGS) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HURSKA. Mr. President, I yield 20 minutes to the Senator from Kentucky (Mr. COOPER).

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 20 minutes.

Mr. COOPER. Mr. President, just over a week ago the Senate was faced with the question of whether it would vote to confirm Judge Carswell to be an Associate Justice of the Supreme Court. I made the statement after reading the report of the Committee on the Judiciary and some of the opinions which were rendered by Judge Carswell and which were cited in the record which is before the Senate. I came to the conclusion that I would vote for Judge Carswell's confirmation.

Since that time, however, I have been so amazed by the nature of the attacks upon Judge Carswell that it did not re­flect the record of the hearings, but made, perhaps, by some persons who have never seen the hearings, let alone read them, that I have felt I could not vote against Judge Carswell without being guilty of the bias and prejudice which has been so freely charged against him.

While it is a late hour, I want to pro­vide as succinctly as I can my reasons for supporting Judge Carswell.

I assume, and believe, that the primary qualification of an appointee to the Supreme Court is integrity and common honesty. I know that an appointee must have judicial competence in addition, and I will address myself to that proposi­tion later, but I assert that the primary attribute of a judge must be his integrity and honesty.

While the cases differ, I announced in the Senate in 1968 that I would vote against Justice Fortas to be Chief Justice and, in 1969, I voted against Judge Haynsworth because I had found in the record compelling evidence of their failure to obey the judicial canons of ethics. In sharp contrast, there is no proof in the record to challenge the honesty or the competence of Judge Carswell except the argument—very thin when the facts are closely examined—that he was evasive or attempted to mislead the committee upon his connection with Capital City Country Club, Inc.

His basic honesty and integrity as a man and in the trial of cases is attested in the record by judges of the district court, judges of the courts of appeals—courts on which he has served—by lawyers, and by outstanding citizens such as former Gov. Leroy Collins, men among whom he has lived and worked.

Mr. President, I ask unanimous consent that there be printed in the Record a list of the members of the circuit court of appeals supporting his nomination and a copy of the telegram sent by the district judges of the fifth circuit to the President supporting Judge Carswell.

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

CIRCUIT COURT OF APPEALS JUDGES

Walter Gewen, Griffin Bell, Homer Thorn­berry, James Coleman, Roberts Aldworth.


DISTRICT JUDGES OF THE FIFTH CIRCUIT

April 3, 1970.

The President. The White House.

WASHINGTON, D.C.

Dear Mr. President: The undersigned judges of the United States District Courts of the Fifth Circuit endorse your nominee, Circuit Judge Harold Carswell, as being well qualified to serve as an Associate Justice of the Supreme Court.

Respectfully,


Joseph P. Lieb, William A. McRae, Jr., George C. Young, Charles R. Scott, Ben Crump, Charles H. E. Johnson, William O. Hertens, Clyde Atkins.


Mr. COOPER. These judges, the Florida Bar Association and many lawyers have testified to the committee, to the Senate, and the country that Judge Carswell is a competent judge and they have recommended him for confirmation to the Supreme Court.

Mr. President, I would say this point out the recommendations of the lawyers and judges who know him, who have been in his court, who have observed his work professionally and who have tested the bias or prejudice or lack of it, must be entitled to weigh and respect unless there is a biased belief in the Senate of the United States and among deans and faculties of law schools against him, that because he is from the South, he cannot give a true and unbiased recommendation of Judge Carswell.

No one challenges his lifelong record of integrity, except some members of the Committee on the Judiciary and some members of the faculties of some law schools, who do not know him, and had not practiced before him, with the exception of a minority of those few who testified before the committee.

His lifelong record integrity is important. It stands to support a judge in time of sudden attack. If a judge is basically honest and possesses the integrity which is found with competence, he is protected against the human bias and emotions which test a trial or appellate judge. It sets aside in my mind the efforts to dis­credit Judge Carswell.

Unable to make a case of unfaithfulness to the Canons of Judicial Ethics which many had ignored in the cases of Fortas and Haynsworth, the fight against him shifted to the arguments that he is not competent to be an Associate Justice of the Supreme Court, that he is prejudiced and biased toward our black citizens and those whom the Committee has cast in the claim of evasiveness before the Judi­ciary Committee. In the last case, all of the facts added in the hearings have
not been stated in the debate by those who oppose him.

As to his competence, he has had more experience, and a very varied experience as a U.S. district attorney, as a trial district judge and as a member of the circuit court of appeals, than any other judge now sitting on the Supreme Court prior to appointment with the exception of Chief Justice Burger. The record shows that as a district judge he decided approximately 4,500 cases. About 2,500 were criminal and 2,000 were civil. In a letter to the chairman of the committee, it is stated that 7,000 to 8,000 motions and judgments were ruled upon by Judge Carswell, and it is a fair judgment, I believe, that perhaps one-fourth of these could have been subject to appeal. The fact that only 44 appeals from his decisions were made in 2,500 criminal cases and I understand 63 civil appeals attest to the fact that lawyers who practice before him believe that his decisions were fair and were rooted in the law. Lawyers appeal cases when the presiding judge is recognized as a poor judge, but this was not the case with Judge Carswell.

It is said, and correctly so, that Judge Carswell was reversed in 40 percent of his civil cases, as compared to the average of 20 percent reversals of other judges of the fifth circuit, and that he was reversed in eight decisions of his criminal cases. This is not necessarily conclusive as to his competence considering the large number of cases he tried and considering the evolving status of civil rights law since the Brown decision, and the Civil Rights Acts enacted by the Congress. Do the dissenting opinions of Justices Frankfurter, Holmes, Harlan, and Potter prove them to be mediocre judges? I do not think so.

The views of deans and faculties of law schools are entitled to respect, but they have had little experience in the courts, and in the trial courts where a multiplicity of issues arise.

The Fifth Judicial Circuit, the overwhelming majority of district judges of the circuit court of appeals, the Florida bar and the appropriate committees of the bar and the American Bar Association have believed that his decisions were fair and rooted in the law.

What then stands in the way of his approval? It is a charge that the patently racist speech he made in 1948, at the age of 28, as a candidate for the Georgia Legislature, still directs him and that he is biased and prejudiced. He has repudiated unequivocally this racist statement that his decision of 1948. But inquiry has been made, and properly so, whether the prejudice that animated his 1948 speech continues to direct Judge Carswell. I must say, in reading the record, that I have found nothing to support such a claim. The claim itself has been expanded and exaggerated to extremes which are not supported by the facts brought before the Senate.

The chief argument that Judge Carswell is prejudiced, is racially biased, rests upon two propositions. The first concerns his membership in the incorporators of a country club in Tallahassee, Fla., in 1956. The second is that his decisions in cases heard by him, were racially prejudiced.

I shall deal with the country club case first. The dissenting views of committee members and the speeches of his opponents do not lay before the Senate all of the facts concerning the country club case. The Tallahassee Country Club, a private club, was conveyed to the city in the depression years of the thirties.

Undoubtedly it was reversed to the private club in 1956, when it was falling financially. The Capital City Country Club, Inc., was formed. A citywide drive was promoted to acquire a membership of 300 to 350. Judge Carswell became a subscriber and was listed as an incorporator and a nominee-director to serve until the club's first annual meeting. Later the property was conveyed to another club—a nonprofit club which Judge Carswell joined in 1963-66 so that his sons could play golf. He resigned from the club in which he had been an incorporator a few months afterward.

The charge is made that Judge Carswell participated in the establishment of the Capital City Country Club for the purpose of evading creditors and circumventing the decisions of the courts. While that may have been the purpose of some, Judge Carswell said again and again that he did not so do and that he never discussed such a purpose with anyone. Former Gov. Leroy Collins, and a former Director of Community Relations—dealing with the problems of minority citizens to whom he was appointed, I believe, by the late President Kennedy—and there is no more respected, unbigoted man in our country than Leroy Collins, who became a subscriber like Judge Carswell, and he too testified before the committee that he had no purpose of discrimination in joining the club.

The criticism that seemed to abandon the substantive issue of racial discrimination in regard to the country club and quickly shifted to Judge Carswell was evasive, and attempted to mislead the committee about the fact that he was an incorporator of the Capital City Country Club Inc. It is true that Judge Carswell was the incorporator of the club. He ordered desegregation of a barber-shop located in a hotel, and I believe he was the first to enter such orders of such a facility even if it were located as a part of another building rather than as a separate enterprise. The point is, he was the first who followed the interpretation of the Civil Rights Act of 1964.

While this case is termed not important by critics, I am informed that it was the first case decided in the United States dealing with a barber shop located in a hotel, and I believe he was the first to enter such orders of such a facility and properly so, following the Civil Rights Act of 1964.

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In a recent case, Robinson v. Coopwood, 292 Fed. Supp. 926, he joined in a decision in which he dissented. He twice raised questions respecting the decision of the district court and holding under the first and 14th amendments that local officers could not require unreasonable notice—and the result in each case if the spirit is not believed—considering that it can be said that they show an inherent bias or prejudice against the civil rights of minorities.

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

Mr. ALLOT. I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. Mr. President, will the Senator yield to me for 2 additional minutes?

Mr. ALLOT. I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. Mr. President, I can only say that I approached this case exactly as I did the Fortas case and the Haynsworth case. Considering his record in the trial of 2,000 civil cases and the full record of his decisions in civil right cases, I do not believe that it can be said that they show an inherent bias or prejudice against the civil rights of minorities.

Mr. CRANSTON. Do you believe the Senator yield to me?

Mr. CRANSTON. Senator. Senate? Does the Senator know that?

Mr. CRANSTON. The Senator's point. He said that at times Judge Carswell showed irritation, but the irritation arose when these lawyers continued to persist in raising questions of conduct directly the question of the judicial conduct required by the Canons of Judicial Ethics. Judicial temperament, of course, does not necessarily reach Judge Carswell's decisions in civil courts.

Mr. COOPER. It is upon these grounds that I have made my decision to vote for or against Judge Carswell.

Mr. CRANSTON. Senator. Will the Senator yield to me?

Mr. COOPER. I yield to the Senator from California.

Mr. CRANSTON. Senator. Did the Senator from California on his time? Senator. Mr. President, will the Senator yield to me?

Mr. CRANSTON. Mr. President, may I understand at the time of the Senator from Kentucky is being charged to his side, as he asked that the time be charged to his side?

Mr. COOPER. Yes.

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Mr. CRANSTON. Mr. President, may I understand at the time of the Senator from Kentucky is being charged to his side, as he asked that the time be charged to his side?

Mr. COOPER. Yes.
then I know that later, after the hearings were concluded, the committee affirmed its previous position.

Mr. TYDINGS. Does the Senator know that the full testimony of John Lowenthal, professor of law at Rutgers, who was one of those attorneys involved in civil rights cases before Judge Carswell, was not before the American Bar Association Committee when they gave their original endorsement?

Mr. COOPER. I do not know that. Mr. TYDINGS. Does the Senator know that he asked them for 1 day to make a complete written statement, and they would not even wait for him?

Mr. COOPER. I do not know what occurred between the Bar Association Committee and Mr. Lowenthal. He testified before the Senate committee and I know that it is reported in the hearings that the American Bar Committee interviewed leading lawyers who had practiced before Judge Carswell, and were acquainted with him.

Mr. TYDINGS. Certainly, the leading lawyers, the blue ribbon lawyers in the top law firms, were one of those attorneys involved in the original endorsement?

Mr. COOPER. I do not know that. Mr. TYDINGS. Does the Senator know that two of whom were judges, one a former assistant U.S. attorney, and one a former assistant attorney general of the State of Florida, who stated that there were steadfastly opposed to the Carswell nomination because of his antagonistic attitude toward black and civil rights clients? What sort of analysis is that of the American Bar Association?

Mr. COOPER. The Senator is challenging their analysis, and I am sure there is some merit to what he says. The committee ought not to make a decision until the records were closed. But the committee did make a second decision confirming its first recommendation. Does the Senator know whether any of the top lawyers of the top firms who practiced before Judge Carswell?

Mr. TYDINGS. I have statements in here from seven Florida lawyers who tried cases before him, and from two who are now judges.

Mr. COOPER. How many?

Mr. TYDINGS. Seven. The point is, the American Bar Association checked with the top lawyers of the top firms who appeared before Judge Carswell, without any type of examination in depth, and once the ABA Committee was on record, their members did inquire of lawyers in Florida who practiced before him and knew his record. In addition, there are a number of statements in this record written by lawyers who have been in his court when civil rights cases were being tried, and they found him unbiased and fair toward clients and litigants.

Let me finish please. Furthermore—Judge Carswell's opponents did not comment in their speeches in the Senate on the full record. I believe it is in the record that the whole story should be told. There was no comment on the critic's part that Professor Moore, one of the distinguished teachers at Yale Law School, or Professor Ladd, a former dean of the Iowa Law School, had worked with Judge Carswell in the establishment of an integrated law school at Florida State University. Professor Moore expected your committee to give his criticism of Judge Carswell greater weight because he supported Judge Carswell for Associate Justice of the U.S. Supreme Court.

Mr. TYDINGS. But neither of them had ever tried a case before him. Mr. COOPER. His critics did not place the answer in his judicial temperament. The Senator from Indiana did not put the response of his inquiry in the Record. Mr. TYDINGS. The testimony of Mr. Hulsey is to be found right here in the hearings transcript.

Mr. COOPER. Oh, his testimony is in the Record, but it is in the handwriting of an Indiana who had written Mr. Hulsey, did not place the answer in the Record. Mr. President, I ask unanimous consent that the Record Committee do now proceed to consider the recommendation of Judge Carswell's opponents to the National Conference of Black Lawyers and the testimony of Professor William Van Alstyne. Your motion is agreed to. May I ask that Judge Carswell be given the opportunity to reply to the charge? And you have given me this opportunity to reply to the charge. The bill of facts is before you, and the real issue is the character of Judge Carswell.

As I indicated to you earlier, it is certainly ironic that Judge Carswell is charged with being a racist. My experience with him and his reputation in the Northern District of Florida are just to the contrary. The statement made by the National Conference of Black Lawyers is replete with mistaken assumptions and premises. It argues a rather than states a fact. Understandably, the National Conference would have difficulty in being objective. Professor Van Alstyne is a different matter. His credentials are impressive. Conspicuous by its absence is his lack of trial practice. If he is qualified to critique, Appellate decisions but it takes the trial lawyer to evaluate the trial Judge. Furthermore, Professor Van Alstyne expected your committee to give his criticism of Judge Carswell greater weight because he supported Judge Carswell for Associate Justice of the U.S. Supreme Court.

Mr. President, I ask unanimous consent that the Record Committee do now proceed to consider the recommendation of Judge Carswell, that it be placed in the Record. But no useful purpose will be served by a complete restatement of the various charges made in the Record. In point of order, however, I wish to read: 1. Dye v. Tellahassee. The real issue in this case is...
April 8, 1970

CONGRESSIONAL RECORD — SENATE

10759

case was when is a summary judgment proper and when states grounds for relief under the Civil Rights Act.
2. Singleton v. Board. This mootness issue was raised in a different case. The issue boiled down to credibility. A trial judge who saw the parties thought one way, the Appellate Court another.
3. Dawkins v. Green. The District Court found there was no material issue of fact to be resolved and summary judgments were entered. The Circuit Court disagreed.
4. Steele v. Board. This was a decision in favor of the plaintiffs. Other civil rights cases do not support the critical state, in editorials.
5. Augustus v. Board. The Circuit Court held it was error to grant a motion to strike the allegations relating to the assignment of work in that time period. The manager of the farm accosted the workers and inquired why they were not allowed to get off. They were arrested. When they went before the local court, the local court refused to permit them to leave. The judge dismissed the case.

Judge Carswell. Perhaps a friend of his who was the president of the Civil Rights Act.

I will answer the rhetorical question. The Senator knows what a writ of habeas corpus is being used.

Mr. COOPER. May I have 2 minutes? I will answer the rhetorical question. The Senator has a vivid and dramatic picture of wrongdoing. I have had the account in the record. But the Senator does not finish the record. The end of this story is that Judge Carswell granted the relief asked for, and the action was later approved by the courts.

Mr. TYDINGS. That is not the end of it.

Mr. COOPER. It is the end of it. Mr. TYDINGS. He signed the writ of habeas corpus—

Mr. COOPER. I yield to the Senator from Kentucky.

Mr. BAKER. Mr. President, a point of order. Will the Chair inform me who has the floor?

Mr. COOPER. I yield to the Senator from Kentucky. I know other Senators wish to speak.

I have studied the Senator's rhetorical questions, and they are in the record. People have hung on these statements—some hearsay, some of them contradicted—as reasons for being against this nominee.

Mr. HRUSKA. Mr. President, I yield 3 additional minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is now recognized.

Mr. BAKER. Mr. President, do I correctly understand that the Senator from Kentucky has yielded to the Senator from Tennessee?

Mr. COOPER. Yes.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. COOPER. I yield to the Senator from Kentucky.

Mr. BAKER. Mr. President, I thank the Senator from Kentucky for yielding so that I may do two things.

First, I wish to praise him for an eloquent statement in defense of the nomination of Judge Carswell to the Supreme Court.
Court of the United States, and to point out that it is more than just the ordinary observations of any of us who are peers in this group on a Presidential nomination. The statement comes from one who has been a Senator from Maryland has pointed out, is universally respected in this body, who has been a distinguished attorney in the Commonwealth of Kentucky, who has been a jurist of that State and an active trial judge, who has been in the forefront of Republicanism in the South, in Kentucky, and in surrounding States and areas, and who was educated in the East, who has a wide vision of all the issues that confront this troubled Nation and have confronted it since virtually after the close of the Civil War.

I commend him on his scholarly approach to his determination of how his vote will be cast on this issue.

Then I observe, Mr. President, that in the last 20 minutes or so prior to my putting this point of order, it has been impossible for me to tell who had the floor and to determine whether or not there was a vote of aye or nay or any representation allegedly made to the Senator from Maryland. I do not know.

I make a second point: I was in the gallery yesterday, one of those who opposed the nomination of Justice Fortas to become Chief Justice of the United States. I stood on this floor long hours and long days opposing that nomination on the ground of the Justice's insensitivity to financial matters, to the canons of legal ethics, to his judicial career, pointing to the observations of the American Bar Association by so many who supported Justice Fortas, including the distinguished Senator from Maryland.

Mr. TYDINGS. I point out, we were never able to vote on Mr. Justice Fortas because the filibuster was successful.

Mr. BAKER. I believe I must point out that we debated that point.

Mr. TYDINGS. Yes, we debated.

Mr. BAKER. So there was no shortage of time to have brought up that point.

Mr. TYDINGS. As to the point of order by the distinguished Senator from Kentucky (Mr. COOPER), let me say that my quarrel with the conduct of Judge Carswell was his refusal, at the time Judge Carswell finally signed the writ of habeas corpus, to allow these young men, these workers, to be released from jail. Instead, he immediately remanded the case to the State court at once on his own motion, without any request from the State, without notice, without a hearing, and without granting a stay pending an appeal. That is why I thought the sheriff could arrest the young men and put them right back in jail. He denied them even the right to a hearing on the issue of the remand. That is what is so patently unfair and prejudiced.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I suggest that the absence of a quorum with the time to be taken out of both sides equally.

The PRESIDING OFFICER (Mr. RITSCHE). Without objection, it is so ordered; and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLOTT. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. HRUSKA. Mr. President, I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. ALLOTT. Mr. President, a roll call of members of the Supreme Court who have distinguished themselves on the bench would show that many were the subject of attack when nominated to compare it. It would go against the nomination of George Harrold Carswell to be a Justice of the U.S. Supreme Court.

My remarks will be directed to two of these objections as to his qualifications.

Mr. ALLOTT. Mr. President, I was in the speech which he gave about 21 years ago, while running as a candidate for the Georgia State Legislature, he is quoted as stating that segregation of the races is proper. On this basis, Judge Carswell has already stated specifically that he renounces the words themselves, and the thoughts they represent, as abhorrent.

Another basis for opposition is that there is not of that greatness of stature required of a Supreme Court Justice, and that his opinion writing is "pedestrian." Such objections are not new in our history. Many nominees such with a background have served with distinction and honor, and have made important contributions to the Court's history and development.

A notable example is John Marshall Harlan, who sat on the Court from 1877 to 1911. He was the object of an attack on his integrity which paralleled that made against Judge Carswell. Harlan had been a slaveholder, an opponent of the Emancipation Proclamation, a bitter foe of the Civil War Amendments and a severe critic of federal civil rights legislation. In running for Congress in 1859, at the age of 26, Harlan campaigned as a devoted defender of the property rights of slaves. He supported the Dred Scott decision, and expressed the view that Congress had the authority and should pass laws for the protection of slave owners in the territories. In 1863, at the age of 30, Harlan ran for Attorney General of the State of Kentucky on a platform which included the defense of slavery. As Attorney General of the State, he took positions which reflected his convictions and political views about Negroes. Harlan was, moreover, violently opposed to the 13th Amendment and urged his State not to ratify it.

However, beginning in 1871, at the age of 38, Harlan began to change his political views. After he lost his bid for the Democratic Party to the Republican Party, becoming that party's candidate for Governor. In his campaign, he championed the war amendments whose ratification he had once opposed, and gave his support to Negro civil rights. Because of this shift in views, Harlan came under fire from his former democratic associates who branded him as a "political weathercock," and charged that he was advocating "social equality" between whites and Negroes. Harlan defended this charge during the campaign asserting that "social equality can never exist between the two races in Kentucky." He said that while he favored full legal equality of Negroes, situations had to be drawn. In this connection, he expressed the view that in the public schools it was obviously "right and proper" to keep "white and blacks separate."

In 1877, President Hayes looked for a successor to Justice David Davis who had resigned from the Court to become U.S. Senator from Illinois. Hayes, determined...
to appoint a "southern man," selected Harlan and sent it to the Senate. In the hearings on his suitability, it was said that a man who opposed all the late constitutional amendments would be dangerous to trust on the Bench. It was also claimed that Harlan was a political opportunist, and there were other allegations challenging his integrity. The Senate Judiciary Committee was troubled as to whether Harlan’s prior statements would impair his fidelity to the war amendments and the Reconstruction Acts of Congress. Finally, after his nomination, it remained in committee for 41 days, it was reported favorably, and Harlan was confirmed by the Senate.

One was the same Harlan who disented from the "separate but equal" doctrine established in Plessy v. Ferguson, 163 U.S. 537 (1896), and it was this dissent which the Supreme Court, in effect, adopted in 1899 in the school segregation cases—particularly the Brown against Board of Education case.

Speaking in 1896, Justice Harlan said: "One knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law .... The arbitrary separation of the lawyers who appear before the Supreme Court, as it has been constituted, has remained in committee for 41 days, it was reported favorably, and Harlan was confirmed by the Senate."

As has been pointed out in the debate, the nomination of John J. Parker to the Supreme Court in 1939 also involved an incident such as has been raised respecting Judge Carswell’s nomination.

There were, it may be recalled, two main objections to Judge Parker’s appointment. One is better known—his so-called "red jacket" or "yellow dog" contract decision, from which it was claimed that he betrayed a judicial bias and that no man who entertained such ideas "is fitted to occupy a place on the bench of the United States Supreme Court."

The Senate Judiciary Committee reported the nomination adversely. The Senate, after lengthy debate, voted against confirmation, 41 to 29. In this case, the Negro opposition was based on a single speech made by Judge Parker when he was about 30 years old in the midst of a political campaign conducted about 10 years prior to his nomination. As the Senate debates showed such opposition was well organized, 72 Cong. Rec. 5337–5339 (May 5, 1930) — as it has been since. However, in the case of Judge Haynsworth, there has been a well organized campaign to smear and besmirch the character and integrity of a man. Although Judge Parker went to great lengths to deny the never intended to deny the individual Negro any of his civil rights, and that his statement, taken out of context, had been grossly misinterpreted, apparently this single incident was enough to swing a few crucial votes against him, losing the confirmation.

If there was any single decision respecting a nomination to the Supreme Court which the Senate was later to regret, it was its rejection of Judge Parker. For years thereafter, he continued to serve with highest distinction as chief judge of the Court of Appeals for the Fourth Circuit. In many cases, he defended justly and impartially the black man’s rights to sue and the laws of Congress intended. I do not think that this body would want to repeat the grievous mistake which it made 40 years ago. A similar injustice would have deprived the Nation of the distinguished services of John Marshall Harlan.

I believe that this body has recently made a patriotic effort to see the rejection of Judge Parker; and I am referring to the nomination of Judge Clement Haynsworth.

The President pro tempore. The time of the Senator has expired.

Mr. HRUSKA. Mr. President, I yield 3 additional minutes to the Senator from Colorado.

Mr. ALLOTT. Mr. President, another major objection to Judge Carswell’s nomination to the Supreme Court is that his opinions do not reflect sufficient legal scholarship. I insist that when a man is qualified to sit on the Court—in short, that his opinions are too "pedestrian," and that he displays no great talent for expounding the law.

Mr. President, I want to say this about "pedestrian" opinions and about court opinions. I certainly would not, if I were a judge, feel in the least downgraded if the Supreme Court, as it has been constituted in the last 10 years, reversed me many times.

I have seen Senators stand on the floor of the Senate and say, "I have read law magazine and news editorials from people who have no legal background, but who talk about the mediocrity of this man’s decisions and talk about the pedestrian quality of his ability."

No one is better qualified to evaluate a judge’s ability than are the judges with whom he sits or the great progeny of the law, the case appears before him.

It is not difficult to find a dissatisfied lawyer who has lost a case and is willing to say that the judge who tried it was wrong. So, the remarks made on the floor a while ago about the dissatisfied lawyers who have appeared before him could have weight. But the facts show that the lawyer who practiced law for 25 years before he came to the U.S. Senate. I know courts and I know lawyers and I know the great prejudices that can arise from these conflicts.

Some seem to think that ability depends more upon flowery language than upon clear thought and the ability to analyze the Constitution and to analyze the precedents — an ability which has unfortunately been lost in the Supreme Court in the last 10 years.

All of these qualities go to make a great Justice of the Supreme Court.

Greatness in the law is not a standardized quality, nor are the elements that combine to make it.

Some judges may excell in analysis; some in a view forcefully expressed over a long period on the bench; some may speak with brilliance; some may reflect special experience in a given field; some may write incisively and with unusual clarity as a great clerk of the Supreme Court, as it has been described; and some, like Chief Justice Harlan, a great Justice of the Supreme Court, as it has been described; and some, like Chief Justice Lamar, do not reflect sufficient legal scholarship. I insist that when a man is qualified to sit on the Court—in short, that his opinions are too "pedestrian," and that he displays no great talent for expounding the law.

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3 Ibid.
tioning. In this decision Justice Davis wrote (4 Wall. at 120-121):

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances.

Now it may be granted that some legal scholars might describe this undetermined language as "pedestrian"; others, on the other hand, might view the same language as undeniably forceful. But for a man who did not write with facility, this was a blunt and unblunted language that marked out plainly the rights of our citizens, in war and in peace, when the constitutional guarantees of indictment and trial were involved.

Another example may be cited. It is Morrison R. Waite, seventh Chief Justice of the United States. It has been said of him:

"Most agree on the 'mediocrity' of his talents, his commonplace style of expression, and his limited legal experience." Yet, it is also said that "this quiet, dutiful Justice, who drew up more than a third of the decisions of the 14 years in which he sat on the Court, may have created a body of law with deeper ultimate effects than that of more spectacular incumbents whose views and personalities have taken fancy of publicists and reformers from time to time." Ibid. It was this Justice—who had been dubbed with "mediocrity"—that Harlan Fiske Stone later described as "the greatest Chief Justice after Taney." Ibid. Now what were the qualities he displayed in his writing? Merely "clarity, succinctness and directness." Id., 1244. We could use other Justices of this caliber on the Court to-day so that those who read an opinion can readily understand what it means.

So, too, speaking of Justice Brewer, who served on the Court from 1880-1910, it has been said that "the literary caliber of his writings was often pedestrian and the ideas conventional, but the sheer strength of his judgment cannot well be doubted as having been derived from "his activity somewhere near the top of Supreme Court Justices." It was Justice Brewer's opinion for a unanimous Court in 1895 in the Debs case (158 U.S. 564) that laid down principles that still control in protecting the public against the obstruction of interstate commerce and the free passage of the U.S. mails.

On the basis of these precedents, I challenge Senators to predict with any assurance what history will record as a "pedestrian" opinion. We need only take stock of our own manner of speaking and writing to realize that there is no way to assure that the words we use are true, and this is as true in this Chamber as it is in the courtroom. Flowery language may have its place. It is no prerequisite to sound judicial thought and decision.

Many other cases may be cited to prove the point that objections such as I have just discussed respecting Judge Carswell's opening passage in his great work, The Common Law, where he said:

"The life of the law has not been logic: it has been experience."

So, too, as we in this Senate body now prepare to vote on Judge Carswell's nomination, we will do well to consider that the Nation's long experience with other Justices whose decisions are now the law of the land. On the basis of this experience, we may properly cast our vote in favor of Judge Carswell's nomination.

Mr. President, I urge the Senate not to make the mistake that has already been made once in the last year, not to make the mistake that the President made with Justice Parker, but to confirm Judge Carswell, who, I think, will make an outstanding Justice without any of the prejudices that some Senators on the floor of the Senate and people in the news media and other places have attributed to him. He will make a great Justice.

Mr. HRUSKA. Mr. President, I believe that more time remains on the other side. I suggest that perhaps some time might be taken at this time by the opponents.

Mr. BAYH. Mr. President, I yield 3 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, as we come to the close of this debate, one thing we have learned is that we do not know very much about the arguments which have been made from the highest quarters that the Senate's responsibility is somewhat less than that of the President, have fallen on deaf ears, because in the debate they stated that the merits of Judge Carswell are made on this record and made with reference to the segregationist speech in 1948, but that he has the ability to rate a Supreme Court judgeship.

I deeply felt that when this question was raised by the President in his letter to the Senator from Ohio (Mr. Saxbe) and by our minority leader who quite properly desired to make every argument that he thought was pertinent on his side of the case that what should be our responsibility is to judge the Constitution and under the prerogative of the Senate was being attacked.

I think this is critical to the fairness of the procedure. The fact is that we do have a right, in my judgment, to judge the capacity of Judge Carswell.

At the very least, in my judgment, the defense does not try to tell us anything about the fact that he is a judge of unusual ability. They tell us that he may turn out to be a Judge like Justice Black. However, we ought to be called upon to do this on the basis of a record supported so very completely by legal scholars and judges, by liberal as well as conservative members of the bar. This is the most single impressive piece of evidence of this question of competence, quite apart from the other issue which has been raised, is the eloquent judicial statement that has been made by Samuel I. Rosenman, Francis Plimpton, and Bathuel Webster, of the New York bar—four of the most eminent lawyers in the country—backed by 400 distinguished lawyers and the heads of law schools of the United States.

They say in their statement:

We believe that, in the exercise of that duty, the Senate should confirm an appointment to the Supreme Court only if the nominee is of outstanding competence and superior ability. Justice Carswell does not, in our opinion, meet that test.

That seems to me to be ample basis for any Senator of the United States to vote against confirmation.

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

Mr. BAYH. Mr. President, I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. Mr. President, this is a great aspect of the making of a President, as far as the President of my party is concerned. If this nomination is turned down it will be the second of the two nominations for the same position which will have been rejected.

The fact that this is not any retaliatory activity on our part is made very clear by the way we acted on the nomination of Justice Burger.

We have the right to consider every nomination that is sent to us until we get one that is worthy of being a Supreme Court Justice.

It is my judgment that that kind of action on the part of the Senate will make a better President of my party. The Senate will have asserted its constitutional authority and its prerogative.

For that reason, I hope that the Senate will reject the nomination.

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, if I were to vote "aye" for the confirmation of Judge Carswell as an Associate Justice of the Supreme Court, it would go against the grain of many things that I have worked and fought for throughout my lifetime.

When we consider a man's qualification to assume this high office, it has been said that if a man does not have compassion by the age of 21 and if a man does not have wisdom by the age of 50, there is not much hope. This must be especially true when we consider a man's qualifications to assume this high office.

I think that in this case it is our responsibility to look deeply into the life of the man who is a nominee of the President and determine whether or not in our individual judgment we can see fit to
April 8, 1970

CONGRESSIONAL RECORD—SENATE

Mr. President, of all the senators, I simply cannot dismiss the speech that was given on August 13, 1948, by G. Harrold Carswell. I simply cannot dismiss this speech because it involves a matter of years, and I cannot because I think at the age of 28 it is time we be held accountable for our thoughts and words. After all, G. Harrold Carswell by that date had served in the U.S. Navy as a lieutenant junior grade. He had returned to his home, he was a practicing lawyer, he was married, and he was the head of his family. He had had the opportunity in the Navy to see that men must fight and die together, whether they be black or whether they be white, side by side, when fighting for the freedom of all of our people. He had worked under an Executive order issued by the President of the United States to remove discrimination in the armed services.

Yet, he went back to his home community apparently feeling that it was all right for men in the Navy to fight and die together, black and white, but it appears to be all right for the same people to go home and work together and have equal opportunity for gainful employment. To fight for freedom for all the people was all right, but to fight for the right to have a job and to have equal employment opportunities apparently was not all right. Because in his speech of August 13, 1948, at the age of 28 when he was a candidate for the State legislature of the State of Georgia, G. Harrold Carswell looked upon equal opportunities in this way: he considered a fair employment practice commission a "foolish measure," not to be tolerated by him as a candidate for the State legislature; he considered civil rights programs as "civil wrongs programs," and he said that he would yield to no man in white supremacy, and that he "shall always be so governed.

Let me quote some of his exact words from the speech that he gave to the American Legion and that he caused to be reprinted in a Georgia newspaper:

"Foremost among the raging controversies in the greatest crises of the so-called Civil Rights Programs. Better be called, "Civil-Wrongs Program."

I am a Southerner by ancestry, birth, training, inclination, belief and practice. I believe that segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed, and I shall always so act. I shall be the last to submit to any attempts on the part of anyone to break down and to weaken this firmly established policy of our people.

I have tried to advocate such a program. I would be compelled to take issue with and to oppose him to the limits of my ability. I yield to no man as a fellow candidate, or as a fellow citizen. In the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed.

Mr. President, if this speech had been given with the same sentiments expressed about the Jews, or about the Catholics, or about Protestants, there is no question in my mind that the Department of Justice would have roundly condemned the speech. And that is a reason why we never would have dared to put forward this G. Harrold Carswell name as a nominee for the Supreme Court. Yet in the research that he made about Negroes, The Attorney General said that it is unfortunate that because of it Judge Carswell is criticized. The Attorney General excused this speech because of its being given in a political campaign. I think it was unfortunate the speech was ever given. I think it is unfortunate that the Justice Department does not now announce its policy against such discovery. I think it unfortunate we could ever take so cynical an attitude that we could excuse anything which is said in the heat of the spirit of a political campaign. A political campaign is the forum where potential public servants are saying what they stand for and believe in, and by what standard they will be judged. Judge Carswell just simply cannot duck the impact of those words. I simply cannot forget them, as much as I have tried. Millions of Americans will never be able to forget them and they will look, of course, at his words, actions, and decisions to see whether or not in the intervening years his has repudiated them.

It would have been a much different story if we could have found words by which he denounced what he had said before and which he would have repudiated if you are not backed by powerful friends and sordid considerations. The standards must be courage, justice, and integrity.

Yet, he went back to his home community apparently feeling that it was all right for men in the Navy to fight and die together, black and white, but it appears to be all right for the same people to go home and work together and have equal opportunity for gainful employment. To fight for freedom for all the people was all right, but to fight for the right to have a job and to have equal employment opportunities apparently was not all right. Because in his speech of August 13, 1948, at the age of 28 when he was a candidate for the State legislature of the State of Georgia, G. Harrold Carswell looked upon equal opportunities in this way: he considered a fair employment practice commission a "foolish measure," not to be tolerated by him as a candidate for the State legislature; he considered civil rights programs as "civil wrongs programs," and he said that he would yield to no man in white supremacy, and that he "shall always be so governed.

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When I look at his decisions as a Federal district judge in voting rights cases, in writ of habeas corpus cases, in school desegregation cases, and the number of reversals he has had on appeal, the opinion of the court in each case, made, I frankly say, by the court of appeals I can only say thank heaven for the process of appeal and reversal that put justice to work in place of the decisions that were rendered by Judge Carswell.

For these reasons I cannot vote, and it is with great reluctance that I say I cannot vote for Judge Carswell. It is with great reluctance because the man himself must have suffered in the light of many unanimously, by the court of appeals; so would be to betray my own conviction; reluctance because the man himself must always be what a man believes is his conscience. I have concluded that I cannot vote, to confirm the nomination of Judge Carswell. It is with great reluctance I have to do away with it, I cannot agree with the Senator from Florida (Mr. Hruska) and others who do not think a young man can, as he says, have a little stature, change his mind. I could not be here to try to deceive my brother Senators. I think this young man is a fine young man, a good judge, a clean one, and not a racist.

As I indicated to you earlier, it is certainly ironic that Judge Carswell is charged with being a racist. My experience with him and his reputation in the Northern District of Florida are just to the contrary.

Then he goes on to say:

Professor Van Alstyne said he did not know Judge Carswell. Perhaps if he had known him in Tallahassee, he would not have been so quick to condemn him.

In addition to Mr. Hruska, the present president of the Florida State bar, the record shows that the following recent, former presidents of the State bar are actively supporting Judge Carswell, namely: Mr. Marshall Criser, of West Palm Beach; Mr. Delbridge L. Gibbs, of Jacksonville; Mr. Fletcher G. Rush, of Orlando; Mr. J. Lewis Hall, of Tallahassee. Furthermore, the record shows a tremendous endorsement of Judge Carswell by numerous sitting judges in Florida as follows:

First. All members of the Florida State Supreme Court.

Second. All members of the District Court of Appeals for the Northern District of Florida and other individual members of the two other district courts of appeals.

Third. A large number of our circuit judges, I placed in the Record myself the endorsement of Judge Carswell by 38 of our Florida circuit judges and my colleague, Senator Gurney, has placed others in the Record.

Fourth. Both of the sitting Federal district judges of the Northern District of Florida and all six sitting Federal district judges of the Southern District of Florida.

Fifth. Also appearing in the printed Record is the endorsement by the Governor and all six of the statewide elected cabinet members of Florida.

Sixth. The endorsement of 50 sitting Federal district judges in the entire fifth judicial circuit of the Nation, including the six States of Texas, Louisiana, Mississippi, Alabama, Georgia, and Florida, and seven of the retired district judges of that area.

Seventh. The endorsement of the present eminent deans of the law schools of Florida State University College of Law and of the University of Florida at Gainesville, as well as the endorsement of the eminent former dean of the law school at FSU, Dr. Mason H. Ladd, who was formerly the dean at Iowa State Law School.

Eighth. The endorsement of 11 of the sitting associates of Judge Carswell on the circuit court of appeals.

All of these men whom I have mentioned, most of whom sit in high judicial positions, know Judge Carswell and know him well. Just as the two Senators from Florida know him well.

The question which will soon be submitted to the Senate on the confirmation of Judge Carswell is to the Senators, the opportunity to show whether they have confidence in sitting judges and other high officials who know Judge Carswell well and in many instances intimately, and in their brother Senators who are members of the Senate Judiciary Committee and had the chance to see Judge Carswell, hear him, and appraise his answers to their questions.

I am sure, also, the fact that former Gov. Leroy Collins of Florida, who is known throughout the Nation as being anything but a racist, testified as to his support of Judge Carswell.

I note in the record strong statements made by the Senator from Indiana (Mr. Bayh) and the Senator from Maryland (Mr. Hollings) in behalf of Governor Collins. I will note them briefly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLAND. I ask for 1 more minute.

Mr. Hruska. I yield the Senator from Florida 1 additional minute.

Mr. HOLLAND. Senator Bayh stated: I would like to say for the record... that all of the public servants I have had the good fortune to become familiar with, I know of none I respect more than the witness who is presently before us.

Senator Tydings said:

Gov. Leroy Collins of Florida, in my judgment, is one of the great public servants of this generation, I would like for the record to state that complete confidence. Other members of this committee... "My experience with Governor Collins has shown me that he is a man of the highest integrity and, a great American."

And Governor Collins says, based on his lifetime record, which certainly is not that of a racist, that Judge Carswell is a man of the highest integrity and, a great American.

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And Governor Collins says, based on his lifetime record, which certainly is not that of a racist, that Judge Carswell is a man of the highest integrity and, a great American.
Mr. HATFIELD. Mr. President, to those who say that Judge Carswell has been victimized, I say only that a judge's reversal rate, compared to that of his fellow judges from his judicial circuit, stands alone, without comment from his supporters or opponents.

To those who say we need a conservative judge on the Court, I merely ask them to consider the need for a balanced Court, representing all geographical areas of the country. Just as Justice Harlan wrote in his dissent from the Court's reversal of Brandeis, nominated by Woodrow Wilson in January 1916 and confirmed after several weeks of debate.

He points out in the New York Sun that Brandeis was "utterly and even ridiculously unfit." The New York press called the nomination "an insult to members of the Supreme Court." A petition from Bostonians, including the president of Harvard University, asserted they did not believe Mr. Brandeis had the judicial temperament and qualities required to be a member of the Supreme Court. The American Bar Association charged that the "reputation, character, and professional career" of the nominee proves he is "not a fit person to be a member of the Supreme Court."

Nevertheless, Mr. Justice Brandeis was confirmed by the Senate and served with great distinction for 21 years. I think this is a good time to point this out. I ask unanimous consent that the entire letter be printed in the Record.

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

CRITICS OF COURT CHOICE

TO THE EDITOR:

The criticism leveled against Judge Carswell, who has remained publicly uncommitted on the nomination of G. Harrold Carswell to the Supreme Court. I write also as reflecting my support for the nominee and my conviction that he is the best qualified, most experienced, and most eminently qualified person to fill the vacancy created by the retirement of Mr. Justice Harlan, asking that he withdraw the nomination.

I stand ready to support a nominee from the Senate from Oregon with innuendo, inference, and allusion. When this is viewed by our constituents, the Senate gains nothing in the eyes of the country. We owe this much to our institutions.

We should examine a nominee in seeking the orderly redress of their grievances. Yet, the name of G. Harrold Carswell has become a symbol of the despair, distrust, and disillusionment that confronts our governmental process. In all such discussions I continually urge the need for restoring confidence in our entire judicial system. We owe this much to the President and the Senate.

Therefore, I respectfully urge you to withdraw the nomination of G. Harrold Carswell.

Sincerely,
MARK O. HATFIELD.

Mr. HATFIELD. Mr. President, to those who say that Judge Carswell has been victimized, I say only that a judge's reversal rate, compared to that of his fellow judges from his judicial circuit, stands alone, without comment from his supporters or opponents.

To those who say we need a conservative judge on the Court, I merely ask them to consider the need for a balanced Court, representing all geographical areas of the country. Just as Justice Harlan wrote in his dissent from the Court's reversal of Brandeis, nominated by Woodrow Wilson in January 1916 and confirmed after several weeks of debate.
would oppose any southerner, I say let us examine the best that the South offers, and not merely consider the present nominee as the man from that geographical area I have said earlier, Just as any geographical area should be eligible for consideration, so should that nominee represent that which is best for all men, or, better, that which is best for the entire people, the new, emerging South we all respect.

To those who say this is a partisan issue, and that Republicans always should support the President, I say that this is a mistaken viewpoint from any geographical area. The Supreme Court is an impartial branch with this body, the legislative, and with the executive. Partisan politics should not be considered, either in support or opposition of a nominee. We owe this much to our country.

Those in the executive and legislative branches of our Government are involved in making decisions for relatively short times, and are subject to periodic review by the electorate. A Supreme Court Justice, however, is appointed for life, and his influence can be far reaching and long lasting.

In conclusion, let me issue a plea to all who follow this matter. This would include the administration, the entire Senate, and the country as a whole.

Let us consider nominees who represent the best in our judicial system. Let us consider men from any philosophical viewpoint and from any geographical area. Let us consider the merits alone, and not enter the rhetoric race. Let us respond on investigation and debate, shall give its advice on the nominee and shall consent. The Senate, basing its recommendation, should not be precluded from a broad overview of the nomination as one of the factors in ascertaining "fitness." It has been pointed out during this debate that my oath as a Member of the U.S. Senate requires me to vote against confirmation of G. Harrold Carswell to be an Associate Justice of the Supreme Court.

Mr. MATHIAS. There is a scholarly side to the law and to the whole. I have studied some of Judge Carswell's court. Carswell did not even approach or even come close to the record of error which casts considerable doubt upon the appropriateness of his nomination to the Court of last resort. I have studied some of Judge Carswell's opinions and conclude that many of them can be considered routine and unexceptional. This would be expected from the calendar of a U.S. district court. It was fair to say in fairness to Judge Carswell that most of Judge Carswell's opinions which are available in published form cannot be considered to be incorrect. None of them, however, seem to belong in the great tradition of Anglo-American jurisprudence in which judges over the years have contributed to the growth and understanding of the law. Some of them are marked by basic errors. I am appending hereafter a memorandum prepared at my request which sets forth some of the illustrative cases which emphasize these points; and I ask unanimous consent that the memorandum be printed in the Record at the conclusion of my remarks.

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

(See exhibit 1.)

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The PRESIDING OFFICER. Without objection, it is so ordered.
The Court of Appeals unanimously reversed and remanded to the district court to reexamine the issue. The Court of Appeals held that defendant was not entitled to a corollary, a federal constitutional issue, which Carswell should have known, since he had relied on the rule that the ... interdict theaded to a prior case, U.S. v. Levy, 232 F. Supp. 661 (1964). Very similar cases are Mendenhall v. United States, 232 F.2d 248 (1956) (claimant's competency by petitioner previously discharged by the Army as a psychoneurotic) and Dickey v. United States, 295 F.2d 637 (5th Cir. 1961). The competency by petitioner alleging a previous head injury). These repeated denials without serious inquiry were in very similar cases followed by unanimous reversals backed by Supreme Court authority suggest a persistent determination to forebear even apparent legal basis.

In a similar view, see Barnes v. Florida, 402 F.2d 63 (1968) where Judge Carswell denied a writ of habeas corpus without a hearing despite allegations of coercion of a guilty plea. (Judge Carswell apparently thought the petitioner allegedly saw for only a few minutes prior to trial). Judge Carswell was unanimous in the Court of Appeals. Still another case is Baker v. Wainwright, 391 F.2d 248 (1968) where a petition for habeas corpus was denied without hearing despite an allegation that petitioner was not granted counsel or due process. Again, the Court of Appeals reversed, Entsminger v. Iowa, 386 U.S. 748 (1966) where the Court declared: "We have held again and again an indigent defendant is entitled to the appointment of counsel on his first appeal."

This section states: "Unless the motion and order granting the exception in the case under consideration, and to show that the prisoner is entitled to no relief, the court shall . . . grant a prompt hearing. The motion and order granting the exception should be in writing, setting forth various facts, but on the critical issue of "Bad faith," the officials simply denied so acting. Carswell's grant of summary judgment pointed to these affidavits and emphasized that plaintiffs had not filed counsel below and that summary judgment was therefore obviously wrong. As the Court of Appeals pointed out in unanimously reversing him, summary judgment was denied based on affidavits containing conclusory allegations that they may repeat the pleadings. This procedural doctrine is generally applied in the federal courts. For a similar case, see Diet v. Palmiehasson Theaters, 333 F.2d 630 (1964) where Judge Carswell is again reversed by an unanimous reversal.

Running through these procedural cases as well as the criminal law—habeas corpus opinions is a tendency to dismiss cases summarily without giving adequate opportunity to explore the facts of the case. Similar tendencies have been noted in the Supreme Court. Although Judge Carswell is reversed for resolving as matters of law issues that should have been submitted to the jury as questions of fact. See Shirey v. L. & W. R.R., 213 F. Supp. 574 (1963), reversed 327 F.2d 649 (1964); Atlanta & S.A.B. R.R. v. Chabre Nitrite Sales Corp., 277 F. Supp. 242 (1967), reversed, 415 F. 2d 393 (1969).

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself 5 minutes.

Mr. KENNEDY. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate from Nebraska has 5 minutes remaining, and the Senator from Indiana?

Mr. BAYH. Mr. President, I yield myself 5 minutes.

Mr. KENNEDY. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAYH. Mr. President, on the 26th of March I received a letter that had been written earlier by Arthur E. Sutherland, who was late Honorable Oliver Wendell Holmes. At that time, as some of us might remember, they were not called clerks, but were called "the editorial secretary."

I thought that it would be appropriate to share the contents of this letter with the Senate, because of the message it conveys as it relates to our duty in judicial decisionmaking. The contents:

DEAR SENATOR BAYH: Some friends have suggested to me that an expression of opinion concerning the appointment of the Honorable Harold Carswell to the Supreme Court, might appropriately be made by former Secretaries of State, Secretary of Defense, and Secretaries of...
Mr. Sutherland continues:

While I am reluctant to express an adverse opinion concerning any member of the federal judiciary, I am equally reluctant in good conscience to say that I consider Judge Carswell's appointment a regrettable mistake.

The country is entitled to see choices for its Supreme Court the best prospective Justice to be found on the American Bench or among other American lawyers. On the evidence before us, Judge Carswell unfortunately fails short of that rank. His appointment should not be confirmed.

Respectfully yours,

ARTHUR E. SUTHERLAND,
Member of the Law Faculty, Harvard University, Cambridge, Mass.

Investigation shows, Mr. President, that in addition to the facts related in the letter, here is a man almost 70 years of age, a man who is a member of the Republican Party, and a man who can easily be described as an out-and-out tenuous the present is.

On the evidence before us, the Honorable Senator from Illinois a moment ago—to speak to those across this country who are asking questions that cause one to have deep concern about the future stability of this country. I ask anyone who wants a capsulization of this problem to look, in the recent issue of Newsweek, in an article by Stuart Alsop which deals forthrightly with this question. The article states that it is not overly dramatic to suggest that America is at a crossroads, because increasing numbers of people are wondering if our society has what it takes. Do we have the courage? Do we have the determination that we are going to turn tomorrow a little better than it is today?

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

Mr. BAYH. I yield myself 2 additional minutes.

It seems to me, Mr. President, that in addition to determining who is going to sit on the Supreme Court of the United States, we have the opportunity with this vote to say to the prophets of doom who say that America is about to tumble of its own weight that this system still is, in the words of Abraham Lincoln, the last best hope of all mankind. We have the opportunity to say that this Senate and this country is still seeking excellence, to say to Judge Carswell it will be the result of our combined efforts.

We have the opportunity to say, in a very personal way, that we are determined to demand the best of ourselves and the best of this body. We are now in a position of saying to the members of our respective parties, whoever they may be, whether at the precipice level or on the highest rung of the ladder, that we want to do better, that we want to make this great Nation, as great as it is, even better tomorrow.

Mr. President, I think the Senate will make the right determination. We will then have the opportunity to get the best man we can find, the best conservative, the best strict constructionist, the best Southerner, and in the future the best Northerner, the best Westerner, the best man who can make the greatest contribution on the highest judicial bench, the court of last resort for each American citizen.

The VICE PRESIDENT. Who yields time?

Mr. DOLE. What time remains, Mr. President?

The VICE PRESIDENT. Five minutes.

Mr. DOLE. Do the opponents have any time within 3 minutes before the vote will be taken on this very important matter. I do not know that any more arguments on either side of this issue can be made at this late hour. I think that all of our colleagues, Democrat and Republican, conservative and liberal, have studied the record and have made their decision. Frankly, I do not think that anything that I may say or that anyone else may say at this late hour will change any of the votes of any other Members of this body.

I believe I should say that in making this decision, all of us remembered our great responsibility in the matter of advice and consent to the President's nomination for the Supreme Court of the United States. Mr. President, I have been made about the qualifications, about credibility, about racial views, and about a myriad of other things concerning this nomination. Mr. President, I have spoken of, of course, to him. It is somewhat of an unnatural role for me, because all my lifetime I have preferred to be for something rather than against something. It is the duty for me to be so strongly opposed to this man's nomination. I do not know him. I have no personal animosity against him. I wish him well, personally.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. Hruska. Mr. President, I yield the balance of the 5 minutes to the Senator from Kansas.

The VICE PRESIDENT. The Senator from Kansas is recognized for 5 minutes.

Mr. Murphy. Mr. President, may we have order?

The VICE PRESIDENT. The Senator has expired.

Mr. Murphy. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. DOLE. Mr. President, this is the Court of last resort for G. Harrold Carswell. This is the end of an ordeal for G. Harrold Carswell. It has been said day after day in this Chamber, judge him by today's standards and judge us not at all. That has been the message loud and clear day after day.

The Senator from Indiana stated the opponents argument a few minutes ago. He said we should confirm the best man we can find. I would remind the Senator from Indiana the power to nominate still resides with the President of the United States, whether he be Republican or Democrat—a power that, of course, the Senate should not take lightly. We have a great responsibility in the advice and consent process. But for a few minutes—we will decide the fate of Judge G. Harrold Carswell.

I would suggest that whatever the Senate may do, Judge Carswell will survive. Whatever the Senate may do, our country, of course, will survive, and President Nixon will survive.

I say a word to my fellow Republicans, because I believe that the
The Chair would mention the galleries, please, to be courteous and let the vote proceed without demonstration.

The question is, Will the Senate advise and consent to the nomination of Judge G. Harrold Carswell to be an Associate Justice of the Supreme Court of the United States?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistants assistant clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON) is necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business. On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from Rhode Island would say "nay" and the Senator from Utah would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senator from South Dakota (Mr. MUNDRY) is absent because of illness and, if present and voting, would vote "yea."

On this vote, the Senator from Utah (Mr. BENNETT) is paired with the Senator from Rhode Island (Mr. PELL). If present and voting, the Senator from Utah would say "yea" and the Senator from Rhode Island would vote "nay."

The yeas and nays resulted — yeas 45, nays 51, as follows:

[Table]

NAYS-51

Bartlett, one of its members, which it requested the concurrence of the Senate.

The VICE PRESIDENT. The Senate: The galleries be cleared.

The Sergeant at Arms is instructed to carry out the order.

The VICE PRESIDENT. The galleries will be cleared. The Sergeant at Arms will enforce the order.

Mr. MANSFIELD. Mr. President, I ask that the galleries be cleared of all unnecessary personnel.

The VICE PRESIDENT. The Chamber will be cleared. The Sergeant at Arms is instructed to carry out the order. The galleries will be cleared.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the action of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I suggest that the galleries be cleared.

The VICE PRESIDENT. The Sergeant at Arms has been instructed to clear the galleries and the floor of all unnecessary personnel.

Mr. MANSFIELD. Mr. President, I wish to take this opportunity to thank each and every Member of this body on both sides of the aisle with the consideration of this nomination. Those who were in the forefront particularly may be singled out for their forthright and forceful presentations. I speak of those on both sides of the issue.

Notable, for example, was the effort of the distinguished Senator from Nebraska (Mr. HUSKAs). Clearly, he demonstrated the same strong and able advocacy on this matter that has characterized his many years of public service. The Senator from Mississippi (Mr. EASLEY), the able and distinguished chairman of the committee and the rest of the members of the Committee on the Judiciary all handled themselves in such a manner as to assure a debate of the highest order.

The Senate from Indiana, the Senator from Massachusetts (Mr. BROOKE), the Senators from Michigan (Mr. HARR and Mr. CAMPBELL), the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. GUENNE), and many others preserve the highest commendation of the Senate. These deliberative acts were responsible for providing such a high-level discussion. We are most grateful.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into legislative session.

The VICE PRESIDENT. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 820) to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:
Mr. MANFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. Gravel). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. MANFIELD. Mr. President, I ask unanimous consent that there be a brief recess for the purpose of awaiting the arrival of the distinguished Senator from Alabama. Mr. Sparkman, and they will introduce our guests. In the meantime, we will have an opportunity to meet our parliamentary colleagues from the Senate of France.

Mr. SCOTT, M. le President, d'accord.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection and will now recognize the distinguished Senator from Montana.

At 1 o'clock and 22 minutes p.m., the Senate took a recess until 1:25 p.m.

Thereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Gravel).

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. MANFIELD, Mr. President, I yield to the distinguished Senator from Alabama (Mr. Sparkman).

The PRESIDING OFFICER. The Senator from Alabama is recognized.

VISIT TO THE SENATE BY MEMBERS OF THE DELEGATION FOR ECONOMIC AFFAIRS AND PLANNING OF THE FRENCH SENATE

Mr. SPARKMAN. Mr. President, we have a distinguished group visiting us today in the Capital City. They are going to have lunch with us in the Committee on Foreign Relations in a few minutes. They have been visiting in the Chamber and they were here during the time that the rollcall vote was taken, so they have seen the Senate in action.

These gentlemen are Senator Gaston Pams, Senator Maurice Sambron, Senator Robert Laurens, Senator Raoul Vade-pied, Senator Jean Errecart, Senator Michel Chaussy, Senator Guy Schmaus, and Senator Pierre Le Marois. We are delighted to have these gentlemen with us.

(Applause, Senators rising.)

Mr. SPARKMAN. Mr. President, I ask unanimous consent to have printed in the Record the biographical sketch of each of these gentlemen.

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

Biographical Sketches of the Members of the Delegation for Economic Affairs and Planning of the French Senate

GASTON PAMS—CHIEF OF THE DELEGATION

Senator of Pyrénées Orientales (Gaufche Démocratique)

Chairman of the Civil Aviation Budget Committee

General Counselor of Pyrénées Orientales.

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

The PRESIDING OFFICER. Mr. President, the Senate resumed the consideration of the joint resolution (S.J. Res. 190) to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

ORDER OF BUSINESS

Mr. RUSSELL, Mr. President, may we have order?

Mr. BAKER. Mr. President, the Senate will be in order. The Sergeant at Arms will clear the floor of all unnecessary personnel.

Mr. BYRD of West Virginia, Mr. President, I ask that the floor be cleared of all attaches.

The VICE PRESIDENT. The Chair directs the Sergeant at Arms to clear the floor of all attaches.

Mr. BAKER. Mr. President, the Sergeant at Arms will clear the floor of all attaches.

Mr. BYRD of West Virginia. And that there be no exception.

The VICE PRESIDENT. The Chair directs the Sergeant at Arms that there will be no exception to the order to clear the floor of all attaches.
served ably and fairly as a member of the High Court.

I am sure that all of us who chose to support Judge Carwells regret that a broader consensus could not have emerged in support of the nomination. I am just as sure that those who felt compelled to oppose Judge Carwells regret that they had to do so.

As we all are aware, four of the last five nominations to the Supreme Court that have been made to the Senate by Presidents Johnson and Nixon have become embroiled in serious controversy, and the Senate has failed to confirm each of these nominations.

Throughout this period of time there has been considerable discussion as to the role of the Senate in the performance of its constitutionally mandated function to advise and consent. Dispute has arisen with regard to the limits of authority of the Senate in confirming or rejecting a nomination of the President. Clearly the responsibility for a third coequal branch of our Government is a responsibility shared by both the executive and legislative branches.

But a serious question remains concerning the Senate in advice and consent. Who, I think, completed his inquiry. I am not a jurist. Therefore, I do not believe the importance of the Senate in the matter of advice and consent. I believe the importance to the Republic is too great and the significance of the nomination yet to be made is too important to us and to the country to continue to flounder in a sea of uncertainty.

As to our role, I believe that now is the time for a colloquy on the propriety, the quality, and the extent of the jurisdiction of the Senate in advice and consent on nominations of this sort, and I hope that such a colloquy will occur before any nomination is submitted to this body by the President of the United States. In a word, I hope we will set the ground rules before the next distinguished jurist is submitted to our tender mercies.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield on that point, without losing his right to the floor?

Mr. BAKER. I yield.

Mr. BYRD of West Virginia. Mr. President, today I have sent the following telegram to the President of the United States:

Mr. President, I am very glad to yield.

Mr. TYDINGS. That same question arose in the Judiciary Committee and we are on the floor of the Senate. The answer is that there are many distinguished lawyers and judges in the South who have unquestioned ability, competency, and judicial temperament, men such as Judge Ainsworth and Judge Wisdom of Louisiana, Judge Tuttle of Georgia, Judge Johnson of Alabama, Judge Stephen O'Connell, former chief justice of the State of Florida and now chancellor of the University of Florida, Judge Simpson of Florida, Judge Hoffman of Virginia, Judge Craven of North Carolina, and our own Senator Sam Ervin of North Carolina.

Judge Carswell does not even compare with men of such stature and ability.

If I may use an analogy, if one's son or child were merely undergoing a physical examination, that person would not be overly concerned with which doctor or surgeon performed the operation. If his child were dying and were undergoing surgery, he would want the best doctor available. The Supreme Court is the last court of review in this country. We want the best man on that Court. He is a Northerner, a Southerner, a Vermonter, or a Marylander, wherever he is from. There are many conservative men who qualify for the Court. Judge Carswell does not.

I hope I have responded to the Senator from Vermont.

Mr. AIKEN. Mr. President, I am very sorry I did not have at least one of these names earlier, but I never was able to get one that would be satisfactory to certain people from the North. Apparently, men like Judge Carswell are good enough to be judges or officials in the South, but they are not fit to be judges or officials in certain parts of the North. Judge Carswell was good enough for Dogpatch, but not good enough for Gotham.

Mr. BAKER. I thank my colleague. I do not wish to be unduly facetious when I say that. I have been told that the Senator from Maryland has given us a list of distinguished Southern jurists whom he would appoint to the Supreme Court. I am happy to know that if one of those gentlemen were to be appointed to the Supreme Court of the United States by the man who was elected President, the fair inference given just a minute ago was that the Senator from Maryland would vote to confirm that nomination. I will certainly keep that in mind if I am queried by the President on further nominations, which I doubt that I will be.

Mr. TYDINGS. The Senator recollects that when a Governor of Mississippi was appointed to fill a position on the circuit court and he was opposed by civil rights groups, that the Senator from Maryland not only spoke for the nominee in committee but spoke for him on the floor of the Senate and voted for him because he was a man of ability and fairness?

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

Mr. BAKER. I am glad to yield.

Mr. AIKEN. Did the Senator from Maryland support or oppose the nomina-
tion of Judge Carswell when he was up for approval a year ago. 

Senator AIKEN. Unfortunately, that was not a rollcall vote.

Mr. AIKEN. Or has he just found out all these things about him? 

As I understand, the Senator from Maryland was not at the hearing of the Judiciary Committee nor was he present in the subcommittee of the Judiciary Committee to hear testimony on the nomination. I think the nomination went through by a "no objection" procedure. The Senator from Maryland took no position on Judge Carswell before. My first real knowledge of Judge Carswell came in the Judiciary Committee hearings. 

I think the Senator's point is well made: Why did not the Senator from Maryland or why did not the Judiciary Committee examine the qualifications of Judge Carswell carefully when he was nominated to the fifth circuit? That was the function of the Senate. I think it is a question that the members of the Judiciary Committee ought to face up to.

Mr. AIKEN. I believe he was approved three times by the U.S. Senate for a judgeship. I will not take any more time. It just seemed to me like the attitude was, "well, he is good enough for the South, but he would not be a good judge for the North."

Mr. BAKER. Mr. President, I have said it once before in the 3 1/2 years since I have been here. I did it then with much trepidation. I am not sure I was right to do it then, but I am going to say it again. I came to this body with the belief that no distinction was made between peers and equals as between Senators from the North and Senators from the South. I have been rapidly coming to the conclusion that this is not always the case. I begin to think that notwithstanding my consistent support for significant civil rights matters, often at great political cost to me, I am, first of all, a "Southerner." 

We speak of minority groups in the United States, and my sympathy is boundless for them and their deprivation. But I want to put out the jargon of present politics, if we want to avoid "polarization," for goodness sake, let us not go to the point of polarizing 70 million Southerners by encouraging in them the belief that they are not first-class citizens of this country.

I agree that some grounds can be found for the Carswell controversy, as suggested by the Senator from Maryland. I want to believe and do believe that opponents were not motivated by malice and were motivated only by the results of searching scrutiny of this nominee. I agree that every single one of my colleagues here is motivated by the highest principles in judging whether he will cast his vote for or against the nomination of a given nominee. I agree that each is willing to consider these things on the basis of the merits rather than on any political basis. I will stand alone to all those things, and still the danger signal that by our action and conduct, whether we mean it or not, we are polarizing one-third of the population of these United States into the belief that there is an anti-Southern bias in the U.S. Senate. 

I do not believe there is, but I counsel my colleagues, in good faith and good conscience, to guard against that just as much as the Senate selection of an unfit man for the Supreme Court of the United States; because if we do not, we will be foreordained to relive the bitterness of the last 100 years.

Mr. JAVITS. Mr. President, will the Senator yield for a housekeeping request? 

Mr. RUSSELL. Mr. President, I would like to ask just one question. 

Mr. BAKER. I yield to the Senator from Georgia. 

Mr. RUSSELL. I really want to say I do not believe all the people of the South believe they are treated equally in the U.S. Senate. I cannot agree with the Senator's assumption as to that. I would like to see whatever evidence he can produce to show that they are.

Mr. BAKER. Mr. President, I am afraid I did not phrase my remarks accurately then, because what I meant to say was that that was not the case, even assuming that there is no partisan politics, even assuming that there is no anti-Southern bias, even assuming that there is not the sentiment of a Civil War attitude toward the South—assuming all these things, even granting all of these things, in good faith, to all of my colleagues, they are still growing up the feeling in the country that there is an anti-Southern bias, and believe me, as I stand here under my oath as a Senator, I warn my colleagues that it may be the most dangerous thing we confront in the United States today, with 70 million people concerned about this very fact.

Mr. MANSFIELD. Mr. President, can we get on with the pending business? I cannot see what good comes from post mortems. We do have some important legislation on the floor in the form (of) a bill managed by the Senator from Wyoming, in addition to the pending resolution. The vote has been cast.

Mr. BAKER. Mr. President, with deference to the majority leader, may I simply say this: I had finished my brief remarks, consisting of a page and nine lines, before going on to another subject, and other Senators had engaged me in colloquy.

Mr. MCGEE. Mr. President, will the Senate yield me 2 minutes? I will take this out of my pay bill time.

Mr. MANSFIELD. Very well.

Mr. BAKER. In my statement, I pointed out that I hold no malice for any person who voted either way in this matter. I yield to the Senator from Wyoming.

Mr. MCGEE. I thank my colleague, and I want to reemphasize what he has just said about the importance of avoiding situations resulting from any actions of this body which might contribute to isolating any section of the country. I think it is desperately important that we will not contribute to that, but I think that is probably a two-way street, in one sense: I think the burden is on all of us to make sure that we keep this thing level, and in balance, and nonsectarian, and the extent to which we may be convinced that sectional differences still exist, I would vote accordingly. I am even harder to remove such distinctions. I think that is the real point. It is going to take all of us; it is not going to take the Northerners to try to slow down on that. It is going to take all the Senators in this body. I might add, if the candidate today had come from Detroit or San Francisco or Seattle, it would not have affected my vote. I think the issue still ought to be the need of the Bench, and the President ought to have his conservative southern Republican judge on the Supreme Court.

Mr. BAKER. Mr. President, I intend to say just this, and yield no further on this point, in the interest of time— Mr. RUSSELL. Mr. President, I think the President will be a bear for punishment if he appoints another southern conservative, although I hope he does.

Mr. BAKER. May I repeat, just for the sake of clarity, on the conservative southern Republican critic of any Senator for voting against Harrod Carswell. I have no criticism of any Member of this body who feels he should not vote for him. That is not the purpose of my remarks. The purpose of my remarks was that we are charged with many responsibilities, and one of them should be to avoid the appearance that there was an antisouthern bias against the confirmation of Judge Carswell.

THE NIXON DOMESTIC POLICY

Mr. BAKER. Mr. President, on March 9 Mr. Bryce N. Harlow, counselor to the President, addressed the Congressional City Conference of the National League of Cities on the domestic policy and program of President Nixon. The well stated remarks of Mr. Harlow discuss in some detail the history of the Federal-State-local government interrelationship. He also analyzes the wisdom of and need for the domestic program submitted to the Congress by the President.

A major part of the President's program is the proposal for enactment of Federal revenue sharing. I introduced the legislation on submission by the President on September 23 of last year and was joined in cosponsorship by 33 other Members of this body. As Mr. Harlow indicated in his remarks before the National League of Cities, this measure is now languishing in committee.

On March 24 I had the opportunity to discuss the concept of revenue sharing before the National Association of Counties Legislative Conference. I stated at that time that I am firmly convinced that a majority of both Houses of Congress support enactment of this proposal and would vote accordingly. Unfortunately no hearings have to date been scheduled either before the Ways and Means Committee or the Finance Committee.

I believe that when over one-third of the Members of this body join in cosponsorship of this proposal, fundamental fairness requires that the measure be taken up and the Senate allowed to work its will. For this reason I call upon the distinguished chairman of
the Finance Committee (Mr. Long) to initiate hearings on the revenue sharing proposal which was submitted by President Nixon and which I introduced over 6 months ago along with 33 other Sena­
tors.

I ask unanimous consent that the re­marks of Mr. Harlow to the National League of Cities and my statement before the Washington Hilton Conference be reprinted in full at this point in the Record.

There being no objection, the state­ments are ordered to be printed in the Record, as follows:

REMARKS BY BRYCE N. HARLOW, COUNSELOR TO THE PRESIDENT, NATIONAL LEAGUE OF CITIES, CONGRESSIONAL CITY CONFERENCE, WASHINGTON HILTON HOTEL, MONDAY, MARCH 9, 1970

Mayor Curran, Mayor Lugar, other distin­guished mayors, councilmen, and other distin­guished officials, last August, President Nixon, just back from abroad, presented on national television some radically new proposals. They concerned how government should deliver its services. They promised the sharing of those responsibilities among federal, state, and local governments.

They told us why they took this unusual step. He said: "I have chosen to do so... because these problems are not just state or local problems; because they represent a funda­mental change in the Nation's approach to many of its most pressing social problems; and because, quite deliberately, they also represent the first major reversal of the trend toward centralization of govern­ment in Washington, D.C. After a third of a century of power flowing from the people and the states to Washington it is time for a New Federalism in which power, funds and responsibility will flow from Washington to the states and to the people..."

And that—by request of your League— is my subject this morning. Let's call it, "President Nixon's New Federalism."

Now, I have been around a long time—certainly long enough to learn that despite all the histrionics I can muster, merely by saying that "fundamental change" is about to take place, few things will change. And that's what the President believes about "New Federalism," what has formed the basis for Administration philosophy on the subject, and what we envisage for the future of federalism.

Necessarily this discussion must be polit­ical in the best sense of the word. Necessarily, I say, because a "new" federalism has to mean changing the structure of the differ­ent levels of government—hardly an easy task inasmuch as each is responsible to an electorate, and no is changeable unless the elected leadership urges it and the electorate consents.

To evaluate this "New Federalism" and its prospects for the political and social events that brought us to where we pres­ently are.

For a half-century the dominant trend has been to escalate the responsibility of the central government. There are many reasons why. One is the burst of activity, at once strengthening the driving physical and emotional force. for centralism and this exploded finally into a President's proposals can translate into action.

And that, I abundantly hope I have done, though it is to review the interaction of the attitudes of the major political parties with the course of federalism. What are the basic reasons for the major political parties with the course of federalism. What are the basic reasons for...
The second thematic idea is concentration on base system reform.—In a message to Congress last October 13, setting out his legislative program, the President said:

“We were elected to initiate an era of change, not of reaction. We were elected to bring about essential government reforms such as this nation has not witnessed in half a century...If ours is not to become an age of revolution then it may well become the age of responsible centralism. "New Federalism" pours added resources and responsibility for spending revenues should be decentralized. This "pragmatic decentralism" focuses primarily upon the delivery question: namely, how best to deliver the public services which the citizen requires...The third unifying idea is more effective implementation of government policy. This is the business of improved management and tighter coordination of government activities. Success here determines whether our good intentions can in fact lead to good results."

At least for the time being, I sense broad agreement among the major political parties and between representatives of the various layers of government about the major themes of President Nixon's "New Federalism." Working together, I believe—and so do you—let's make a success of revenue sharing and successfully remodel our governments to meet the exciting requirements of the 1970's.

REMARKS OF SENATOR HOWARD H. BAKER AT THE NATIONAL ASSOCIATION OF COUNTIES LEGISLATIVE CONFERENCE ON MARCH 24, 1970

I appreciate very much the opportunity to discuss the concept of federal revenue sharing, a subject at which I have been interested since I first ran for political office several years ago. I believe that I can accurately state that the word "may"—be at that point in time when the Congress will move to enact this proposal. Such was the reason why the Administration's proposal and would vote accordingly. I am less sure that a majority of both houses of Congress favor enactment of this proposal and would vote accordingly. I am less sure that a majority of the members of the House Ways and

Finally, the states and their localities will see an important new initiative in this area. The Administration's proposal and would vote accordingly. I am less sure that a majority of the members of the House Ways and

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Finally, the states and their localities will see an important new initiative in this area. The Administration's proposal and would vote accordingly. I am less sure that a majority of the members of the House Ways and
In short, if a strike cannot be avoided by agreement of the parties, it must be forestalled by national action. The reason is the same as that which motivated us roughly 37 days ago in adopting a resolution 180 days in advance, which stayed a strike for that period of time.

Mr. President, may I say, first and foremost, that it should be very gratifying to the country that that resolution was complied with to the letter by the parties; that there was neither a strike nor a lockout; and that the American people interested in the future of the labor dispute between certain carriers by railroad and certain of their employees.

Mr. JAVITS. I ask unanimous consent that staff assistants be permitted on the Senate floor during the consideration of the railroad resolution.

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

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the pending joint resolution.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum can be rescinded.

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

Mr. JAVITS. Mr. President, I ask that the attachés on both sides of the aisle notify the Members, who they think might be interested, that this matter was taken up quite quickly, that there will be a roll call, and that there will also be at least one amendment proposed by the manager of the bill.

The PRESIDING OFFICER. The attachés will do so.

Mr. JAVITS. And that it may result in some discussion. Any Senator who wishes to debate it should be apprised of the fact that it may move very quickly.

Mr. President, I am also advised that members of the staffs of Senators who may desire their assistance on the floor are still being barred from the floor. There is no reason for it now, so I ask unanimous consent that, at the request of any Senator to the appropriate officials of the Senate, such staff members of the Senate floor be permitted to assist him may be admitted to the floor.

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

Mr. JAVITS. Mr. President, we are all now aware of what our situation is. We face an imminent railroad strike on April 11, 1970, at midnight, this Friday, unless the parties come to an agreement regarding the new terms and conditions of employment which will be retroactive to January 1, 1969, as that is the date upon which such an understanding must take effect. If the parties cannot come to an agreement, Congress must act, based upon the principle which it has already adopted, that the country must be able to operate.

In the meantime, the men in the railroads are working harder and harder, trying to work the system. I think they are doing a very good job. The President asked that he be forestalled by national action. The Senate continued with the consideration of the joint resolution (S.J. Res. 190) to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Mr. JAVITS. I ask unanimous consent that staff assistants be permitted on the Senate floor during the consideration of the railroad resolution.

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which was introduced by the Senator from Michigan (Mr. Griffin) as Senate Joint Resolution 178, and which is embodied in the resolution which is now before us, was to make effective the so-called incidental work rule. This rule was completely unacceptable to the administration, of the railroads, and of the three shop craft unions which have ratified the memorandum of understanding that any further delay in resolving this controversy would be most undesirable.

These reasons led the committee, unanimously, to reject arbitration, or simply a further delay in the resolution of this dispute, and to embrace the President's proposal to put into effect the incidental work rule. Hence, this resolution, although it does mandate an agreement against the wishes of the sheet-metal workers, is appropriate for this particular dispute.

The Senate is entitled to know our reasons.

First, this is not at all like the customary labor-management dispute. Three of the parties are the railroads. These parties are perfectly satisfied with the memorandum of understanding and have no wish to jeopardize their rights under it. The other party is not the sheet-metal workers, which is concerned about the incidental work rule. It was brought out most clearly in the hearings before the committee that the incidental work rule was the quid pro quo for the payment of an additional 17 cents in wages by the carriers. Since the work rule applied to all the workers, it would have been most unfair to the railroads to permit the agreement to go into effect for the three unions which had ratified, and submit the work rule issue to arbitration, insofar as the fourth union was concerned. On the other hand, a proposal to arbitrate the work rule and the 17-cent increase, even prospectively, insofar as all four unions were concerned, was completely unacceptable to the three unions which had ratified the memorandum of understanding, since they did not wish to jeopardize their right to receive any part of the additional 17 cents.

Second, following the same procedures used in 1967 would have, at the very least, involved some further delay in the workers resolving increases due to them. As I have noted above, we were strongly advised by all the parties concerned that the patience of the workers has already worn to the breaking point, and that if any further delay occurred before the agreement was implemented, it would be impossible to prevent widespread wildcat strikes and other forms of employee action which would have resulted in paralyzing the country's railroad system. Under these circumstances, the parties advised that it was necessary for us to resolve this dispute with a substantive resolution to resolve the dispute.

Third, and what finally turned out to be the deciding factor before the committee was that new notices under section 6 of the Railway Labor Act may be served at any time after January 1, 1970, for changes to become effective after January 1, 1971; whereas, the memorandum of understanding, dated December 4, 1969, permits the service of notices or proposals for changes under the Railway Labor Act on September 1, 1970, to become effective on or after January 1, 1971.

So that the date is so imminent that, as I say, it is fruitless to us to proceed in any other way.

Also, to the same point, we took into consideration the fact that the parties should be free to negotiate prospectively. The committee's sole concern has been to avert the catastrophe which would shortly ensue, as well as any other matters with a view to making changes, effective on or after January 1, 1971.

Hence, this resolution, although it does mandate an agreement against the wishes of the sheet-metal workers, can properly be regarded as a short-term measure.

Mr. President, I need not go over the facts and figures as to the national paralysis which it based its views by writing into the incidental work rule. The committee's sole concern has been to avert the catastrophe which would shortly ensue, as well as any other matters with a view to making changes, effective on or after January 1, 1971.

Mr. President, I ask unanimous consent that the letter under date of March 4, 1970, from the Secretary of Transportation to the chairman of the Committee on Labor and Public Welfare concerning the details of the issuance of an emergency order be printed in the RECORD to follow this resolution.
CONGRESSIONAL RECORD - SENATE

April 8, 1970


Hon. Ralph Yarborough, Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am writing in support of the President's proposal, which I presently before your Committee, to avert the nationwide stoppage of rail service which is threatened to begin after midnight tonight.

As Secretary of Transportation, I am partaking of the grave and grave threat the harmful impact such a stoppage would have on public health and welfare, on defense, and on the national economy. Other modes of transportation can hardly assume more than a small fraction of the transportation capability provided by the nation's rail network. With our country so dependent on rail service, a nationwide stoppage would affect virtually every segment of our citizens.

A nationwide stoppage would leave more than 50,000 communities without rail service. Rail movement would cut off movements of perishables and other food-stuffs, intercity commuter passenger service, major chemical industries and mining. If the stoppage continues for more than a few days, the impact would spread to the entire auto industry, including steel, grain elevators, paper mills, and defense-oriented industries. Water purification and sewage products could be seriously hampered because of the growing lack of chemicals normally carried by rail.

Rail transportation is an integral part of the industrial production process. A nationwide stoppage of rail service would have a spiraling-in cumulative effect greater than the immediate impact on particular industries which rely heavily on rail service. Coal is an example. Three-fourths of all coal moves by rail and is used not only for personal consumption and export, but is also used by producers of electrical energy and other commodities, such as iron and other metals, and stone and clay products. These in turn are used in the production of other goods, such as automobiles and most manufactured products.

This spreading effect would lead to a decline in the GNP Product of at least 1% percent within 30 days, according to an estimate by the Council of Economic Advisors. This figure is nearly four times the quarter-to-quarter drop in Gross National Product during the 1957-58 recession. It is estimated that six to seven million people would become unemployed within 30 days of a nationwide stoppage of rail service. At my request, the Federal Railroad Administrator has assembled the following data, which illustrate clearly the importance of the railroads to our economy and the impact which cessation of rail service would have.

OVERVIEW OF RAILROAD IMPORTANCE

American railroads operate 210,000 miles of line serving more than 50,000 communities. During 1968, the rail system moved over 755 billion ton-miles of freight—approximately 41 percent of the total intercity freight movement. Over 12 billion passenger miles were posted by the railroads in 1968, a 9.2 percent gain in total passenger movement by common carriers. Rail commuter lines, concentrated in New York, Philadelphia, Boston, Chicago, and San Francisco, serve some 600,000 commuters daily. Transportation services performed by the railroads exceeded 8,820,000 freight cars, including 600,000 employed by the railroads in 1968 about 9.2 percent of the total intercity freight movement. About 13 billion passenger miles were provided in 1968—about 9.2 percent of the total intercity freight movement.

The economics of transportation make railroads the most important mode in the movement of high density, bulk commodities such as coal, grain, ore, and lumber. Most agriculture is dependent on rail transportation, and manufactured goods rely on it to a significant degree. In areas without access to water transportation, rail is the only economically feasible alternative for the movement of bulk traffic. The percentage of major commodities moving by rail are:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal</td>
<td>78</td>
</tr>
<tr>
<td>Northwest grains</td>
<td>68</td>
</tr>
<tr>
<td>North Central grains</td>
<td>75</td>
</tr>
<tr>
<td>Lumber</td>
<td>84</td>
</tr>
<tr>
<td>Cotton bales</td>
<td>78</td>
</tr>
<tr>
<td>Auto bodies-parts</td>
<td>90</td>
</tr>
<tr>
<td>Hogs</td>
<td>90</td>
</tr>
</tbody>
</table>

DETAILED IMPACT DATA

1. Railroad industry 600,000 employees affected. 1,620,000 freight cars stopped including some 250,000 under load en route, 600,000 empties en route, 350,000 placed for loading, 350,000 placed for unloading and balance setting empty. 30 million dollar loss in revenues daily. 2. Rail passenger service Intericty—311,000 daily revenue passengers.

Commuters—Work day ridership—Illustrations:

<table>
<thead>
<tr>
<th>City</th>
<th>Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chicago</td>
<td>320,000</td>
</tr>
<tr>
<td>New York</td>
<td>350,000</td>
</tr>
<tr>
<td>Boston</td>
<td>32,000</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>230,000</td>
</tr>
<tr>
<td>San Francisco</td>
<td>25,000</td>
</tr>
</tbody>
</table>


4. Mail 775 carloads originated daily including: 215 cars of bulk mail, 90% of bulk mail originating daily including 78 million pieces of various types of second and third class mail and small catalogs and small packages. Two million parcels: | regular parcel post service.

5. Agriculture Manufactured food equals 10% of total daily rail tonnage movements (140,000,000 tons) (annual). Unmanufactured food equals 12% of daily total rail tonnage movements (168,000,000 tons) (annual). Only two-three day supply of perishables, fruits and meat on hand. Wrapping of 600,000 cars of refrigerated shipments and 160 cars of livestock.

6. Minerals Suspension of rail movement would cut off almost all supply of primary aluminum, copper, lead and zinc. Would cut off 68% of all coal going to electric power utilities. 78% of all coal going to coke and gas plants. 7% of all coal going to industrial plants.

7. State of Alaska Would cut off all interline traffic received via water from American railroads. Including 20 cars of perishables per day. Including 60 cars of construction supplies per day.

In summary, Mr. Chairman, I believe these data confirm the President's judgment that a nationwide stoppage of rail service must not be permitted to take place. I urge the Congress to take the necessary action to stop the threat.

Sincerely,

John A. Volpe.


Hon. Ralph Yarborough, Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Senator Yarborough: The impact of the threatened railroad strike can be divided into effects on broad economic aggregates and impacts on selective sectors of the economy most dependent upon rail transportation. Most of the data presented here represent rough estimates, but the order of magnitude is believed to be reasonable. Source data used in the preparation of this letter were obtained from Government agency reports on the economic impacts of possible rail strike and from telephone conversations with agency representatives.

OVERALL IMPACT

In view of the importance of our national transportation system, the economic impact of a nationwide rail strike, however short in duration, would be significant. The railroads in 1968 produced $10.8 billion in gross revenues. 28,231,000 freight cars and 3.93 million passenger cars were moved in 1968—about 9.2 percent of the total intercity freight movement. About 13 billion passenger miles were provided in 1968—about 9.2 percent of the total intercity freight movement. The rail system moved over 755 billion ton-miles of freight—approximately 41 percent of the total intercity freight movement. Over 12 billion passenger miles were posted by the railroads in 1968, a 9.2 percent gain in total passenger movement by common carriers. Rail commuter lines, concentrated in New York, Philadelphia, Boston, Chicago, and San Francisco, serve some 600,000 commuters daily. Transportation services performed by the railroads exceeded 8,820,000 freight cars, including 600,000 employees. In addition to these, by the end of the first week an additional 350,000 people may be placed for unloading and balance sitting empty.

(a) Impact on employment

We estimated that a total of 1.5 million persons would be unemployed by the end of the first week. The railroads are directly responsible for the employment of approximately 600,000 employees. In addition to these, by the end of the first week an additional 350,000 people may be placed for unloading and balance sitting empty. A rough estimate of the impact of the strike on GNP by the end of the fourth week is between $50 and $60 billion. (These data are all at annual rates.)

(b) Impact on GNP

Our current estimate of GNP for the fourth quarter of 1969 is $652 billion. GNP would be reduced at an annual rate of approximately $5 to $6 billion in the second week of the strike. A rough estimate of the impact of the strike on GNP by the end of the fourth week is between $50 and $60 billion. (These data are all at annual rates.)

(c) Impact on external trade

The impact of the strike on external trade would be serious. Most of our exports of chemicals, automobiles, and other manufactured goods are shipped by rail. The railroads are the principal means of taking raw materials to the manufacturers and of transporting finished goods to the market. The railroads transport 80% of all coal mined in the nation, 70% of all iron ores, 75% of all copper, 70% of all lead, and 75% of all zinc. The railroads transport 80% of all manufactured goods and 75% of all agricultural products. The railroads transport 80% of all raw materials, 75% of all intermediate products, and 75% of all finished goods.

II. SECTORAL IMPACTS

The impact of the threatened railroad strike is serious in some areas.

1. Agriculture

Most food and feed products now operate in a pipeline system. Therefore, a rail strike would have an immediate and serious effect. For example, chain stores maintain a 2-3 day supply

Source: Federal Railroad Administration.
The export market for grain would be severely affected after 8-10 days. Losses in export markets are hard to recover because contracts may develop other long-term contracts.

The possibility of substitution with other modes of transportation is not promising. A major factor in the present time. Water carriers book shipments several months in advance and are presently fragmenting shipments to lower water levels. Trucks are about at capacity on the west coast where rail is crucial. Currently there are about 100,000 refrigerated freight cars to be replaced.

2. Public Welfare

Public welfare would be threatened by a railroad strike in several ways. Food shortages that would appear almost immediately are discussed as part of the strike's impact on agriculture. In addition to these, we may identify the following:

(a) Potentially most disruptive is the effect on the electric power industry which derives over 50% of its energy from coal. Much of this coal is carried by rail. There are probably substantial inventories of coal at power plants, but there are 21 utility systems providing about 40 percent of the Nation's power requirements that would have serious supply problems in less than 60 days, some in less than thirty.

(b) In 1968, an average of approximately 70,000 refrigerator cars arrived at west coast ports each week it is expected that a rail strike would halt production and idle workers in the coal mining industry. Due to numerous stoppages last year, production lags demand, and coal users have lower than normal inventories. A stoppage of coal mining could be felt rapidly by user industries. Similar storage conditions exist in other energy producing industries, and it is believed that supplies would be seriously affected within one week.

3. Mining

There exists very sparse coal storage facilities at the mines. Since most shipments are made on a 2 to 3 week cycle it is expected that a rail strike would halt production and idle workers in the coal mining industry. Due to numerous stoppages last year, production lags demand, and coal users have lower than normal inventories. A stoppage of coal mining could be felt rapidly by user industries. Similar storage conditions exist in other energy producing industries, and it is believed that supplies would be seriously affected within one week.

4. Copper fabricated products

An estimated 95 percent of refined copper is shipped by railroad. Copper fabricators currently maintain Inventories of 2 to 8 days due to the price of merchant copper and the short supply of producer copper. Copper fabricators would then cease operating within one week to ten days.

5. Steel mill products

Approximately 50 percent of total steel products are shipped by rail. Little of this output could be diverted to trucks and in view of the limited storage capacity available it is believed that private production could continue for more than two weeks after the beginning of the strike.

6. Automobiles

The automobile manufacturing industry is dependent on railroads at several stages of its operations. Large volumes of raw materials are shipped by rail. More than half of all completed vehicles and a large volume of parts and subassemblies is also shipped by rail. It is believed that automobile production would be affected almost immediately and that within two weeks automobile plants would begin to cease operations.

7. Basic chemicals

The most important products in this category are chlorine and alum, used widely in water purification. Inventories of 30 days are usually maintained but frequently these fall to 10 days or less. Most of the volume of these chemicals is shipped by rail but it is feasible to substitute other modes. The remainder of the industry is closely woven together. Many chemicals are used in the production of another product, and since 60 percent of the volume is shipped by rail it is believed that the industry would be seriously affected.

8. Textile mill products

The industry is dependent upon a continuing supply of chemicals, manmade fibers and cotton. Supplies from other sources could become unavailable within two to three weeks after the beginning of a rail strike.

III. ALTERNATIVES

According to the best estimates that have been able to be made, no more than 50 percent of the volume currently shipped by rail could be diverted to other modes. In specific instances where handling requirements can be met only by the railroads, no shipments of output would be possible.

Sincerely,
PAUL W. McCracken

Mr. JAVITS. Mr. President, the Joint resolution we bring to the Senate is under all the circumstances the most reasonable course that we can pursue this time to protect the Nation and to resolve this dispute.

It has the support of the administration and of the three unions which have ratified the memorandum of understanding.

While I know that the sheet metal workers are understandably unhappy with it, any other proposal would make either the carriers or the other three unions just as unhappy and unsatisfied.

It just is not possible to do something which will be pleasing to all parties in the dispute.

We have made the Hobson's choice and that is to put into effect the memorandum of understanding actually agreed to by the three carriers for all parties—including the unions—which has been ratified by an overwhelming majority of the employees concerned, and juridically by the three unions which I urge the Senate to approve at this time.

This is especially true in view of the short time during which this memorandum will have effect.
hands of the parties, and that date is February 19, 1970, shortly after it was first thrown into court, and when the three unions which had previously ratified the agreement went into the court without the Sheet Metal Workers.

From the point of view of rough justice, that would split it about 50-50 on one side and the other. I think that is the fair way to resolve the matter. We hope very much that this will be accepted by the workers and the carriers and the other parties concerned. We have reason to believe that it will be.

After the opening statement is made by the Senator from West Virginia (Mr. Randolph), I will offer the amendment. Mr. President, I am prepared to yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. Randolph) is recognized.

Mr. RANDOLPH. Mr. President, I join the able ranking minority member of the Labor and Public Welfare Committee in bringing this legislation to the Senate.

As the ranking majority member of the committee, I endorse personally and officially the efforts of both labor and management concerned to bring about a settlement without the Sheet Metal Workers.

It is expected that the coal miners and their union would have the coal moving to the eastern markets, and indeed, the tremendous help he has been in endeavoring to resolve this dispute, using his enormous influence in the industrial field, to bring about a settlement and viewing this, as he has already said, as a last resort with no alternative open to us.

Mr. President, I am about to propose the amendment I have described. Before I do so I wish to suggest the absence of a quorum. Again I would urge attaches of the Senate to advise Members we will run a vote very shortly, and that this is the time for them to be here if they wish to propose any amendments or enter in debate on the floor of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. JAVITS. Mr. President, on behalf of myself, the Senator from West Virginia (Mr. Randolph), and the chairman of our committee, the Senator from Texas (Mr. Yarbrough), I offer an amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. JAVITS. Chairman from New York, for himself and Senators Randolph and Yarbrough proposes an amendment on page 3, lines 4 and 5, to insert “February 19, 1970.”

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. What is the date stricken?

Mr. JAVITS. The date stricken is the date of enactment of the resolution. This amendment gives a little retroactivity. I might say it deals with an item of 7 cents an hour for mechanics. The retroactivity was supposed to be back to the middle of December 1969, but because of the situation in which the parties found themselves, this could not take effect.

Mr. JAVITS. Mr. President, the amendment results in a section of the resolution, which we believe would be split the difference, which we have done.

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

Mr. JAVITS. I yield.
Mr. MANSFIELD. It is my understanding that the three unions which had agreed previously, as far as they were concerned, had their retroactivity for back pay back farther.

Mr. JAVITS. There are various items of pay which go back farther, but the particular 7-cent item to which I referred would have been effective from the middle of December, if this agreement could have been consummated. We also thought it unwise to try to differentiate between the three unions and the sheetmetal workers union. We thought it would create hard feeling and undue complications.

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

Mr. JAVITS. I yield.

Mr. RANDOLPH. The Senator has mentioned the 7-cent item. I think the record should show that the cost of the retroactivity would be only approximately $180,000 to the rail industry.

Mr. JAVITS. I would wish to say only that we did not want an order of magnitude. We did our best to ascertain that figure. It is in that order of magnitude, according to the best the staff could ascertain it, but we would not bind by that figure. I do this without committing any party, which could put out in the next 5 minutes and denounce me, or anybody else. We have checked around. Generally speaking, it seems a fair disposition of what could be a new controversy among the parties, as far as mention of them is concerned, both on the sheetmetal workers union. We thought it unfair to a great many of these workers.

That situation obtained from the middle of December to the middle of February. Thereafter, everyone was prevented by the President, and naturally, in discussing the thing, as a matter of equity, though not as a matter of law, because it was a very large part of the economy of the country over the past few months, and still very important; and it is important as a precedent. I emphasize this, Mr. President, before we have third reading, so that anyone who wishes to say anything may do so.

But we have had no intelligence of anyone having any interest in the bill wishes to speak, and as far as I am concerned, as the manager of the bill, I am ready for third reading if the Senator from West Virginia is.

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

Mr. JAVITS. I yield.

Mr. RANDOLPH. What the able Senator from New York says is true about our efforts to inform all Senators of the vote on the pending resolution. I also call attention to the fact that the lead Senator from New York on the measure, Mr. President, before we have third reading, so anyone having any interest in the bill wishes to speak, and as far as I am concerned, as the manager of the bill, I am ready for third reading if the Senator from West Virginia is.

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

Mr. JAVITS. I yield.

Mr. RANDOLPH. The Senator from New York familiar with what is happening in this body with respect to this particular provision?

Mr. JAVITS. We have informed the other body with respect to what we are doing, and my hope and guess is that they may be doing much the same thing.

Mr. JAVITS. I thank the Senator. The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.
April 8, 1970

CONGRESSIONAL RECORD— SENATE 10781

I further announce that the Senator from Minnesota (Mr. FELL) is absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) would vote "yea.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senator from South Dakota (Mr. MUNDY) is absent because of illness.

The Senator from California (Mr. MURPHY) is necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MUNDY), and the Senator from California (Mr. MURPHY) would each vote "yea.

The result was announced—yeas 88, nays 3, as follows:

No. 123 Leg.
YEAS—88

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the previously granted request to allow the Senator from South Carolina (Mr. THURMOND) to proceed for not to exceed 25 minutes and the previously granted request to allow the Senator from Maryland (Mr. TYDINGS) to proceed for not to exceed 30 minutes, be allowed.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed at the conclusion of the remarks of the Senator from South Carolina (Mr. THURMOND), there be a morning hour for the conduct of morning business with a time limitation of 3 minutes for each Member.

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

SUBCOMMITTEE MEETING DURING THE SESSION OF THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the GAO-OCPY committee on International Organization and Disarmament Affairs of the Committee on Foreign Relations be permitted to meet during the session of the Senate tomorrow morning.

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

FEDERAL PAY LEGISLATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 767, S. 3860.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. S. 3860, to increase the pay of Federal employees.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending bill.

The yeas and nays were ordered.
SENATE JOINT RESOLUTION 192—
INTRODUCTION OF A JOINT RESO-
LUTION PROPOSING AN AMEND-
MENT TO THE CONSTITUTION WITH RESPECT TO THE OFFERING OF VOLUNTARY PRAYER OR MEDITATION IN PUBLIC SCHOOLS AND OTHER PUBLIC BUILDINGS

Mr. SCOTT. Mr. President, I introduce today a new joint resolution proposing a constitutional amendment to permit voluntary prayer in public schools and especially our public schools. I do so in the hope that the introduction of a new resolution at this time will renew effective congressional interest in this issue which has so long been a matter of great public concern. I am sorry to say that requests by myself, and others, for Senate hearings on this question in the last session of Congress failed to draw a favorable response. The introduction of the new bill I am offering today will provide, I hope, the incentive that is necessary for the success of this matter. My resolution is offered as a confirmation of my own personal support in this effort.

Mr. President, I believe my resolution strengthens and improves language which previously has been proposed. My resolution does so in two ways.

First, it mentions specifically "schools" as among those public buildings in which voluntary prayer would be permitted. To mention only public buildings without this additional clarification would, I feel, leave the question of intent open to some doubt.

Second, I recognize that some regard even voluntary prayer as something requiring formal procedure. Therefore, I have drafted my resolution to permit "meditation" as a substitute for voluntary, nondenominational prayer. By so doing, my resolution addresses itself to the basic issue in a manner which still permits the greatest possible flexibility for a divergence of religious belief. Individual or group prayer or meditation on a voluntary basis need not be formalized or institutionalized, but at the same time, such activities should not be penalized. It is with this uppermost in mind that I offer my new resolution.

Mr. President, the people of my Commonwealth of Pennsylvania have been especially outspoken on this issue. They have petitioned the courts for years, and despite setbacks there, have in some communities recently reestablished voluntary prayer. In at least one school, the exercise centers on the daily prayer from the Congressionai Record, a reminder of the fact that we, as national leaders in Congress, begin each daily session with the opportunity for prayer. It is this same right that my resolution would make available to others, and particularly to the Nation's schoolchildren who otherwise are denied a privilege we in Congress take for granted.

Mr. President, I believe in the separation of church and state. I do not believe in the banning of prayer. I believe that a child should have the opportunity for prayer or meditation. I believe that public hearings, including attention to the voluntary nature of this amendment, could do much finally to resolve this question, and I offer my resolution for this purpose.

I urge that it be given early and favorable consideration.

Mr. President, I introduce the Joint resolution for appropriate reference on behalf of myself, the Senator from Pennsylvania (Mr. Schweiker), the Senator from West Virginia (Mr. Ran
col), and the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. FANNIN. Mr. President, will the Senator from Pennsylvania consider me also as a cosponsor of his resolution?

Mr. SCOTT. I would be very happy to have the Senator as a cosponsor and, Mr. President, ask unanimous consent that the name of the Senator from Arizona (Mr. Goldwater) be included in the resolution as a cosponsor.

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

Mr. TOWER. Mr. President, if the Senator from Maryland (Mr. Scott) drafts a resolution of which I shall be a cosponsor, I would like to see my senior colleague, Senator Dirksen’s "school prayer amendment," I share Senator Scott’s disappointment that hearings have not been held on the amendment. I feel the Scott constitutional amendment is a better, stronger proposal, and deserves serious consideration by the Judiciary Committee and the full Senate.

Mr. SCHWEIKER. Mr. President, I want to commend the distinguished minority leader for his speech today in support of prayer, and for his resolution, offered today, to allow prayer in public schools.

This fight was formerly led by his predecessor as minority leader, the late Senator Everett Dirksen, and I am glad to see my senior colleague offering his leadership abilities to this important issue.

As a Senator who is a cosponsor of Senate Joint Resolution 6, Senator Dirksen’s "school prayer amendment," I share Senator Scott’s disappointment that hearings have not been held on the Dirksen amendment. I feel the Scott constitutional amendment is a better, stronger proposal, and deserves serious consideration by the Judiciary Committee and the full Senate.

It is important to me that Senator Scott has specifically included meditation as a substitute for voluntary, nondenominational prayer, because he thus makes it clear that those of us who support prayer in public schools do not want any form of institutionalized religion. However, I feel strongly that those who wish to include prayer in the education of our young people are not prohibited from doing so.

This is an important issue to many persons in Pennsylvania. I commend Senator Scott for his initiative in representing these Pennsylvanians, just as I commend his leadership in the Senate, on behalf of public prayer. It is a privilege for me to be a cosponsor with him on this measure.

Mr. GOLDWATER. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. GOLDWATER. I should like to ask the Senator from Pennsylvania the same question I asked the Senator from Arizona, the amendment offered by the late Senator Dirksen?

Mr. SCOTT. Yes, I may say that it is close in spirit. There is a parallelism on that amendment, and now specifically includes the words "schools and public buildings," and the addition of the word "meditation" as a form of prayer, so that prayer does not necessarily have to be vocal.

Mr. GOLDWATER. I thank the Senator very much. Would he consider me as a cosponsor of his resolution?

Mr. SCOTT. I would be very happy to have the Senator as a cosponsor and, Mr. President, ask unanimous consent that the name of the Senator from Arizona (Mr. Goldwater) be included in the resolution as a cosponsor.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. TOWER. Mr. President, if the Senator from Pennsylvania drafts a resolution of which I shall be a cosponsor, I would like to make a brief statement in support of the resolution. I am pleased to cosponsor this resolution introduced by my distinguished colleague from Pennsylvania, Senator Scott, which calls for an amendment to the Constitution specifically allowing voluntary, nondenominational prayer in schools. I believe that everyone should voluntarily have the right to engage in religious observance. Of course, the State should not support or "subsidize" a religion in a partisan, denominational way. It is difficult, indeed, to see how a rule which permits a child to join in a prayer, if he so desires, establishes a religion. The men who wrote our Constitution did not feel that a state religion could be established so easily. They were aware of the principle enunciated in the first amendment that the State should not establish a religion and did not think that a prayer to open the first Congress or a motto on our coins—"In God We Trust"—violated that amendment.

Nor is there any reason to believe that the Founding Fathers felt that voluntary prayer in a public school was an evil to be prevented by the first amendment. Thus, we are seeking by a new amendment to restore original constitutional meaning.

It is a fact that we are predominantly a religious people. The history of our founding shows that our whole social and political system reflects certain Judeo-Christian concepts of law and right. In our public schools, education is too important to be left in the hands of persons who do not have enough time for our children to get the religious training which has been an important part of American life since our founding. The reality is that the public school becomes a larger part of our children’s lives and consumes more and more of their time, it becomes increasingly important that the State provide them with the opportunity to pray to their God if they wish. It would be inexcusably shortsighted to spend millions of
April 8, 1970

CONGRESSIONAL RECORD — SENATE

10783

dollars so that our schools may develop the minds and bodies of our children while denying those schools the right to give students the voluntary opportunity to develop their spiritual selves.

The Constitution and Bill of Rights were deeply religious men who intended the first amendment to be a protector of religion, not a destroyer of it. It would be the first amendment to be construed to deny the right of children to voluntarily enter into prayer, we frustrate the intent of the men who drafted that amendment. I see no reason why we should not allow free public expression of the religious belief which is so rooted in our history.

I am pleased to join with Senator Scott in calling for an amendment to our Constitution to specifically allow religious expression in schools either through voluntary, nondenominational prayer or through free public meditation.

I submit that it was the intent of the framers of the first amendment to guarantee freedom of religion and not freedom from religion to the licensed patent (or application), (2) specified fields of use covered by the patent (or application), (3) specified use or the making and use for Government purposes without licensing sale, license or whether a refusal to license at all or a limited number of licenses as he desired royalty fee or price:

The PRESIDING OFFICER. The amendments will be referred to the Committee on the Judiciary.

The material ordered to be printed in the RECORD, reads as follows:

Re Sections 261 and 271 (Recommendment XXII)

The amendments proposed to Sections 261 and 271 of S. 2756 are intended primarily to implement Recommendation XXII of the Report of the President's Commission on the Patent System. The net effect of those amendments, with regard to patents or applications for patent, would be to:

A. Re-arrange Section 261(b) to make clear in the first paragraph, a patent (or application) to assign or to license his patent (or application) exclusively, and in the second paragraph to limit the license to: (1) specified fields of use covered by the patent (or application), (2) specified use or the making and use for Government purposes without licensing sale, license or whether a refusal to license at all or a limited number of licenses as he desired royalty fee or price:

Limited licenses have, at least until recent years, been considered legal in the same respect as unlimited licenses. They are useful in many situations. For example, the Government takes at least a license to make, have made, and use for Government purposes in connection with inventions made during the course of Government financed research. Many antitrust decrees provide for compulsory licenses under all the patents of the defendant for certain other uses of the patent, as "to make use and lend lamps, lamp parts or lamp machinery." U.S. v. General Electric Co., 300 U.S. 124 (1938).

Under the proposed statute there would be no inquiry as to the "reasonableness" of the royalty fee or price:

The proposed language would not make legal those contracts or combinations that go directly to restrain trade. Conduct such as occurred in

that the patent laws shall not be construed to preempt the right of the courts under State or Federal law to decide issues with respect to enforcement of contracts involving rights to intellectual property, technical know-how, and unfair competition. The principles embodied in my amendment are supported by the American Bar Association, the American Patent Law Association, the Board of Governors of the Philadelphia Patent Law Association, and the Pittsburgh Patent Law Association. The amendment is supported by the American Patent Law Association.

I believe these amendments address themselves to extremely important questions in the patent law field. It is to their underlying principles. It is for these reasons that I propose them to S. 2756. However, I harbor no pride of authorship in the specific language and stand ready to examine alternative approaches to meet the needs to which my amendments are addressed. It is my hope, however, that these amendments will serve to further stimulate thought and discussion on the action needed in these important areas.

In order to further illuminate the need for these amendments, I ask unanimous consent that the following materials be printed at the conclusion of my remarks:

D. Add new Section 271 (f) and 271 (g) to provide a satisfactory basis for the following licensing practices, as follows:

(f) the granting or prohibiting of certain fields of use (patented) invention, and, permitting or prohibiting one or more of the primary functions of the patent, namely the right to exclude others from making, using, or selling the (patented) invention.

(g) the granting of non-exclusive cross licenses, and the granting or obtaining of a provision requiring the grant back of a non-exclusive license under improvement on the licensed patent.

The Supreme Court sustained a limited field license in General Talking Pictures v. Western Electric Co., Inc., 314 U.S. 106 (1941).

Other decisions on the subject are collected in Oppenheim, Federal Antitrust Laws (1966) Ch. 115, Sec. 706-8. The Superior Court of New Jersey, in General Engine Co. v. Lensa Corporation, 79 Fed. Supp. 1062 (D. Del., 1948), in the report of the President's Commission on the Patent System. The net effect of those amendments, with regard to patents or applications for patent, would be to:

A. Re-arrange Section 261(b) to make clear in the first paragraph, a patent (or application) to assign or to license his patent (or application) exclusively, and in the second paragraph to limit the license to: (1) specified fields of use covered by the patent (or application), (2) specified use or the making and use for Government purposes without licensing sale, license or whether a refusal to license at all or a limited number of licenses as he desired royalty fee or price:

Limited licenses have, at least until recent years, been considered legal in the same respect as unlimited licenses. They are useful in many situations. For example, the Government takes at least a license to make, have made, and use for Government purposes in connection with inventions made during the course of Government financed research. Many antitrust decrees provide for compulsory licenses under all the patents of the defendant for certain other uses of the patent, as "to make use and lend lamps, lamp parts or lamp machinery." U.S. v. General Electric Co., 300 U.S. 124 (1938).

Under the proposed statute there would be no inquiry as to the "reasonableness" of the royalty fee or price:

The proposed language would not make legal those contracts or combinations that go directly to restrain trade. Conduct such as occurred in
Hartford-Empire Co. v. U.S., 323 U.S. 386 (1945), where limited licenses were part of an overall combination to restrain trade, would continue to exist.

Section 271(f) would continue the right of the patentee to include in licenses and arrangements that up to now have been considered generally legal but have been recently questioned to at least some degree.

Paragraph (g) would make it clear that the enabling statute must be interpreted so as not to secure the full benefit of the invention and patent grant. For example, 35 USC 287 provides a right to license for the use of a method which is contrary to public policy, and arrangements for patent infringement unless certain notice is on the patented articles. Under the proposed language, the licensee to the end would be legal. Similarly, a common form of a license right is a percentage of that she is not and should not be in the position of a public utility. The Congress has consistently and in a number of cases interpreted the licensing statutes. An endless number of considerations affect the royalty rate or purchasing power of the licensees, in connection with inventions or discoveries, which cast a shadow of doubt on the propriety of the proposed and improper in the nature of patent rights, imposed by the patent laws. Patent misuse must be defined by reference to a contractual provision or imposed a condition on a license, which has (a) a direct relation to the subject matter of the patent, and (b) the performance of which is reasonable under the circumstances to the disclosure of the patent owner misused the invention and patent grant. This recommendation is intended to make clear that theantitrust laws are not meant to enforce one principle of exclusive monopolistic power and the other encouraging and promoting certain limited beneficial monopolies. In this way, each may achieve its objectives in a strong economy.

The Commission, therefore, does not favor any proposal which would weaken the enforcement of the antitrust laws or which would curtail in any way the power of the courts to deny relief to a patent owner misusing the patent he seeks to enforce. However, uncertainty exists as to the precise nature of the patent right and there is no clear definition of the patent misuse rule. This has produced confusion in the public mind and a reluctance on the part of others to enter into contracts or other arrangements pertaining to patents or related licenses.

State's technological balance of payments for agreements to exchange such technical information credited our country with 11 billion dollars. In the Commission believes to be required is explicit statutory language defining, for the enforcement of patents in given circumstances. The risk of unforeseeability is too great and such a codification is wholly unsatisfactory. The Commission believes that such a patent is hereby recognized under the patent statute or by law. This is intended to make clear that the courts from making, using and selling the patented invention.
I. INTRODUCTION

There is much uncertainty in the law of patent licensing and legislative clarification is needed. Two of the areas of the law was noted by the President's Commission on the Patent System which reported: (2) The performance of which is reasonable under the circumstances set out in the patent licensing field.

This has produced confusion in the public mind and a reluctance by patent owners and others to enter into contractual arrangements pertaining to patents or related licenses.

As a suggestion for reducing the confusion and bringing some certainty to the law of patent licensing, the President's Commission offers Recommendation XXII which stated:

The licencable nature of the rights granted by a patent should be clarified by specifically stating in the patent statute that: (1) applications for patents, patents, or any interest therein may be licensed in the whole, or in any specified part, of the field of use to which the subject matter of the claims of the patent are directly applicable, and (2) a patent owner shall not be deemed guilty of a conspiracy to restrain or monopolize commerce, or when the patentee makes a non-exclusively license from parts or whole of the licensed use and sell concerned by the combination invention wherein his claims are to the whole combination.

A NEED EXISTS FOR ADDITIONAL STATUTORY PROVISIONS IN PROPOSED PATENT REFORM LEGISLATION

Chairman, American Bar Association, 2756 (91st Congress, 1st Session). The most recent patent reform legislation, McClellan S. 2756 (91st Congress), however, include a provision like Section 263. Either Section 263 of Dirksen S. 2997 (90th Congress) or Section 263 of Dirksen bill S. 2997 (90th Congress), which Section 263 of the Dirksen bill, which Section has been approved by the American Bar Association.

263. Transferable nature of patent rights
(a) Applications for patent, patents, or any interest therein may be licensed in the whole, or in any specified part, of the field of use to which the subject matter of the claims of the patent are directly applicable, and
(b) A patent owner shall not be deemed guilty of a conspiracy to restrain or monopolize commerce, or when the patentee makes a non-exclusively license from parts or whole of the licensed use and sell concerned by the combination invention wherein his claims are to the whole combination.

The difficulty with the reasoning of the Justice Department is that it always has its sights set on the big company. It completely overlooks the "littleRock." There are many individuals and small companies who have patents, and often the best way to develop the potential of which the subject matter of the claims of the patent is to license their patents. Very few companies, for example, would take a non-exclusively license from parts or whole of the licensed use and sell concerned by the combination invention wherein his claims are to the whole combination.

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This is confusing and statutory clarification is needed.

C. Package licensing

The problem of post-expiration royalties discussed in Section II B is also of concern in the licensing of several patents to a single licensee (by being commonly referred to as "package" licenses). Patent owners are presented, in view of the Supreme Court's case on the problem of determining whether a package license is unenforceable if the royalty provision does not provide for a royalty equal to what the owner would obtain if the patents were dealt with separately, with the two problems as discussed in Section II B, the problem of determining whether a package license is unenforceable if the royalty provision does not provide for a royalty equal to what the owner would obtain if the patents were dealt with separately.

Further, as amplified by a statement in majority opinion under the agreement. The confusion is further clarified by a statement in majority opinion under the agreement, and it has been treated as "package" licenses. Patent rates to licensees under the same patents or related arrangements pertaining to patents or related licenses were as observed by the President's Commission under the Patent System. Therefore, it is requested that Section 263 of the Dirksen bill S. 2597 (96th Congress) be a "grant-back" provision that you are in full accord with the state-of-the-art in general, and "... produce confusion in the public mind and a reluctance by patent owners and others to enter into such arrangements or to enter into contracts or other arrangements pertaining to patents or related licenses," as was observed by the President's Commission under the Patent System.

D. Nondisclosure licenses containing differing royalty rates

Recent decisions have held that the owner of a patent could not charge different royalty rates to licensees under the same patent. Because of these decisions there is doubt as to the legality not only of a patent owner charging different royalty rates in situations where licensees are involved in the same line of business as the patent owner, but also in situations where the licensees are involved in different "fields-of-use."

Certification on the law with regard to the same patent is needed. For years, common practice. The United States Supreme Court first held in Laitram Corp. v. King that the fulfillment of the law in the Courts can not only result in the invalidity of patents; agreements dividing sales territories, agreements not to contest the validity of patents, and agreements to enter into contracts or other arrangements pertaining to patents or related licenses have been misused as the royalty rate was exorbitant and oppressive. How can an attorney advise his client as to whether or not a royalty rate is exorbitant and oppressive?

Clarification on the law with regard to the same patent is needed.

II. STATUTORY REFORM OF THE ABOVE PROBLEMS

Only Section 283 of the Dirksen bill S. 2597 (96th Congress) and the 91st Congress' version thereof have treated any of the problems discussed above, with which the public is concerned on a day-to-day basis. For example, without the protection afforded by the patent system an invention could be copied and the market stolen by an unscrupulous manufacturer, and it now appears that the Justice Department:

1. A patent is not, accurately speaking, a monopoly. An inventor deprives the public of nothing which it enjoyed before his discovery, but gives something of value to the community by adding to the sum of human knowledge ...

2. Patentees can use the patent right in several ways. He may use it to protect himself in the manufacture and sale of the invention or in his manufacture with ready facilities. With the patent system an inventor is encouraged to invent...

3. The constitutional mandate granting to inventors and authors, for limited times, "the exclusive right to their writings and discoveries" was made with the knowledge that this right would enhance the public good by encouraging inventors to invent. Without the protection afforded by the patent system an invention could be copied and the market stolen by an unscrupulous manufacturer...

4. The limited right is not monopolistic as all. In the words of the late Mr. Justice Roberts: "... a patent right is not tied with the leverage of that patent, which the patent owner and his licensee are mutually agreeable royalty rate."

5. The constitutional mandate granting to inventors and authors, for limited times, "the exclusive right to their writings and discoveries" was made with the knowledge that this right would enhance the public good by encouraging inventors to invent. Without the protection afforded by the patent system an invention could be copied and the market stolen by an unscrupulous manufacturer.

6. The limited right is not monopolistic as all. In the words of the late Mr. Justice Roberts:

F. Royalties

The law is also unclear as to the extent to which the patent owner and his licensee are free to set a mutually agreeable royalty rate. Particularly, while the Supreme Court in the recent case of American Photocopy Equipment Co. v. Ricco held that a patent owner should be denied a preliminary injunction on an action for patent infringement, in that case because in the court's opinion the patent had been misused as the royalty rate was exorbitant and oppressive, what can an attorney advise his client as to whether or not a royalty rate is exorbitant and oppressive?

Statutory clarification is needed.

III. STATUTORY REFORM OF THE ABOVE PROBLEMS

Only Section 283 of the Dirksen bill S. 2597 (96th Congress) and the 91st Congress' version thereof have treated any of the problems discussed above, with which the public is concerned on a day-to-day basis. For example, without the protection afforded by the patent system an invention could be copied and the market stolen by an unscrupulous manufacturer, and...
April 8, 1970

CONGRESSIONAL RECORD—SENATE

There is thus an urgent need for Congress to express in clear and unmistakable terms the fair bounds and limits within which industry may use its patent.

This conflict between the patent system and the antitrust laws was recognized by the President in his speech on the Patent System. Their report recognized that "the two systems are fully compatible", but that "the President’s Commission on Antitrust and Misuse has observed that the permissive nature of the patent right and there is no clear definition of the patent misuse rule.

Recognizing the need for an adequate and clear definition of the patent misuse rule, the President’s Commission stated that the licensable nature of patent rights should be clarified in the patent statute.

In view of the urgent need presented by this situation, a special Committee on Antitrust and Misuse of Patents of the Board of Governors of the American Patent Law Association, instructed to study the entire situation and to submit appropriate recommendations to the Board of Governors. Many meetings have been held by this Committee, it has studied the action taken and recommendations submitted by other Patent Law Associations. It subsequently submitted strong recommendations to the Board of Governors urging the Board to take appropriate action to approve its recommendations and to submit corresponding views to the Senate Committee on the judiciary.

The Senate Committee as favoring the following proposals:

1. An arrangement granting some rights under the patent but excluding specified conduct, if the arrangement is actionable under Section 271 and Section 281 of this title, or:

2. An arrangement granting rights under the patent that excludes or restricts conduct in a manner that is reasonable under the circumstances to secure to the patent owner the full benefit of his invention and patent grant.

3. No patent owner shall be guilty of misuse or illegal extension of patent rights because he has entered into or will only enter into:

(a) Non-exclusive exchange of patent rights;

(b) A royalty, fee or purchase price;

(c) Not measured, provided that any amount paid after the expiration of a patent is based solely upon activity after expiration;

(d) Not measured by the subject matter of the patent or by extent of use by the other party of the rights assigned, licensed or waived;

(e) Computed in a manner that segregates the charge for any particular patent, or for any particular claim or claims of one or more patents;

(f) Differing from that provided in some other arrangement.

MEMORANDUM ON THE NEED FOR LEGISLATIVE CLARIFICATION OF THE LAW RELATING TO PATENT LICENSE PROVISIONS

SUMMARY

Encouraging innovation is the principal objective of the patent system. Patents do this, first, by encouraging invention, or the investment in inventive efforts of a court to determine such practices, will fall victim to this presumption of legality and reasonableness concerning its transactions.

The need for a new product or process is more than unwarranted. Moreover, in patent misuses. The President’s Commission on the Patent System, appointed by President Johnson, concluded that the field-of-use license, like the license for a particular territory (which is specially sanctioned by the statute), should receive statutory approval.

2. The right to license (or not to license)

Strange as it seems, the right of a patent owner to license parties of his choice has been challenged. A White House Task Force on Antitrust Policy has urged that if a patent owner licenses his patent at all he must license all comers who are financially responsible and of good reputation. At least one court decision has spoken similarly. While the use of patents beyond their proper scope is clearly wrong, and the interdiction of antitrust or the defense of patent misuse becomes appropriate, the inadequacy that the patent owner must license all qualified parties if he licenses anyone is clearly an unwarranted extension of the patent owner’s rights.

The lack of appreciation for the facts of business life is endangering the important pre-emptive power of the patent owner to select his licensees.

3. The freely negotiated royalty

A federal court has held that a royalty, acceptable to some parties, is an ex post facto violation of the anti-trust laws. While the Supreme Court has repeatedly held that a patent owner is entitled to all the terms of his license that are reasonably related to the scope of his patent grant. Otherwise, his patent must be held invalid as a patent misuse; or the patent owner can be held in violation of the antitrust laws, subjecting him to severe penalties—including a prison sentence, heavy fines, and treble damages to those his acts have injured. The need is therefore apparent for reasonable certainty in the laws relating to patent licensing if patience are to be sure, new products and processes into maximum use and fostering innovative competition.

In the Federal Trade Commission the licensable law is so unsettled as to hamper legitimate licensing activities. This arises from diversities in holdings of our courts. Equality disturbing for the future is the unrealistic attitude of the Department of Justice, thus in part to the fact that it has not practical problems of licensing and operating under licenses. Representatives of the Anti-trust Division and those who object to the granting of new products by patent owners who engage in licensing practices well within the scope of the patent is the only purpose for which the Division considers opposed in theory to a concept of anti-trust law.

Patents, by statute, have the "attributes of personal property." The owner of personal property other than patents enjoy, among the attributes of ownership, the right of possession of all or part of his property whenever, wherever and to whomever he chooses. And on certain limited occasions, the owner is entitled to say that what he is doing is legal or even reasonable. The patent owner, in disposing of his property, must in some fashion answer a similar presumption of legality and reasonableness concerning his transactions.

The need for a new product or process is more than unwarranted. Moreover, in
most instances an arrangement that later proves an undue burden on the licensee will be adjusted for the good business reason that it is in the best interest of the product and the generation of royalties for the patent owner.

4. Royalty differential between nonexclusive licensees.

A series of court decisions in related cases have held different charges to different licensees to be a per se antitrust violation. These decisions may well turn the tables in the years to come. For example, a trend against the freedom of the patent owner to charge different royalties to different licensees. This conclusion is supported by the report of the aforementioned White House Task Force on Anti­trust Policy, on which the Department of Justice had a significant role with apparent favor. The Task Force would have each license under a patent to be on terms "neither more restrictive nor less favorable" than every other license—even though the licensees be for different products or purposes, and even though the nature of the economic activity required to perform the license may vary widely among several licensees.

5. The royalty base.

The complexities in the practice of some patents is such that it is difficult or impossible to measure the use of the patent for determining royalties. On such cases licensees agree on a royalty base and in fact decisions have been generally reasonable. Nevertheless, there is uncertainty which a clear legislative provision would cure.

6. Royalty for the package license.

Where a prospective licensee wants to do something that in its totality is covered by a number of patents, some of which may not be used all the time or which may be alternatives to others, the entire group of patents may be licensed. If the patent owner does not enter into accepting and paying for unwanted patents, antitrust problems are usually avoided. But in establishing a royalty he may encounter problems. Usually, no breakdown of royalty is made for individuals. If the patent owner has no desire to consider the economic value of the full royalty is sometimes questioned. The reduction in value of the remaining patents as each patent expires was not likely to be possible to determine fairly. If the original agreement contemplating the continuance of royalties until the last significant patent has expired was reached in arms-length bargaining without coercion, it should remain in force as the parties intended.

7. Royalty payment after expiration of patent.

A single Supreme Court decision has raised doubts in the minds of some as to the validity of a license calling for payment of royalty after expiration of the patent, but for activities carried out while the patent was alive. Installment payment of royalty is usually insisted upon by the licensor, but the patent owner does not consider his license being accepted and paying for unwanted patents, antitrust problems are usually avoided. But in establishing a royalty he may encounter problems. Usually, no breakdown of royalty is made for individuals. If the patent owner has no desire to consider the economic value of the full royalty is sometimes questioned. The reduction in value of the remaining patents as each patent expires was not likely to be possible to determine fairly. If the original agreement contemplating the continuance of royalties until the last significant patent has expired was reached in arms-length bargaining without coercion, it should remain in force as the parties intended.

8. The role of patents in innovation.

There are two distinct but important roles of patents in the innovative process once one is widely recognized and the other too often ignored. Both are embraced within the constitutional requirement that the patent system "promote the progress of useful arts." The first is the incentive to invent, or more commonly, to support inventive efforts. Of the two, inventors tend to view or invent as a reflexive response to a problem or challenge. They may have little regard for the economics of the equation of the economy of the invention but simply invent for the satisfaction of exercising their creative talents. For them the patent is a personal incentive to invent (although patents may afford the only means for bringing their inventions into use for the benefit of the public), as will be developed below.

But the oftentimes risky investment in research, development, design, manufacturing and marketing activities in the context of the innovating unit, be it an individual or corporate group, could hardly be justified if there was not a high degree of freedom to the one having the idea to use it freely copied by those having no such inventions to recover. The innovator of a marketable product needs the assurance that he can do as he wishes with his competitors a free and profitable ride on his investment in the innovation. This is what the patent system offers in return for disclosing the details of the invention in a patent—provided his invention can qualify as sufficiently inventive. This is how an invention has been done before to merit a patent.

From this limited lead time of seventeen years, some say "soon," some say "soon enough," the patent owner has an opportunity to recover his expenses, to earn a profit and possibly even to reap an invention. The only, so long as the public is satisfied his product is worth buying at the price he charges. It is the principle of exchange that justifies much investment in research and development leading to new products, new patents, new employment opportunities and genuine progress in the useful arts.

The second role of a patent ownership concerns the ability to market. At the patent's expiration, anyone can use the invention of the patent owner. The inherent public disclosure of the invention in the patent often stimulates others to invent improvements or derivatives in competition, building on ideas in the patent.

While public disclosure of the invention in the patent therefore a contribution in itself, the full range of investments made by the patent system are not realized until the patented invention is embodied in a product or service on the market. The right to exclude others from practicing an invention is hollow, indeed, both from the standpoint of the patent owner and the public, if the patent owner lacks the money, talent, organization or facilities to bring the invention to market. It is therefore essential that if the patent owner decides to market the invention he be able to use his patent to secure what he lacks in the means to market.

This is particularly important where the invention is capable of making a product or service of greatly increased value to society, within the regular field of interest or competence. In such event he needs to use his patent in a business arrangement that will give incentive to others, of course, the expert in other fields and can handle the special problems of development, manufacturing and marketing.

These two elements, the incentive to invent or support inventive efforts and the ability to market, are therefore indispensable to the full utilization of the patent for the benefit of both the public and the patent owner.

It is the purpose of this Memorandum on the Need for Legislative Clarification of the Law Relating to Patent License Provisions. In addition to outline some of the problems of patent license provisions and to suggest areas in need of legislative clarification.

THE ROLE OF PATENTS IN INNOVATION

The second role of patents in the area of patent licensing.

The contribution of patents to the area of patent licensing.

To the extent the patent owner has the exclusive right to prevent others from making, using and selling the invention claimed in the patent, he does, indeed, enjoy a monopoly—albeit a temporary one. But the temporary monopoly of the patent takes from the public, because the patent system is not a monopoly, perhaps a temporary one. But the temporary monopoly of the patent takes from the public by law only that created for the first time by the inventor.

The contribution of patents to the area of patent licensing.

In truth, however, the utilization of the temporary monopoly brings an entirely new dimension to the free competition sought by the antitrust laws. This new dimension arises from the necessity for competitors to find their own routes to successful products, a process that in its stepwise implementation brings new and better or cheaper products to the market. Indeed, the time to introduce a new innovation is often critical, and one may be the sole remaining possibility to invest in efforts to invent, than a successful, patented product in the hands of a competitor. This is the problem of an innovator—competition—or competition in value, as distinguished from price—a form of competition not foreseen by through application of any of the antitrust laws.

PATENTS, PROPHETS AND PR Practical

If the support of inventive efforts leads to the grant of a patent, or if a patent is otherwise developed by the property owner, he may then use the patent for profit. The patent may cover a manufactured article, a device or machine, a chemical compound or a process for making something, or a method for doing something. If practicable, the patent owner usually chooses to make and sell the patented product.
product himself or use the process in his own plant.

However, if in his business judgment he decides that the best opportunity for profit lies in granting licenses to others, he must proceed with the utmost care. First, he must consult with one or more persons who have their good reputations or capabilities, will bring credit to his invention. In licensing his patent, the owner, unless he is one who has with a portion of the exclusive privilege his patent gives him, and licensed activities that would otherwise lessen the value of his remaining rights under the patent, must fashion the patent license to the business situation he faces. Obviously, the arrangement must hold prospects of profit for both parties. But in taking into ac­count the business interests involved, the patent owner can properly include in the license only those provisions reasonably related to securing for him the legitimate benefits of the patent grant—which confers the right to exclude others from making, using, offering for sale, or selling the patented invention. If the license goes farther, the validity of the ar­rangement can be called into question be­cause the patent has been employed beyond its lawful scope. The patent owner has, in other words, "misused" his patent.6

5

As will be demonstrated below, the state of the decisional law is unsettled in the ex­treme. But of equal importance is the threat­ening or selling the patented invention. The recently-announced establishment of a Patent Unit within the Antitrust Division of the Department of Justice underscores con­cern over some of the policies that seem to be emerging in the patent-antitrust area.3

Indeed, our society could function without a patent law of any kind.6 As will be shown, much of the agitation from anti­trust theorists today would lead to a clear derogation of this concept. There is no dispute that a principal attri­bute of personal property is the owner's right to the benefits of ownership, use and disposi­tion. Of course, the law will impose limita­tions on the right or apply sanctions against the owner where the public is injured by the exercise of the right.7 Ownership, use and disposition which are themselves legal will not be interdicted merely because they result in illegal or undesirable con­sequences. The owner of private property enjoys, in effect, a presumption that his acts in exercising his ownership, use and disposition are legal. He does not have to demonstrate their legality or test them by a rule of reason. The presumption would be that his conduct was illegal or against the public interest is on the party asserting it. Indeed, we should have no use.8

A patent is not like a commodity that can be priced and placed on the shelf for sale, like a loaf of bread. In "merchandising" or licensing a patent, many factors must be considered, some arising from the interests of the patent owner and some from interests of the po­tential licensee. By a process of negotiation, each party represents its inter­ests and strengths in arriving at an arrange­ment satisfactory to both which is within legal bounds today and, hopefully, will re­main so for the life of the agreement.

6

The disposition of patents as personal property

An important attribute of personal property should therefore be the patent owner's right to the benefits of ownership, use and disposi­tion, and to the right to prevent any later disposition. Certainly, a normal incident of patent ownership should be the right of the owner to prevent any disposition of his own use, or (2) to dispose of all or part of it whenever, wherever, and in whatever manner he wishes — provided he might misuse it, he should not be automati­cally foreclosed from disposing of his patent on terms that are fully legally. Even one charged with a crime enjoys a legal presumption of innocence; the act of disposing of all or part of a patent right should carry no less favorable a presumption.

Nevertheless, the Department of Justice and some judicial decisions would deny the owner of patent property the same benefits and presumptions accorded owners of other forms of personal property. To implement its bias, the Department avails itself of a ready access to the courts (through bringing suits for criminal violation) in cases it selects as most potentially destructive on their facts to the licensing practices it wishes to outlaw. Moreover, the Department is utilizing other forms of attack, such as direct pressure, public announcements by Department repre­sentatives on the basis of evidence of suits, and consent decrees, to force its views on patent owners who do not wish to serve as test cases for new forms of personal property law.

What is the practical effect of this unfortu­nate situation on the patent owner trying to put his patent to work?

Footnotes at end of article.
This example illustrates a gamut of licensing problems facing today's patent owners. Company A is small and incapable of extending its market outside its home area. But the mere existence of the ability to do so is not the whole of the patent's contribution to the users of that invention, and on terms that will encourage the licensee to proceed with the development and marketing of a quality product, a significant portion of the patent grant will not be used, and therefore it is not the invention's intrinsic worth in the unlicensed fields that served by Company A.

Moreover, the right to charge different royalty rates for different uses of the invention is important because of the different relative values and sales volumes of the products involved. And if, having licensed the manufacture and sale of building switches in areas not served by Company A, it must then license its backyard competitor, a more prudent course would be to refuse to license Company A at all. If anyone else (the licensees) invests considerable money in adapting and marketing the invention, it is in the best interest of Company A to retain the exclusive right to the switch in the building field in the Los Angeles area.

Company A is small manufacturer of electrical switches based in Los Angeles. Its sales and profit margins for use in buildings in the Los Angeles area. The company owns a patent on a switch which was developed in Los Angeles. It believes the switch can be adapted for other uses but considers expansion unduly expensive. It wants to retain the exclusive right to the switch in the building field in the Los Angeles area.

In order to reach other markets, Company A decides to license the patent at a royalty level that is attractive to other users but considers expansion unduly expensive. The attorney is convinced that the business, which licenses the invention's whole or any part of the United States at the earliest possible time, with responsible financial backing and business experience, will enable the patent owner to license his patent as those of its licensees, T and (4) it has no defense of patent misuse because:

1. Field-of-use license

Company B is a large manufacturer of switch goods of many types but has limited facilities for research and development except with specific reference to adjacent supplies for its hardgoods. The company achieves a breakthrough in a chemical process and a development of a new line of materials for use with its hardgoods. It also recognizes vast possibilities for the invention in other fields foreign to its own corporate interests and capabilities. It therefore chooses to grant exclusive licenses in a number of fields of use. Several licensees invest considerable money in adapting and marketing the invention, and the corporate interests and capabilities of the patent owner, whether the owner be a large or small company, enables the patent owner to license his patent in the whole or any part of the United States at the earliest possible time, with responsible financial backing and business experience.

The word “restriction” implies an agreement with respect to the rest of the territorial scope, and no such agreement can properly be implied from the territorial license. The license for use or for sale or resale in a specified field of use or on a specified product or technological area in which the patent owner has decided to grant the license must be confined to the particular product or technological area in which the patent owner has decided to grant the license. As will be noted further below, semantics have come to mean the opposite of what they were intended to mean.

There is no assurance that an invention will be nearly proportioned in its applicable market to the relative values or interests of the patent owner, whether the owner is an individual, a small company or a large concern. The public illustrates a situation where exclusive field-of-use licenses can be the single, most effective way of expanding an invention to the fullest for the benefit of the public as well as the patent owner. In fact, the situation may be such that the operation of the patent incentive to encourage investment in innovation for, here the parties making the invention (the licensee) have no assurance of basic patent protection before they start. They can therefore commit funds more generously and undertake a more comprehensive program of development, because there is otherwise but the case.
commitments in speculative areas where he is unable to make a satisfactory evaluation on his own.

The licensee may be able to obtain a lower royalty rate in a field where the patent owner is making more sales under a patent license than under a patent claims."
laws on the theory that prices could effec-
tively be controlled by requiring such a royalty. On requirement for determination of whether the royalty here was in fact "exorbitant and Op-
pressive," as the Court of Appeals had pre-
ceded, at least in the Seventh Circuit.

Prior to the foregoing decisions the Su-
preme Court had spoken unequivocally on
the right of the patent owner to negotiate
any royalty acceptable to a licensee. In 1926
the Court said:

Conveying less than title to the patent or
part of it, the patentee may grant
totally with the leverage of the patent monop-
opoly. A thoroughly reasoned decision in the
Ninth Circuit in 1937 reached the same con-
duction, stoutly denying the right of a pa-
tent owner to set his royalty (while holding
agains him for patent misuse on other
nings): 29

to say that the mere amount of money
due and charged by a licencj
subject to judicial review would render each
and every agreement made subject to court
approval.

Where royalty is excessive the problem is
usually self-adjusting. It means simply that
the parties are not in need of the natur-
t market or underestimated the compe-
tion. Once the agreement is signed, both
parties will be in agreement. Where excessive
royalties force the selling price to uncompe-
titive levels, it would be a rare and short-
sighted party that would not be willing to
reduce the royalty in exchange for
larger sales volume and, ultimately, greater

A royalty freely agreed to by the parties
in what they initially conceive to be their
mutual interests should be left to the parties
to negotiate. If their mutual in-
terests are no longer being served. The threat
of judicial reformation of royalty provisions
or an antitrust action on the ground
that facing the Company
is paying for the privilege to use
its, without granting a license to others. (Emphasis
added.)

The selection of licensees is an important
undertaking. As indicated earlier the question of
royalties is not the sole factor in deciding the
invention, such as a poorly conceived sales approach or in-
adequate servicing of the product after sale can
cause the patent owner to set his royalties
without due regard for the patent monopoly.

Patent A has the right to grant a license
his, to some, as he chooses, without
granting a license to others. (Emphasis
added.)

3. The freely negotiated royalty

Patent owner D licensed sixteen companies
who were eager to practice the technology of
the patent. Royalty and other terms were
essentially the same for each licensee, follow-
ing hard negotiations for the first license. One
company declined to accept a license be-
cause it regarded the royalty as too high. Sev-
eral years later it began producing and
selling the patented product, and D promptly
sued for infringement. The infringer's defense
was that the patent was invalid. The infringer
force his patent because the royalty charged
licensors was so exorbitant and oppressive
as to violate the antitrust laws. The appari-
tions of an ineffective and successful licen-
ing program was placed in jeopardy.

4. Royalty differential between nonexclusive licenses

Company B produces a patented chemical
and sells it under license for air and
water processing into other products and in finished
form to individual customers for their use.
Royalty is set for each market to account for
the high volume purchases of the industrial
user and low volume purchases of the indi-
cidual customers, both in keeping with com-
petition in each field.

As in the above situation and the earlier
examples of Company A and Company B, business realities often demand different
royalty rates among licensees under the same patent.

Despite many court decisions clearly hold-
ing the patent owner entitled to any royalty
or financial arrangement he can negotiate
(on the theory that if he does not have to
license anyone), where two or more licensees
paying different royalties under the same
patent enter the picture the patent owner's
position is less certain. A judicial trend may
not or may not be indicated in the most recent
cases close to the point, but varying
leasing rates for the same patented machines
have been held to violate Section 2 of the
Sherman Act, Section 5 of the Federal Trade
Commission Act, and to be a patent
mise.4 In those cases different rentals (royalties)
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cases close to the point, but varying
leasing rates for the same patented machines
have been held to violate Section 2 of the
Sherman Act, Section 5 of the Federal Trade
Commission Act, and to be a patent
mise.4 In those cases different rentals (royalties)
were held to be effective in
ing threats from the Department of Justice,
the problem by requiring compulsory licens-
ing (different Judge) rendered four months

The selection of licensees is an important
undertaking. As indicated earlier the question of
royalties is not the sole factor in deciding the
invention, such as a poorly conceived sales approach or in-
adequate servicing of the product after sale can
cause the patent owner to set his royalties
without due regard for the patent monopoly.

Patent A has the right to grant a license
his, to some, as he chooses, without
granting a license to others. (Emphasis
added.)

3. The freely negotiated royalty

Patent owner D licensed sixteen companies
who were eager to practice the technology of
the patent. Royalty and other terms were
essentially the same for each licensee, follow-

sued for infringement. The infringer's defense
was that the patent was invalid. The infringer
force his patent because the royalty charged
licensors was so exorbitant and oppressive
as to violate the antitrust laws. The appari-
tions of an ineffective and successful licen-
ing program was placed in jeopardy.

4. Royalty differential between nonexclusive licenses

Company B produces a patented chemical
and sells it under license for air and
water processing into other products and in finished
form to individual customers for their use.
Royalty is set for each market to account for
the high volume purchases of the industrial
user and low volume purchases of the indi-
cidual customers, both in keeping with com-
petition in each field.

As in the above situation and the earlier
examples of Company A and Company B, business realities often demand different
royalty rates among licensees under the same patent.

Despite many court decisions clearly hold-
ing the patent owner entitled to any royalty
or financial arrangement he can negotiate
(on the theory that if he does not have to
license anyone), where two or more licensees
paying different royalties under the same
patent enter the picture the patent owner's
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April 8, 1970

CONGRESSIONAL RECORD—SENATE

10793

The owner of a valuable patent is theoretically in a position to coerce a potential licensee into accepting a license under other than its fair market value. It has been held that a party who seeks or voluntarily accepts a package license does not thereby implicitly waive its right to sue for patent misuse on the patent owner, but where the patent owner insists that the license include more than the package may be permissible, although ultimately this question will depend on whether the arrange-ments are held to be per se violations of the antitrust laws or subject to a rule of reason. Fairly clear and objective criteria have thus been spelled out for determining the legality of a package license.

But the second aspect of package licensing is more troublesome. Given the judicial approval for voluntary package licensing and the business realities leading to the practice, it would follow that a royalty established during negotiations that increases as the cumulative number of the licensed patents increases, even when the model covered by the single product is involved, a mandatory royalty may be permissible, although ultimately this question will depend on whether the arrangement is held to be per se violations of the antitrust laws or subject to a rule of reason. Clear and objective criteria have thus been spelled out for determining the legality of a package license.

The division of the invention between the various licensed patents, where all relate to the same product or product line or process, is often, for the administrative convenience of the Patent Office. And the initial royalty and license are based on the total package and carries no implication of the value of the individual patents. In fact, particularly in a situation like that of the case of Municipality G exemplified above, it is manifestly impossible to assign such values. Moreover, in many cases, the patents cover alterable same thing, or features that are mutually exclusive and cannot be used together in a single product. The problem of royalties does not become acute until some of the patents in the package begin to expire. At that time, assuming the royalty license agreement under which more of the patents in the original package should the royalties be reduced as each patent expired? Should a single royalty be paid? If no, the licensor guilty of extending the monopoly of the expired patents?

The courts are in conflict. In the Third and Sixth Circuits the same practice has been held a patent misuse. The pragmatic effect of the diversity of opinions in the courts leaves the patent owner defenseless against the prospective licensee who negotiates a royalty for a group of patents when he really wants access to only one. After negotiating for the package, he then asks for a license under a single patent. The only way to make the royalty in the original package that is being used remains unexpired.

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CONGRESSIONAL RECORD — SENATE
April 8, 1970

FEDERAL PAY LEGISLATION

The Senate continued with the consideration of the bill (S. 3690) to increase the rates of Federal employees.

Mr. McGEE. Mr. President, I send to the desk a series of amendments to the bill to provide for purely technical corrections as reported. I ask unanimous consent that these perfecting amendments be agreed to.

THE PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 2, lines 15 and 16, strike out "and rules for the payment of retroactive compensation."

On page 2, line 20, strike out "(1) in" and insert in lieu thereof "in (1) ."

On page 3, between lines 22 and 23, insert the following new subsection:

"(d) (1) Notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 661), the rates of pay of officers and employees of the United States Government and of the municipal government of the District of Columbia whose rates of pay are fixed by administrative action pursuant to law and are not otherwise increased by this section are hereby authorized to be increased by the agencies employing such officers and employees by amounts not to exceed the increases provided by this section for corresponding rates of pay in the appropriate schedule or scale of pay."

On page 4, line 1, after "under", insert "section 2(a) ."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming (Mr. Slade)? The Chair hears none, and the amendments are agreed to.

Mr. McGEE. Mr. President, I ask unanimous consent that the bill be printed at this point in the Recoao a series of pay scales reflecting the increases made by this bill and the various statutory system.

There being no objection, the material was ordered to be printed in the Recoao, as follows:

GENERAL SCHEDULE—ANNUAL RATES AND STEPS

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### CONGRESSIONAL RECORD — SENATE

#### POSTAL FIELD SERVICE — SENATE

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#### RURAL CARRIER SCHEDULE

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#### VETERANS' ADMINISTRATION, DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES

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#### FOREIGN SERVICE SCHEDULE

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Mr. McGee, Mr. President, it does not seem necessary to dwell at great length on this bill. All of us have been living with it—the circumstances that produce its requirements and the details that are embodied in its language.

To put it very quickly and to the point, this is a clear, unencumbered 6 percent pay increase retroactive to last December 27, 1969.

In the terminology of negotiations by the administration and the postal unions during the recent impasse over postal matters, the 6 percent would apply to all Federal employees, not just the postal employees alone.

The Senate will recall that during the critical days of the crisis, the Senate and the House conferences laid down two criteria.

Those two criteria sent to the negotiators were first, that any pay adjustment must be across the board in the retroactive sense for all Federal classified as well as postal employees; and second, that it be made retroactive to not later than January 1, 1970.

These two conditions were followed and this bill reflects the sense of the Senate Post Office and Civil Service Com-
mittee which voted unanimously on these terms.

We held a 1-day hearing on the terms to make sure that we did not misunderstand each other, either downtown, in the Post Office, with the negotiating unions, or here in the Senate of the United States.

Postmaster General Blount, and the Assistant Director of the Bureau of the Budget both confirmed that there are no stipulations in the bill. It is not tied to postal reorganization or any other factor with respect to postal legislation.

There are no conditions with respect to its financing tied to any subsequent legislation. Both spokesmen for the administration made it very clear that the funds necessary for the paying of the retroactive 6 percent would be obtained from existing funds, first, by taking $1.2 billion out of the surplus currently scheduled in the budget report of the President and, second, by stepping up the scheduled collection for gift, estate, and inheritance taxes.

The President is satisfied that this will be sufficient to cover this segment of the increase.

Mr. President, I stress again, that this is tied in no way to anything down the road ahead of us in regard to postal reorganization. That is completely separate.

We are waiting now for recommendations of the President. But those are yet to come.

There is no relevance between those and the particular legislation.

In this context, the Senate committee added three provisions to the bill that were not negotiated or negotiable really by the negotiators themselves.

One of these clauses into the formula the legislative employees on both sides of the Hill.

The reason for that was that we felt that even though they were left out at Christmas time, the sheer cost of living increases require that it is certainly warranted now.

This addition of the Hill employees in combination with a price tag by $6.8 million. That is $6.8 million in a total bill that the President tells us will cost $2.5 billion for a full fiscal year.

Thus, we fell in the light of the sweep of this measure that it would be a serious mistake and a great inequity to leave out the legislative employees here on Capitol Hill.

The second inclusion in the bill is to correct an oversight for staff employees of living ex-presidents, former President, and former President Harry Truman.

The cost of correcting this oversight is $16,000 in each case.

It is not retroactive. It simply corrects the law from this date. It means that a former President, for his five employees, will now get $66,000 a year rather than $80,000 a year.

The last category that we have added to the bill, and we did this after carefully weighing the judgment of the Senate in an earlier act, is to add the judges of the District of Columbia and the new pay scale that was intended to be theirs a year ago.

Again, through error they were inadvertently omitted from the original 1967 pay authorisation. We debated this at great length in this body, I think my friend from Wyoming, Mr. Young, was discussing its implications at that time as well as the distinguished Senator from Ohio (Mr. Young).

In any case, because it was passed by the Senate unanimously at that time, and there is now a bill in the House of Representatives. But, we felt it was the better to restore these district judges to the intent of the Senate’s action, in 1967, and this is included in the bill.

Those are the three additions to the bill that the committee voted on, without a single dissenting vote on any issue. It was the unanimous conviction of all that the time for this action was long overdue.

We likewise were mindful of a kind of sense of urgency here because of the strains of the recent impact on the Nation’s workfront. Therefore, this committee moved expeditiously and with dispatch in order that we might as quickly as possible in its judgment, is a very sound, fair, and equitable retroactive pay adjustment measure.

Mr. BYRD of Virginia and Mr. FONG addressed the Chair.

Mr. McGEER, Mr. President, I yield briefly to the Senator from Virginia and then I shall yield to the Senator from Hawaii.

The PRESIDING OFFICER (Mr. SCHWEIKER). The Senator from Virginia is recognized.

Mr. BYRD of Virginia. I thank the Senator. My question is purely for information. I have received mail from time to time asking what benefits ex-presidents receive. I judge from the Senator’s comment a moment ago that each ex-President is permitted five employees and that under the new bill the total compensation will be $86,000.

Mr. McGEER. $96,000.

Mr. BYRD of Virginia. I am wondering what other benefits, if any, former Presidents enjoy.

Mr. McGEER, I cannot answer that question completely at this time. They get a $25,000 pension. They have an office. It is beyond that which is in the jurisdiction in this case, and that is the clerk-hire funds, which take care of a former President. I am sure he gets other allowances but I am not fully aware as to the substance of all of those allowances.

Mr. FONG. Mr. President, I rise to support S. 3690, a bill to increase the pay of Federal employees. As the clotilla set I would like to commend the distinguished senior Senator from Wyoming for the prompt reporting of this bill to the Senate with leadership in seeing that our Federal employees receive fair compensation for work given to the Federal Government.

I would like also to associate myself with the very fine remarks made by the distinguished Senator on the bill.

The Senate will recall that on December 12 of last year it passed a Federal pay bill from R. 13000, that would have brought Federal employee salaries up to comparability in two stages—the first stage with a maximum of 4 percent for lower-salaried employees effective January 1, 1970 and the second stage, coming on July 1, 1970. Unfortunately, that bill has languished in a House-Senate conference ever since Senate passage.

Today, with the administration’s strongest endorsement, we are asking the Senate to consider another pay bill in lieu of H.R. 13000. I sincerely believe this new bill is much fairer to all Federal employees.

The basic provisions of S. 3690 were agreed to last week by administration and postal employee representatives. It provides a 6 percent across-the-board salary increase for Federal employees paid under all of the statutory salary systems—namely, postal field service, the general schedule of classified civil service, the Department of Medicine and Surgery in the Veterans’ Administration and the Foreign Service. It also includes employees paid under other salary systems except wage board employees in the legislative, executive, and judicial branches of the Government. The 6 percent increase would also apply to military personnel under provisions of Public Law 90–209.

Passed by this bill will be approximately 2.1 million Federal civilian employees. Also, because of the provision in Public Law 90–607 all of the 3.2 million postal and military personnel will receive an increase comparable to those in the Federal general schedule employees. Because this pay increase will be effective only for the last half of fiscal year 1970 we may pass it for 1970 which means Federal civilian employees and $400,000–000 for the military. The full year cost in fiscal 1971 will be approximately $2.5 billion—$1.3 billion for the civilian pay roll and $1.2 billion for the military.

Presently, the annual Federal payroll for all 6,500,000 Federal employees—civilian white collar and blue collar and the military—total approximately $48 billion.

The Federal Government, during the 11 years that I have been in the Senate, has been under a very heavy handicap since 1960, Congress has enacted four different Federal pay laws. The percentage pay increases for general scheduled employees in each of the applicable years were: 1960, 7.5 percent; 1962, 5.5 percent; 1964, 4.1 percent; 1965, 4.69 percent; 1966, 4.21 percent; 1967, 5.27 percent; 1968, 7.18 percent and, in 1969, 7.7 percent. Postal employees in several years received higher salary increases and last year received a lesser percentage increase. The total average salary increase received by Federal employees since 1960 was approximately 45.9 percent.

These increases were made to keep Federal employees salary comparable with salaries paid in private industry. The facts are these: One has to show that the Congress has tried to live up to its responsibility and pledge to give Federal employees comparability with their counterparts in private industry and to show that the BLS, which has made the survey, did not correctly figure the basis for this 6 percent was the comparability survey conducted by the Bureau of Labor Statistics in early 1969. That survey showed that
April 8, 1970

CONGRESSIONAL RECORD—SENATE 10797

as of June 1969. Federal employee salaries were lagging approximately 5.76 percent behind those of private industry. I believe also that in the talks between the administration negotiators and those of the postal employees consideration was given to the fact that the retroactive date of December 27, 1969, was 6 months behind the date of 1962 when private industry salaries had increased during those ensuing months. The December 27, 1969 date was a compromise with which the administration could live in its budgetary computations and with which Congress, by December 1969, is very fair both as to amount and effective date.

I shall only briefly recall for the Senate the fact that in 1962 the Congress went on record as setting the primary guiding principle for Federal salaries to be comparability with private industry. This principle was adopted to stem the loss of high-skilled Federal workers to private industry and to also attract promising young people to careers in the Federal service.

Although Federal salaries continue of necessity to follow by a few months those paid in private industry the purposes for which the comparability principle was adopted remain real.

My experiences with Federal employees have completely justified the salary increases which have been enacted since adoption of the comparability principle in 1962. These increases have helped in the recruitment and retention of our loyal, dedicated, and intelligent Federal employees.

The 6-percent pay increase for these employees which I am strongly supporting will continue to help in this flight to obtain and keep the hundreds of thousands of Federal workers necessary to keep the wheels of this Government working in all 50 States, here in Washington and throughout the world where the Government is represented.

The 6-percent pay increase your Committee on Post Office and Civil Service recommends to the Senate by a unanimous vote is consistent with the comparability principle which has taken place here on this day in April 1970. It reflects a long-term commitment, a long-range obligation, and a breakthrough in terms of coming to grips with the matter of comparability.

Most important, the fact that it was negotiated at all is the significant breakthrough in a new procedure at the Federal Government level—that of collective bargaining. If it works—and it is my hope that it may have, indeed, an effective and tough new formula for resolving future labor-management difficulties at the Federal Government level.

So again I commend my colleague from Hawaii for his patience and uniring efforts.

Mr. FONG. I thank the Senator from Wyoming for his very kind words. It was due to his leadership that we were able to produce the bill presently before the Senate. Several weeks ago we went into conference with Members of the House on H.R. 12000. The House conference was intent on pushing a salary bill through. Because of the very strong position taken by the Senator from Wyoming the Senate conference decided to insist that the conference wait until the negotiators representing the postal unions and the administration arrived at a conclusion before proceeding further.

It was because we waited until the negotiators reached an agreement that we have this bill giving all Federal employees a 6-percent increase retroactive to December 27, 1969.

It was due to the fine leadership of the Senator from Wyoming that we have this bill today. I commend him for his very fine leadership in the Committee on Post Office and Civil Service.

Mr. Elender. Mr. President, I wish to commend the chairman of the Committee on Post Office and Civil Service (Mr. McGee) and the ranking minority member of that committee (Mr. Fong). I think it is important to indicate that all members of the committee voted affirmatively on rollcall, to report this legislation to the Senate.

This measure is an important step in our efforts to provide needed salary increases for all Government employees. Our committee has moved expeditiously and I believe also that the first phase of the negotiated agreement between the administration and the postal unions can be implemented.

I wish the Record to reflect that even though we are covering increases in several categories of Federal employees, I feel strongly that certain employees at the lower pay scales, I use as an example the letter carriers who have had a beginning salary of $6,176, and who will now, under this measure if it becomes law, receive an annual starting salary of $6,548—are entitled to more. Within the very near future we must give attention to a restructing of these lower pay scales.

I believe that is an inadequate salary. Even with the approximately $400 increase, it is a salary which will not permit the letter carriers or other postal employees in that salary level to rear their families and educate their children and to maintain a moderate standard of living.

I realize the cost of the legislation is substantial. I am conscious also of the desire of the administration and of the unions themselves and the Committee on Post Office and Civil Service to arrive at some agreement which would be acceptable to all parties. It is my belief that the Senate should act affirmatively on this measure.

Mr. Curtis. Mr. President, will the Senator yield to me?

Mr. RANDOLPH. I yield.

Mr. Curtis. What is the total annual cost of this bill on a full-year basis?

Mr. RANDOLPH. I believe it is approximately $2.5 billion on an annual cost basis.

Mr. Elender. Mr. President, that includes the military.

Mr. RANDOLPH. That includes the military.

Mr. Curtis. Will the Senator break those figures down as to postal and other civil service workers and the military, approximately?

Mr. McGee. Mr. President, the Senator from Hawaii just did that. Perhaps the Senator could yield to the Senator from Hawaii so he could give that information to the Senator from Hawaii.

Mr. RANDOLPH. It is $372 million for the postal workers, about $900 million for the other civil service workers, and about $1.2 billion for the military.

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

Mr. RANDOLPH. I yield.

Mr. ELENDER. I thought this bill applied to postal employees only. When were the others included? I regret that I was not present when the debate on the pending bill started. I have been holding hearings. I would like to know what employees are covered in the bill, aside from the postal employees.

Mr. RANDOLPH. Mr. President, I will ask the chairman to respond to our able colleague, but before doing so, and because I desire to take my chair or really leave the floor, because, after the Cornwall nomination vote I remained here to handle the resolution relating to the rail strike for the Senator from New York, and I am sure the committee have concluded, I want to reemphasize strongly that the salary which is in the category of that of the letter carriers, as I have indicated—and I believe also that the postal pay of $6,548, which is approximately $400 more than the present pay—is inadequate.
I repeat, for a good citizen who is capable, it is inadequate for that citizen to keep himself, to have his family, to educate his children, and to participate in acts of citizenship other than just the doing of his job.

He must be more than a person who, even though he has contact with the public in the category of the letter carrier, a man who just goes to work in the morning and comes home at night, and tries to live within that salary that he must, for all intents and purposes be a public worker in the category of the letter carrier.

Mr. ELLENDER. I hope that the chairman of the committee and all the members of the committee, at least in degree, agree with me that it is not enough to talk about comparability, although I understand comparability. It is not enough just to discuss formulas. It is important that we realize that we are dealing with a figure which I have stated as the very low income which is now paid to Federal employees up to their equivalents of 1962.

Mr. McGEE. That would apply to all committee employees automatically?

Mr. ELLENDER. But insofar as the legislative employees on the Hill, on both sides, the national debt has increased $3 billion since that date, and here we are with a bill to raise the salaries of all Government employees across the board. And it does not end there. $2.5 billion is the amount which will be added to the retirement costs, under a system that is not funded. It is sheerest irresponsibility.

As I say, I shall offer an amendment that will confine this bill to the postal service. I shall not support the military a pay increase. Within the last 20 minutes, a lady from Nebraska left my office. She had been called to Washington to receive the Medal of Honor that her son was not here any April 8, 1970.
Mr. President, this is wartime. We are going farther and farther in debt every day. If anybody working for the Government goes on strike, he has to sacrifice to save this country from collapse, he has a remedy. He has the right of resignation.

Mr. President, I do not deny that there are perhaps people under the ordinary civil service, who need a pay raise. This is not a selective pay raise. We are operating under a deficit. We are in war. If a pay raise is to be considered at all, it should be a selective one to take care of those situations in which the pay is not enough for the people to live respectably, and that is where it should end.

I am astounded at what has happened since these men went on strike in New York. I pick up the paper and I read that George Meany has settled the pay raise schedules. Where is the great Senate of the United States? Where is Congress? Are we mice or are we men? The Constitution says that Congress shall establish post offices and post roads, and that means that we must take the responsibility for carrying out the service.

No one had a right to enter into an agreement and bind Congress. We are establishing a precedent here that we will live to regret. All that has to be done is to pick out some segment of Government employees, have them go on strike, and all the rest will get a free ride, and our own staffs will enjoy a pay raise of $1,000 to $1,800.

I am not impressed about the arguments of comparability. There is one basic fact that has been brought to my mind. We do not have the courage to tax the people to pay the bills for the day-to-day operation of this Government. I said these things with respect to the last tax bill. We were faced with inflation and all sorts of problems. I thought that the surtax should be extended and that the investment credit should end, and that if we could finance it, we would not have to take the failure of that bill. We do not have the courage to tax the people to pay the bills for the day-to-day operation of this Government.

I know that what I am saying here will be disappointing in many bureaus and agencies. I know that those people will remember. I also know that the people back home are working so hard, to pay their expenses and their taxes that they probably will not remember it. But I have to live with myself.

Mr. President, I send an amendment to the desk, and I ask for the yeas and nays on it.

The yeas and nays were ordered.

The assistant legislative clerk proceeded to count them.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I already have explained what it would do.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Journal.

The amendment is as follows:

On page 1, line 3, strike out "Federal" and insert in lieu thereof "Postal".

On page 2, strike out line 1 through 11 and insert in lieu thereof:

(3) Schedules referred to in paragraph (1) of this subsection are as follows: The Postal Field Service Schedule and the Rural Carrier Schedule contained in sections 3542 (a) and 3884a, respectively, of title 39, United States Code.

On page 2, beginning with line 23, strike out through line 26 and insert in lieu thereof:

"This was passed by a vote of the Senate and was inserted in lieu thereof: "Sec. 4."

On page 3, line 23, strike out "Sec. 4."

On line 1, strike out "section 3533 of title 5, United States Code, or."

On page 4, line 23, strike out "Sec. 5." and insert in lieu thereof "Sec. 4."

On page 4, line 23, strike out "or" in line 25 strike out through "Columbia" in line 1 on page 5.

On page 5, lines 5 and 6, strike out "or the municipal government of the District of Columbia."

On page 6, strike out lines 7 through 22.

On page 6, line 23, strike out "Sec. 8." and insert in lieu thereof "Sec. 5."

On page 6, in lines 23 and 24, strike out "other than under such section".

Amend the title so as to read: "A bill to increase the pay of Postal employees."

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

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

Mr. CURTIS. Mr. President, I thank the Senator from Nebraska for yielding to me for a comment or two about his very thoughtful remarks.

He has properly dwelt upon the implication present in the minds of some that some kind of action was taken in the negotiations downtown that binds Congress. I want to assure the Senator that no action was taken that binds Congress. Congress first, in the appropriate committees, decided that one of the new ways to achieve management-labor settlements without strikes at the Government level was to set up free and unfettered collective bargaining processes. We thought this was as good a way to approach it. This was undertaken.

We set forth the two basic conditions under which those negotiations should be proceeded. One was to pay the Federal workers who had a much larger pay increase, which would have cost a great deal more, and they did not know how they would finance it. The administration felt they could finance the smaller Senate bill. When that fell by the wayside, due to a great many other developments—it had nothing to do with what happened—we were confronted by this crisis; and in cooperation with the administration, we have tried to work out a modest adjustment with which the administration can live and yet which approaches equity.

Mr. CURTIS. May I ask the Senator a question?

Mr. McGEE. Yes.

Mr. CURTIS. The lettercarriers in the great cities aroused sympathy all over the country. What is going to be their annual increase in pay?

Mr. McGEE. Under the bill, it would be $375 a year.

Mr. CURTIS. Employees of the Senate will get up to $1,800. That is not a great deal of increase. This was the adjustment which has taken advantage of the situation in the Post Office where some people went on strike where they should not have gone.
strike circumstance. It was negotiated in an effort to try to head off massive strikes. The one group that did not strike or walk off in any form was the Federal employees. They, too, had been granted the across-the-board pay adjustment last December in the Senate's pay bill. The committee unanimously felt that it would be wrong if we had gone the route of proposing and just pay the postals retroactively who were involved, some of them, in the walkouts; whereas those who played the game under the law got the same allowance at that time.

Mr. CURTIS. You will continue to pay these people who violated the law? You are going to give them a raise on? Is that what you are going to do?

Mr. McGEE. I am saying that the unions who had trouble in the walkouts and the other sympathetic walkouts, and so forth, which got out of hand—

Mr. CURTIS. I am asking the Senator, if that Government employee who violated the law and went on strike is going to get the same pay raise?

Mr. McGEE. The administration wrote in the negotiations in return for other concessions an amnesty for those our on strike. That was the negotiators' declination.

Mr. CURTIS. The negotiators are not voting on this bill today. I am asking the committee, are you keeping on the payroll all the strikers and giving them a pay raise?

Mr. McGEE. They are not on our payroll. They are on the payroll of the Post Office Department. We are not touching them.

Mr. CURTIS. But we have charge of the purse strings. We are charged with operating the postal service. My question is, Are you going to keep the strikers on the payroll and reward them with a pay raise?

Mr. McGEE. We have left that judgment to the Postmaster General and the personnel administrators downtown. We are respecting the negotiated settlement. It was a fair settlement. It was not one-sided. It was a giving and a taking on both sides.

Mr. CURTIS. Was anyone there to represent the people? They have to pay the bill. Here is the thing, as was mentioned, our debt has gone up $8 billion since the Congress reduced taxes. We are all having to tell our impacted school districts that they cannot have any money. One school district that has an enrollment of 80 percent of children of the military in my State is closing. We are informing other people that there is no money because of a financial crisis. And here, this great committee—I have a profound respect for every individual on that committee. Mr. McGEE. I gathered that. Mr. CURTIS. I think the Senator is making a terrible mistake. What I mean is, there is nothing personal about it. I respect the Senator's views, but I think he is making a mistake in bringing in a bill that will raise the salaries as much as $1,800 a year.

I do not defend their actions in striking but, as I understand it, we give them a $375 a year raise. Is that correct?

Mr. McGEE. The Senator's bill would reward those who went out on strike. This bill rewards all Federal employees, including those who obeyed the law. Mr. CURTIS. The Senator is not correct at all. All I do is strike from the bill some of the provisions in the bill. I strike out everything but the postal service because there appears to be an emergency.

Mr. CURTIS. Certainly not on Capitol Hill. Mr. McGEE. Our hearings on the classified employees showed that the classified employees were at least as deeply involved at the poverty level as were the postals. Our attempt is not to discriminate or select out for that. This is an adjustment in the cost of living, not a reward for better service. The Bureau of Labor Statistics made it clear in its testimony that last July 1, everyone in public service in the Federal Government needed a 6.7 percent salary adjustment to keep even with the rising cost of living—just even. That was last July 1.

Mr. CURTIS. How about the people back home? How much do they need?

Mr. McGEE. This is an attempt to equate their salaries with those in the private sector back home.

Mr. CURTIS. It is a poor equation.

Mr. McGEE. It may be, and the Senator may be right in saying that. We have done the best we can from the statistics provided us by the Labor Department.

Mr. CURTIS. Why do they not tie it to the agricultural price index?

Mr. McGEE. The Senator will have to ask the Bureau of Labor Statistics that. We are not quarreling with that. We have made sure that we came out with something that was fair and not wild, and something that would not put the President in a serious situation. They are agreed on that here.

Mr. COTTON. Mr. President, who has the floor?

Mr. McGEE. The Senator from Nebraska has the floor.

Mr. COTTON. I have been asking the Senator to yield.

Mr. CURTIS. I am happy to yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I would like to say to the Senator from Nebraska that there is much merit in his proposal and I would support it if he would add just one more proviso. That proviso is that for the period of 1 year, beginning July 1, the next fiscal year, congressional salaries shall be suspended 25 percent for that 1 year period.

I believe that the postal employees are entitled to a substantial raise. I regret what they did, but I also think of the untold thousands who did not strike and who were true to their obligations to their oath.

However, I think that the employees in our various offices are getting enough. I would go along with the distinguished Senator from Nebraska in saying that they should not share in this increase. I am bound to say that I think that those who work for the committees and in other capacities on the Hill do not need another raise at this time.

I am asking the Senator in saying that we would be wise not to vote for an increase across the board through the whole government.

The finest example we could set for the people of this country and for the great unions of this country would be to say that we recognize that what the Senator from Nebraska just a moment ago said with such eloquence that we are at war and that we must make sacrifices. The Congress of the United States, in my opinion, is not receiving a cent more salary than the responsibilities of this office. Just, but the Congress of the United States, if you will, the Congress of the United States, is willing to suspend 25 percent, one-fourth, of their salaries and let that money go back to the Treasury.

If we were willing to do this, we could very well then do exactly what the Senator from Nebraska suggests. We could go into a sweeping bill to stop everyone including those in the private sector back home. And we could do only what is vitally necessary and be firm and say no to the other.

I think Congress should be given an opportunity to say, "We are going to limit expenditures and the constant jumping of salaries throughout the Government, and we are going to show our decency and our good faith by being the first to make the sacrifice."

And when the time comes, our salaries can be restored. We can give raises if we have finished the war in Vietnam and if we have stopped the demands on this Government and checked the fever of inflation.

Mr. President, I make this as a perfectly serious proposal. I wish the Senator from Nebraska would include that in his amendment. If he is willing to do that, I will be willing to vote for his amendment. If he does not, then I cannot support him.

Mr. CURTIS. Mr. President, if I may report that, my all sides on that score.

The distinguished Senator from New Hampshire would be perfectly in order to attach the amendment he proposes to the bill at any point. If he does, I shall vote for it. I will help him get a rollover vote. I voted against the pay raise on two or three rollcalls. I voted against the financing of that nefarious commission that started all this mischief. I voted against a continuation of that commission which will hound us again 4 years from now.

However, I will still vote for the Senator's measure. There is no particular reason why it needs to be added to my amendment. And I would have no objection if he were to add it. I would vote for it.

Mr. COTTON. Mr. President, the Senator knows perfectly well that if such an amendment were added by the Senator from New Hampshire by itself that it would have no chance of passing whatsoever.

The Senator knows perfectly well that he is offering an amendment that would save a great deal of money for this Gov-
cost of operating the Government. I make the same statement now, that we are following the same accounting system under this bill, for this reason: It is wrong. It is time that we started to tell the American people the truth about our huge deficits which are causing the inflation in this country. That is why these postal employees and others have a hard job to meet the cost of living. It is because we, in Congress, are spending far more than is being taken in. We are not telling the truth. Congress has passed a bill which was labeled "Truth in Packaging and Lending." I hope some day we get a little more truth in government.

The time is long past due when Congress should recognize that we cannot spend this Government into prosperity on borrowed money any more successfully than can a drunkard drink himself sober.

Mr. CURTIS. Mr. President, I thank the distinguished Senator. I would like to have the attention of the manager of the bill as well as every other Senator, because I am about to make a unanimous-consent request that, in effect, is my amendment. I want to be very candid about it.

I took the floor before the amendment was drawn. I asked for an amendment that would limit the pay raise to the postal workers and the military. The copy of the amendment which I sent to the desk would have not preserved the pay raise for the military. The copy that I hold in my hand, the one which the Senator has offered such an amendment, is correct. And I hope that he inadvertently omitted the military.

Mr. CURTIS. That is correct.

Mr. CURTIS. Mr. President, I thank the distinguished Senator. I understand the manner of the amendment he has offered. If we did it in that way and took our own temporary cut, I believe it would do a great deal to help us in the weeks and months ahead.

Mr. WILLIAMS of Delaware. Perhaps I do not have the figures. It should be pointed out that on March 26 our Government reported making a loss of $377 billion ceiling. On that date our national debt was $13.25 billion higher than it was a year ago on that same date. I refer to that date because while this report came out yesterday there is a 2-week delay in receiving the report.

Mr. CURTIS. Mr. President, I suggest that the amount was about $3 billion greater than when we passed the tax relief bill. Is that correct?

Mr. WILLIAMS of Delaware. Perhaps if we can foresee, our debt this fiscal year will be from $8 billion to $10 billion higher than it was a year ago. We are spending at $800 million a month, on a 12-month average.

We hear much talk about surpluses. The only reason we hear about surpluses is that people who make references to surpluses are counting trust funds as normal revenue of the Government. The railroad retirement fund is counted in order to give an imaginary surplus. The civil service retirement fund is counted also. The social security trust fund is included and that fund is composed in its entirety of taxes from the employee and the employer. It consists of not a dime of Government money and not a dime can be spent by the Congress or the President working together to pay the normal operating costs of our Government. We are trustees only. However, the accumulations in those trust funds are counted as though they were normal revenue, and I urge the President to report to the people an imaginary surplus.

When this practice was started by President Johnson, I said it was done for one purpose and that purpose was to deceive the American people as to the true

salary range, above which there would be no increase? An increase for those receiving up to $30,000 and $35,000 is uncalled for. But to propose an increase in the increase in Senate salaries.

Mr. CURTIS. I feel whatever is done in connection with civil service should be done in another bill, and it should be selective. This bill, by the only circumstances, had to be reported. About the only way the Senator from Nebraska could do anything was to strike out the general civil service.

To be frank with the Senator, if my amendment were adopted, it would not limit the pay raise to the lower paid in the postal service. I would favor such a thing, but under the rush circumstances in which we are proceeding, I have not been able to work out such a scale. It cannot be chopped off. It has to be worked out carefully.

Mr. FULBRIGHT. I am interested in a bill that would include those persons receiving under $25,000. They are the ones who are suffering the most and the most deserving are those who receive around $6,000, $8,000, $10,000. That is where the case was made, and that is why I hope that the amendment in connection with this bill. I think we made a mistake under the philosophy on which we raised our own salaries. Until the war is over, we owe it to everyone to deny raises in good faith that level.

Mr. CURTIS. Mr. President, may I have a ruling on my request?

The PRESIDENT. Is there objection to the amendment of the Senator from Nebraska? The Chair hears no objection, and it is so ordered.

The amendment of Mr. CURTIS as modified, is as follows:

On page 1, line 5, strike out "Federal" and insert in lieu thereof "Postal".

On page 2, strike out lines 1 through 11 and insert in lieu thereof:

(2) Schedules referred to in paragraph (1) of this subsection are as follows: The Postal Rate Schedule, the Postal Service Rate Schedule, the Field Service Schedule and the Rural Carrier Schedule contained in sections 3542 (a) and 3548 (a), respectively, of title 39, United States Code.

On page 3, beginning with line 23, strike out through line 24 on page 3.

On page 3, line 25, strike out "Sec. 4" and insert in lieu thereof "Sec. 3".

On page 4, lines 2 and 3, strike out "section 5335 of title 5, United States Code, or"

On page 4, line 22, strike out "Sec. 5" and insert in lieu thereof "Sec. 4".

On page 4, beginning with "or" in line 25 strike out through "Columbia" in line 1 on page 5.

On page 5, lines 5 and 6, strike out "or the Municipal Government of the District of Columbia".

On page 6, strike out lines 7 through 22.

On page 6, line 23, strike out "Sec. 8" and insert in lieu thereof "Sec. 5".

On page 6, in lines 23 and 24, strike out "other than section 5332 of title 5, United States Code, or"

On page 7, in lines 1 and 2, strike out "other than under such section."

As the end of the bill add the following new section:

Sec. 6. Any reference in section 8 of the Act of December 16, 1968 (72 Stat. 207) to the General Schedule contained in section 3532 of title 5 United States Code, is considered as including the Postal Service Rate Schedule contained in section 3542 of title 39 United States Code.

Amend the title so as to read: "A bill to increase the pay of postal employees."
Mr. FULBRIGHT. Mr. President, will the Senator yield so that I may ask another question.

Mr. CURTIS. I yield.

Mr. FULBRIGHT. Why cannot the Senator incorporate into his proposal a level above which the increase does not apply?

Mr. CURTIS. I think it is a task that would have to be worked out by a committee. Arbitrarily, let us suppose the figure is placed at $10,000. Would we deny a raise to the man who makes $9,000? That is the sort of thing that is involved. There is involved the tapering off, and to write a workable amendment on the floor is most difficult. I have no quarrel with the objective.

Mr. FULBRIGHT. I think it is very unfortunate in view of what the Senator from Delaware has said—and he certainly knows more of us than most of us know of the statistics of our finances; I agree with what he said—it is unfortunate to again give raises in the higher brackets, just as we gave to everyone.

Mr. CURTIS. I yield the floor.

Mr. FONG. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Nebraska.

The distinguished Senator from Nebraska proposes to raise salaries just for the postal workers and for the military, leaving out 1.3 million people in the general classification program. Let me go into some history of the salary increases in general, and the reasons why the Senate and the Congress adopted the principle of comparability.

As of today, we have approximately 740,000 postal employees. Of the 740,000 postal employees, only 193,000, at the height of the strike, went out on a wildcat strike. The other 500,000 or more employees remained loyal to the Government and remained on their jobs.

Besides the 740,000 postal employees, we have 1,300,000 general schedule employees. These include those two categories, there are also 700,000 blue-collar Federal workers. The blue-collar workers have an adjustment in their salaries almost every year because, under present law, their salaries are set by local wage boards. These wage board employees receive wage increases and the reasons why the Senate and the Congress adopted the principle of comparability.

So we have approximately 3 percent of the work force in the Nation, comprising 2,800,000 Government employees, following the 67 or 65 million employees in private industry. We adopted the comparability principle because we felt Government employees' salaries should be equated with those paid in private industry.

How does the Government arrive at the principle of comparability? In the early part of each year the Bureau of Labor Statistics makes a national survey of salaries paid in private industry. Those figures are not worked on until probably June to September. The figures come to the Congress in November or December. In 1969 when the figures were gathered and the equation was worked out, the Civil Service Commission finally told the Committee on Post Office and Civil Service in December that, as of July 1, 1969, approximately 6 months before, the salaries of Federal employees were 5.7 percent behind those paid in industry.

So it was our duty, if we were to follow the comparability statute which we passed in 1962 to give those employees a 5.7-percent increase in salary. We did not do that in H.R. 13000. The Senate, in its wisdom, because of the tight financial situation, gave a 4-percent increase to all employees below the $10,000 figure, an increase of $10,000 and $15,000, 4 percent to those between $15,000 and $20,000, and 1 percent to those making $21,000. The House conferees would not accept the Senate bill.

Much has been said as to why we limited this increase to those of a certain salary, that is, those who make $8,000 or $9,000, or below. That was one of the problems that the committee worked on when we were trying to decide what we should do with salaries in the higher categories.

Because Congress would not for many years raise the salaries of those in the upper grades, the salaries were compressed. As a result of that compression, many of those who were in the higher categories were brought down to private industry. So President Johnson, in his wisdom, convened the Kappel Commission to look into executive, judicial, and legislative salaries. The conclusion was the Federal Government was losing to industry very valuable employees who were in the higher categories of pay.

Because we had in previous years given lump sum raises to all employees, we were making the salaries of those who were in the upper categories lag far behind those of industry.

Because of that situation, we adopted the principle of comparability, and we now have a very small amount as far as comparability is concerned.

So we were told by the Bureau of Labor Statistics that, as of July 1969, in almost every category in the Federal salary scale, we were 5.7 percent behind the salaries paid in industry, not only for those in the postal service but also for those in the military.

In 1967 we passed a bill, now known as Public Law 90-207, which ties military pay to that of the general schedule, and it says in substance that if there is an increase in the general schedule, there must be an equivalent increase in military pay.

The amendment which was presented by the distinguished Senator from Nebraska gives to the military, but denies to the general schedule classified employees, an increase in salary.

The BLS figures show that the classified employees in general, like the postal employees, are also behind in their salary schedules, and the amendment which has been offered here today by the distinguished Senator from Nebraska is an unfair amendment because it rewards one group of employees just because a portion of that group of employees went on strike, and does not compensate that group which was loyal to the Government.

When the conferees of the Senate and the House of Representatives met in conference to discuss the 1969 pay bill, they came out with a unanimous agreement that any pay bill should embody the following principles:

First, that a bill must give retroactivity to January 1, 1970.

Second, that if an increase was to be given, the increase must be across the board, to the postal service employees and the general schedule employees.

In conformity with guidelines set by the conference of the House Post Office and Civil Service Committee and those of the Senate Post Office and Civil Service Committee, the negotiators came out with this agreement, providing 6 percent across the board for all employees retroactive to December 27, 1969.

Mr. President, the distinguished Senator from Wyoming and I had breakfast with the President 2 weeks ago and it was the opinion of the President that this was a fair settlement, and in conformity with that feeling, the President has sent a message to Congress urging passage of a bill which would provide a 6-percent increase across the board to all Government employees, except that the agreement did not, of course, include the legislative salaries. But the committee unanimously decided that legislative employees also should be included.

When we ask for an increase in salaries for our Government employees, we are also asking for an across-the-board increase. By increasing Government employees' salaries by a few percent, it means billions of dollars. We know that every increase of 1 percent in the salaries of our Government employees means an expenditure of $424 million. Multiply $424 million by 6 percent, and you get an-
crease of approximately $2.5 billion. This is a tremendous sum. But we should not take it out on the Government employees and say, "You Government employees work for less than your counterparts in industry." We should give to our employees what is fair, and our employees are now lagging behind their counterparts in industry by at least 6 months.

In looking at the amendment offered by the distinguished Senator from Nebraska is not a fair amendment. The bill which is before the Senate is a very fine bill, a bill which has been the handiwork of the postal administrators, the administration, the President, the postal unions, and the members of the Post Office and Civil Service Committee, who have gone over it with a fine toothed comb.

I say that the amendment should be rejected.

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

Mr. FONG. I am happy to yield.

Mr. McGEE. I say this partly with tongue in cheek, but I have a new title for a senator who started a subcommittee that I probably would join me in delivering, and that is, "How to Play Post Office Without Ever Getting Kissed."

We are involved in this business for a great many weeks, and all we are getting out of it is lumps. It has been a painful as well as a painstaking process. But I echo the Senator's thought that we have come out with something fair and equitable in this regard.

I wanted to raise a point or two about the amendment of the Senator from Nebraska, which the Senator from Hawaii has already touched upon. One of them is that, as I read the amendment, first it includes the military any time we want to, without the danger that inflation will lead to a rise in costs both for the military and for the lower paid postal employees, and will be negotiating the rest of this year, on the selective process of rewarding the meritorious in terms of real need. This 6 percent was a retroactive adjustment to try to keep pace with the comparability and the cost-of-living pressures that have descended on all, regardless of what level they find themselves in.

So I hope the amendment of the Senator from Nebraska will be defeated.

Mr. GOLDWATER. Mr. President, will the Senator yield that I might ask the chairman a question?

Mr. FONG. I yield.

Mr. GOLDWATER. Is there some way the committee will not give heed to the suggestions made by the distinguished Senator from Arkansas relative to some limitation on this increase? I can understand the need of the lower paid postal employees, but I cannot understand the need of the $25,000 or $30,000, or even the $15,000 civil servant, for a 6-percent increase at this time. I would hope we could come closer to the adjustments to the area where it is really needed.

As I have said time and again, I blame, in large measure, the plight of the lower paid postal employees on their own unions, because never, during the years I was here before, did I feel that they came in with a package that represented equal pay for the postals. They are always last in line, about 2 years behind, and I think the blame can be placed upon their unions.

I would hope, because of the rapid increase in the cost of living which is continuing and not abating, the danger that this measure will add to inflation, and the danger that inflation will lead to a downright depression in this country, which will destroy the spending ability of all Americans, that we could take a look at the suggestion of the Senator from Arkansas that we place a ceiling on this increase.

I am thinking, for example, of general officers and admirals. I am thinking of our assistants, who receive very high salaries. I would say I think they are in need of a 6-percent increase, and I would hope that, either through a modification of the amendment of the Senator from Nebraska or a decision by the committee to amend the bill, this could be accomplished.

Mr. McGEE. The Senator from Arizona has made a very thoughtful pursuit of that amendment that is suggested by the Senator from Nebraska in the earlier colloquy.

I might say that the committee deliberated at that point, in terms of a good cutoff possibility might lie, or whether we had better just give a monetary adjustment across the board, let us say $75 per individual, which would thus help the lower ones most in the United States.

We got into such complications on that, in carrying it out in terms of the negotiations, that it seemed that the fallout from these discussions would make a difference to go that route.

Likewise, on that same point, the whole emphasis on the 6 percent was geared into the comparability factor. Unless there are separate negotiations unrelated to these to try to adjust other compensating factors.

I would hope that we could consider in the context in which all of this has come that the least complicated and least loaded way in terms of unfairness to individuals is still to go the 6-percent across the board on all of the levels now. We in the Senate do not have to give it to our employees. That is our decision. I did not give it to mine the last time, and I am not going to give it to those who carelessly seek to do so. It is derogative. So we do not have to go that route.

I think it is meritorious that we weigh this and that we ought to strive to come out with some kind of a package that is in the road we are trying to pick our way along right now, where we can give good consideration and real thought to some possible adjustments along the line that the Senator suggests. I just do not believe that it now, at this stage, belongs in this particular adjustment.

Mr. GOLDWATER. I can understand the Senator's reluctance to change at this late date. However, my concern—and I am not sure whether this is also the concern of the Senator from Arkansas—is expressed by the very word he has repeatedly used—"negotiation." It is against the law to strike against the Government. I have a very strong feeling that the people who strike against the Government are those who have been left behind from the Government. The Senator is talking about negotiations. If this across the board goes, this is just the beginning, in my opinion. Senator, you recognize the right of the Federal employee to strike against his Government, against the law of the United States.

We have not punished anybody for doing this. This is the opening wedge for every union in this country to demand unearned wage increases. The postal employee we are talking about has earned an increase. I do not think my administrative assistant, with all due respect to him, has earned an increase. I do not think the assistants downtown who are earning $20,000, $25,000 and $30,000 a year have earned an increase. But this is not going to stop. Working people all over this country are again demanding, as the Teamsters are demanding, unemployment funds. The onus of this is unearned price increases, and the very people we are trying to help here today are the ones who wind up behind the fence.
cost of living increase. This disturbs me greatly, and it is the prime reason why I suggested that we pay attention to what the Senator from Arkansas has suggested, that we do put this...cost of living increase to the people of this country that we are not going hog wild, that we are not bending to the pressures of George Meany and a postal union. It is a threat from other governmental unions.

I would hope, though I knew the committee has had a hard job and has worked long and quietly on this, that we would incorporate some cut-off level in this. I do not think the committee has had any demand from the higher salaried employees. Has it?

Mr. McGEE. No. We have not been lobbied by any of the higher salaried employees, that I know of. I have not been. I cannot speak for the others.

Mr. WILLIAMS of Delaware. I understand it is a deficit of approximately $40 billion to $50 billion on an actuarial basis. It is nearer $60 billion.

Mr. GOLDWATER. I am told, further, that if this bill is put by 1980, there will be no retirement for us younger people. (Laughter.)

Mr. McGEE. Last year, Congress provided a permanent formula for taking care of it. We are no longer back where we were with that problem.

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

Mr. McGEE. I yield. Mr. PASTORE. If the Senator from Arizona needs it that badly, he can have mine.

Mr. GOLDWATER. I will take it.

Mr. FONG. Did we not have a problem about 5 years ago, when we gave an increase to the lower grade postal employees and did not increase the others? We could find out that the lower grade employees were making more than the supervisors.

Mr. McGEE. The Senator is correct. In fact, it used up whatever difference there was between the lower and higher responsibilities that we had allowed for. That is why we are in trouble. There was no January 1964 pay increase for the high-level employees, because the ceiling had been reached.

Mr. FONG. And did we not find, before we enacted that raise bill, that those in the upper grades were really farther behind on comparability than those in the lower grades?

Mr. McGEE. Much farther behind. Mr. FONG. Did we not find that those in lower grades were almost comparable to those in private industry, but those in the upper grades were very far behind? Mr. McGEE. That is true.

Mr. FONG. If the increase is just given to the lower grade employees we will find that the upper grade employees will lag farther behind than they were before.

Mr. McGEE. The Senator is correct. And then they will do what was suggested in the bill proposed this afternoon; they will go out and find something else. This is what we are trying to slow down or prevent. We believe we need these adjustments and that we should those with proven merit in the leadership role.

Mr. FONG. Is that not why the Kappel Commission recommended that the salaries of Representatives, Senators, and top executive levels be increased, so that those who were just below them could have their salaries increased, and we could keep them in Government?

Mr. McGEE. That is correct. That was the whole purpose of the Kappel Commission report.

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

Mr. McGEE. I yield.

Mr. PASTORE. I think there is a great deal to be said about the fact that there are few such people as the Postal Service employees, which the employees are being excessively paid. There is no question about it. Some adjustments ought to be made. How those adjustments can be made, is the question. But, by and large, I would say that the majority of the employees of the Federal Government are either modestly paid or in many instances underpaid.

The suggestion was made here to limit an increase to those making up to $9,000. That sounds good at first blush, but that would exclude the air traffic control employees, and that would create a problem. I think that essentially the problem is money more than it is over work. I think they do a good job while they are at their posts. I do not approve of what they did, anything more than I opposed engaging in a wildcat strike against the Government. I have always said that when you strike against the Government, you strike against yourself.

When I was Governor of the State of Rhode Island, I was threatened two or three times, and I know the strong position I took at that time. You have to take a strong position and not tolerate that.

I think that here a mechanism has been adopted that in the future will be very helpful. I realize that in the process anyone could get up and point out a half dozen or perhaps more than that where certain employees are really going to receive too much money when we give them these percent increases. I am opposed to the application of that. But, by and large, I am afraid that if we begin to try to make every adjustment on the Senate floor in every particular case, it will destroy the whole purpose of the bill. That is one thing we have to consider here. I am not too happy that some people will get a 6 percent raise, but, on the other hand, that is only a handful. There is a great multitude of Federal employees who are being underpaid and they do have a grievance which has no remedy.

Mr. STEVENS. Mr. President, the point the Senator from Arizona made was adequately argued in committee. It would be recalled that President John Griner of the American Federation of Government Employees, stated that the spread of 6 percent over the existing grades would be a more equitable fashion. I am inclined to believe that it would have been the best way if we were the negotiators, but we did not negotiate. The Postmaster General and the Government Employees Union, was before the committee and explained that this was the product of the crucible of labor-management negotiations.

I commend the Senator and the ranking minority member for their efforts to make this a meaningful session. It is still going on. We still have the problem of comparability to settle; but I, for one, oppose the amendment that has been offered, and I would hope that we would be able to go ahead and have our input to the labor-management negotiations, as the Senator did during the time it was going on through the conference committee representatives, but we can also recognize that we can avoid strikes and slowdowns and give the employees a rightful representation to the union and the people who represent the Government employees.

Mr. McGEE. I want to thank the Senator from Alaska, who has been one of the hardest working members of the committee.

Mr. FULBRIGHT. Mr. President, I want to ask a question. The Senator said that his committee had considered an across-the-board raise instead of a percentage raise. That, it seems to me,
might go a good way toward meeting the observation the Senator from Arizona made, and with which I am in agreement.

Supporting us authorized a $500 across-the-board raise. That would certain not be so much out of line with those making $30,000 as with those making $8,000 or $9,000. That would amount to be about 6 percent of $8,000, or $480, I believe, which would accomplish it to some degree.

I just think it is impracticable, somehow, to use this formula at this late date. What is impracticable about authorizing a $500 raise? That would be meaningful for those who get $7,000 or $8,000. It would not be too much for the man making $30,000.

Mr. McGEE. We weighted that. It was not practical, in our judgment.

Mr. FULLBRIGHT. Why not?

Mr. McGEE. For the simple reason that the formula arrived at, of 6 percent, was to adjust to rising costs of living, and that amounted to the negotiation commission for the inequities. That is what is being talked about downtown right now. Therefore, we felt, in view of what is going on there now, that we would address ourselves to a formula that was arrived at in one of the two settlements; namely, 6 percent retroactive, and that was the reason we finally rejected the flat formula, flat sum of money, and the complications it would impose. It would throw out of whack the negotiations going on now, in terms of trying to make that adjustment downtown.

Mr. FULLBRIGHT. It seems to me that is not so simple, procedurally, as the 6 percent. We could go on and negotiate in addition to that. We assume it is, in a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a sense, just a temporary raise, to meet a

Mr. President, I have left in my amendment the raises for the postal service because we are in a situation that we have to meet. Let me say that no postal worker in the State of Nebraska struck or asserted his right to strike. I shall always praise them for that.

I have also included the military because we are in a time of war and they are sacrificing for us. Furthermore, no one in the military can resign, Mr. President, I do not want to offer an amendment against the military. As I say, they cannot resign, and they are rendering a tremendous service to our country in their sacrifices for us.

It does not mean that the door is closed to the general civil service. The committee can report a bill and take into account the fine suggestions made here. Do not be mistaken, $800 million is the first price tag. It affects fringe benefits, it affects group hospitalization costs, it affects life insurance costs, and it affects the retirement pay.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BAXLEY), the Senator from New Mexico (Mr. ERVIN), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Minnesota (Mr. MONDALE), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. FELL) is absent on a personal business.

I further announce that, if present and voting, the Senator from Nevada (Mr. BIBLE), the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senator from South Dakota (Mr. MUNDRY) is absent because of illness.

The Senator from California (Mr. MURPHY) is necessarily absent.

On this vote, the Senator from South Dakota (Mr. MUNDRY) is paired with the Senator from California (Mr. MURPHY).

If present and voting, the Senator from South Dakota would vote "yea" and the Senator from California would vote "nay."

If present and voting, the Senator from Utah (Mr. BENNETT) would vote "nay."

The result was announced — yeas 8, nays 77, as follows:

[No. 124 Leg.]

YEAS—8

Cockiner Fulbright Mansfield

Curtis Goldwater Williams, Del.

Dominick Hansen

NAYS—77

Aiken Griffin Pastore

Allan Gunney Pearce

Aliott Harris Perry

Allen Hastie Proxmire

Alvis Harter Randolph

Amitchai Hattery Sabin

Anderson Humphrey Saks

Anderson, N.C. Jackson Sakakaweya

Anderson, Ind. Jackson Scott

Andrews Johnson Smith, Maine

Andrews, N.C. Jordan, Idaho Sparkman

Baker Javits Stennis

Bedell Joseph Stevens

Birch John Stevens

Bingham Joe Stevens

Birch, Va. Jackson Strong

Blythe, Va. Jackson Symington

Boggs Jameson

Booher Johnson

Booher, N.C. Johnson

Bouma Knox

Brougher Kuchel

Brunda Kuchel

Byrd, Va. Kuchel

Byrd, W. Va. Kuchel

Cannon

Cannon, N.C.

Candido

Campbell

Cannon, Miss.

Carnahan

Carlson

Carr

Carson

Carter

Cassidy

Cashman

Cashman, Ill.

Cawthorn

Clausen

Cleary

Clay

Clayton

Coates

Coates, N.C.

Coffin

Colden

Connell

Conti

Connelly

Cook

Cook, Ohio

Cook, Ill.

Corbett

Corken

Costello

Costello, N.J.

Cottle

Cottle, Ohio

Cox

Craig

Crandall

Cranston

Creel

Cross

Crowley

Culver

Currie

Currie, N.Y.

Daly

Daly, N.Y.

Dancy

Dandridge

Daniel

Dandridge, Md.

Davern

Davies

Dawson

Day

Deane

Deaver

Debakey

DeBenedetti

Delahunt

Delano

Delano, N.Y.

Delano, Ohio

Delano, Calif.

Delano, Fla.

Demeritt

Denham

Dent

Deutsch

Dever

Dever, Wash.

Dexer

Dexter

Diamond

Diem

Diem, Ron

Dillingham

Dingell

Dixie

Dixon

Doak

Doak, N.C.

Dole

Dole, N.C.

Domino

Dornan

Donnelly

Douglas

Douglas, Ariz.

Douglas, Tex.

Douglas, Utah

Douglas, Wyo.

Dowdell

Downs

Downs, N.J.

Downs, Ohio

Doyle

Dunham

Dupont

Dykema

Dyer

Dyson

Dzhawad

Eagleton

Eby

Eastland

Eastman

Eastman, Ill.

Eastman, Ga.

Eastman, N.Y.

Eastwood

Eastwood, S.C.

Eccher

Edgerton

Edgerly

Edwards

Edwards, Conn.

Edwards, Ohio

Edwards, Pa.

Edwards, Tex.

Edwards, Wash.

Edwards, Wyo.

Edwards, N.J.

Edwards, N.Y.

Edwards, Tex.

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Edwards, Wyo.

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Edwards, Tex.

Edwards, Wash.

Edwards, Wyo.

Edwards, N.J.

Edwards, N.Y.

Edwards, Tex.

Edwards, Wash.

Edwards, Wyo.
The Senate continued with the consideration of the bill (S. 3980) to increase the pay of Federal employees, and the military I now assume which limits the increase bill.

Mr. FULBRIGHT addressed the Chair, The PRESIDING OFFICER (Mr. Eagleton). The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I have not yet drawn it up but I wish to offer an amendment to change the 6 percent which appears at line 12 on page 1 to $400, which would have the effect of giving approximately 6 percent. At $7,000 it would be $420. I am told by the staff that the cost of this proposal would be approximately the same as the current bill.

Since the Senate rejected the amendment of the Senator from Nebraska which relates to the postal service and the military, I now assume there is no possibility of restricting its application. I think it would be much wiser to strike out the 6 percent at line 12 and to insert in lieu thereof $400. That would be across the board and everyone would get $400. This would preserve the absolute relationship between all employees. It would not violate the principle we discussed a moment ago about giving 6 percent only to those up to $10,000.

No supervisor would get less than his underlings. I think this is a much more equitable way to approach it.

Furthermore, in view of the dire condition of the Federal Government, and as long as the war continues inflation will continue, and I see no prospect of it ending. I think it is the height of imprudence and unwise to engage in further substantial increases in salaries. I regret the Senate set the example in raising our own salaries. I voted against it on the same principle.

It seems to me applicable only in a relatively small number of employees of the Government. Furthermore, the Government is not comparable in the way it conducts its business to that of private enterprise.

I offer my amendment at this time.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 1, line 12, strike out 6 percent and insert in lieu thereof $400.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, the point made by the Senator from Arkansas is a very worthwhile point and we have on some occasions in the past made adjustments according to that formula.

The committee weighed very carefully this proposal, which would tamper with the negotiated formula already tortuously worked out in free collective bargaining. We felt that the benefits to be gained by going the route that the Senator proposes would have more fallout complications than would make it worthwhile.

Furthermore, the formula aggravated the problem we have been trying to work out at least since 1965, of trying to keep separate in meaningful ways which have been worked out in great detail in hearings, these classifications, which which form would cause a severe compression problem.

The Bureau of Labor Statistics informed us that, as of July 1, 1969, all Government employees salaries were 5.75 percent behind that of industry salaries. In 1962 we adopted the principles of comparability. We said that Government employees should have comparable wages with their counterparts in industry. This amendment would wreak havoc with the comparability philosophy and wreak havoc with the whole concept.

Mr. FULBRIGHT. How is comparability arrived at? Is it a computer estimate?

Mr. FONG. The Bureau of Labor Statistics makes national salary surveys and gathers information from all industry to see if the pay in private industry jobs is comparable with the same jobs in Government.

Mr. FULBRIGHT. Who says that?

Mr. FONG. The Bureau of Labor Statistics.

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

Mr. McGEE. I yield.

Mr. SYMINGTON. I ask the Senator to yield.

Mr. FULBRIGHT. Can the Senator tell us what percentage of postal employees would get as much under this amendment as they would get under the bill?

Mr. McGEE. I did not hear the last part of the Senator's question.

Mr. FULBRIGHT. What percentage of the postal employees would get as much under my amendment as they would get under the bill?

Mr. McGEE. I refer only to the postal employees.

Mr. FULBRIGHT. The postal employees only would get more.

Mr. FULBRIGHT. No. I am asking about the percentage of the postal employees. Would not a very large percentage get just as much under my amendment as they would under the bill?

Mr. McGEE. Yes.

Mr. FULBRIGHT. What percentage?

Mr. McGEE. About 95 percent.

Mr. FULBRIGHT. The 95 percent of all postal employees would get just as much under this amendment as they would get under the bill? I refer only to the postal employees.

Mr. McGEE. The postal employees only would get more.

Mr. FULBRIGHT. What the amendment does is tear down the work of the committee that has been going on for 5 years, trying to get a new salary structure that would be fair to all employees at different levels of responsibility. I just do not think this is the bill or the place or the formula on which the increase in Senate salary. So did I. A few minutes ago I was looking at the tickertape, and noted there is now a plan to build 10,000 homes in Vietnam for families of South Vietnamese military.

My distinguished colleague, Senator Eagleton, pointed out the other day that in our town of St. Louis, with 665,000 people, we built last year exactly 14 single unit houses.

It seems to me, as day after day on this floor we continue to approve all these adventures abroad, which are costing the taxpayers of the United States over $100 million a day—Europe, the Middle East, the Far East—we might give some consideration to what the problems of the people of this country are back here at home. Only last year 4s of every $100 of take-home pay in the United States was taken away from our people, all of it through inflation, most of it because of the heavy price of these ventures.

It is not about time we stopped worrying so much about the importance of babysitting and gendarmery the rest of the world, and started paying more attention to the problems of our own people here at home?

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

Mr. McGEE. I yield.

Mr. MILLER. Mr. President, I would like to ask either the manager of the bill, the Senator from Wyoming, or the Senator from Hawaii a question about comparability. As I understand the proposition before the Senate, the proposal is...
to try to take care of a problem resulting from increases in the cost of living, and for the time being a 6 percent increase would be, I think, what must be done. If we apply this 6 percent to the various scales under the comparability doctrine, naturally we can expect that some of the higher-paid employees are going to have more than a $400 increase, because they had more than a $400 increase in their cost of living. If we confined, I think, it is going to have an impact upon the philosophy or the doctrine of comparability which is supposed to be supported by the cost-of-living increase. I ask if this is not what we are really deciding.

Mr. McGEE. That is precisely the point. That is what is jeopardizing the law passed in 1962. The committee was commissioned to work toward comparability in the public service, to try to ensure and hold competent individuals in Government.

The move now by this amendment in the bill today would jeopardize the comparability efforts that have now gone on for years.

Mr. MILLER. Then when the Senate from Wyoming stated that the amendment has some merit, I take it he was stating what he had merit when we look at some possible revisions in the pay scales later on?

Mr. McGEE. That is right.

Mr. MILLER. But it does not have merit in the concept of the increase now, the cost of living that we are trying to cover?

Mr. McGEE. When we have a fixed increase, we will always take in those at the lower end of the scale and then go higher up. It was the conclusion of the committee that taking the flat figure would create new problems and that the fall-out would cause more problems than would be solved by such a provision.

Mr. MILLER. It just seemed to the Senator from Iowa that to mix in a flat increase, them having to do with an increase in the cost of living does not fit. If we had no increase in the cost of living, and we were merely trying to equalize, especially in some of the lower brackets, I could understand this idea of a flat increase. But that is not what our problem is, and that is not what we are about.

Mr. McGEE. That is right.

Mr. MILLER. I thank the Senator.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. YOUNG of North Dakota. I think the problem we face in this bill today would jeopardize the comparability efforts that have now gone on for years.

Mr. MILLER. I yield.

Mr. YOUNG of North Dakota. I think the problem we face in this bill today would jeopardize the comparability efforts that have now gone on for years.
I would say to the Senate that the Committee on Post Office and Civil Service, under the chairmanship of the distinguished Senator from Wyoming (Mr. Monroney), has been very keenly interested in the special problems of these employees. The staff of that committee has asked the Civil Service Commission to move with dispatch in carrying out the Monroney amendment, and very recently has received a letter from the chairman of the Commission which is favorable to the Committee's position with regard to these employees. I ask unanimous consent that this letter be printed at this point in the Record.

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

U.S. CIVIL SERVICE COMMISSION,

Mr. David Minton,
Committee on Post Office and Civil Service, Washington, D.C.

DEAR MR. MINTON: I have your letter of January 22, 1970, concerning the application of the Monroney Amendment and the wage board situation at Tinker.

Before I respond to the questions raised by the letter, I might say that my Legislative Assistant, Mr. Harris, has been very helpful and very recently has received a letter from the chairman of the Commission which is favorable to the Committee's position with regard to these employees. I ask unanimous consent that this letter be printed at this point in the Record.

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

U.S. CIVIL SERVICE AMENDMENT
1970.

Mr. HARRIS, Mr. President, there is a group of employees who are not covered by this bill because their salaries are determined by different procedures. They are the one-fourth of the Federal employees who are referred to as wage board employees.

On October 1, 1968, my former colleague, from Oklahoma Senator Monroney, offered an amendment which was adopted and is now law. It provides for a more just method of setting the pay of the expenses of those employees, who up to that time had certainly been inequitably treated. The difficulty, however, has been that the Civil Service Commission and the Department of Defense have moved unconscionably and intolerably slow in the implementation of that section of the law referred to as the "Monroney Amendment." In that regard, I ask unanimous consent to have printed at this point in the Record an article published in the Daily Oklahoman of Monday, March 9, 1970, pointing this out.

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

WAGE BOARD PAY SCALE AT TINKER AIR FORCE BASE
Base Pay Scale by Big EarACHE
(By Kathy Christie)

WASHINGTON—Reluctant Pentagon and civil service commission officials are wrestling with major headaches today as they try to implement the federal board pay survey for Tinker Air Force Base.

As they see it, the survey will result only in inequities in pay scales for blue collar workers. They readily admit that an amendment by former Oklahoma Senator A. S. (Mike) Monroney that became law back in October, 1968 has given them nothing but bureaucratic headaches. They'd dearly like to have it taken off the books.

Unlike employees under the classed grade system whose pay scales are fixed nationally, the pay of wage board employees is based on the average pay rate in the local economy for similar work.

Prior to enactment of the new law a little over a year and a half ago, federal job positions for which no comparison could be found in private industry in the area were merely set at what the government officials considered to be the same general skill level, and an average was established.

Since then, the Monroney amendment requires the government to seek comparative pay rates outside of the local area if there are not comparable jobs in local private industry.

So, for example, to set wage board pay for aircraft mechanics and welders at Tinker Air Force Base, the surveyors now have to reach beyond the normal 50 mile radius to Tulsa's large aircraft industry in order to find comparable private pay.

In doing so, they likely will come up with a salary level for aircraft mechanics which is higher than other workers in the same grade levels, who are more comparable.

Civil Service Commission Chairman Robert Hampton in testifying last year on wage board pay legislation before the Post Office and Civil Service Committee said that the amendment would "if carried to its full potential, present a very real threat to the entire prevailing rate concept."

More recently Hampton said that the law is "a conflict between the Civil Service Commission and the Office of the President."

He said, "There can be no practical application of the law ... no way to apply it in theory and practice." It is setting local wage board pay rates.

Raymond J. Bratsch, who heads the Department of Defense wage fixing office, said the new out-of-area wage survey will affect those Tinker employees in grades W-9 and above "who are concerned with accomplishment of the mission of the organization" such as "aircraft overhaul and repair specialists."

It would not affect carpenters, plumbers, and the like, he said.

Although the legislation was enacted over a year ago, and the "its requirements were not ironed out until about four months ago," Bratsch said.

He said that "about 40 areas" were being surveyed for special requirements, and some locations which had been recently surveyed under previous regulations were being re-surveyed.

Bratsch said that the report for Tinker, which was another first, was to be completed, but added, "I don't expect that a new schedule based on the data will come for several months or possibly years."

The main problem was in interpreting the law and establishing correct legal procedures.

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The second was issued on October 27, 1969, and was effective November 2, 1969.

2. The Monroney Amendment will be applied prospectively to both these surveys as soon as necessary survey data are obtained.

3. We have no information on what the amount of the wage increases may be under the Monroney Amendment.

4. I have responded to the status of the Monroney Amendment earlier in this hearing.

5. As indicated earlier, Defense is now in process of developing the survey coverage to apply the Monroney Amendment at Tinker. It will be about March or April, however, before the data are received and the schedule is established.

If you have further questions, please let me know. I am returning Mr. Dage's letter for your files.

Sincerely yours,

Robert E. Hampton,
Chairman.

Mr. HARRIS. With the aid of an able legislative assistant, Gary Dage, I have been among those who have continued to press for equity for these employees who have been left behind. This past week, I met with officials in Oklahoma City with Mr. W. T. Knight, who is an executive council member and legislative director of AFGE Local 916 there, and other members of that local and other wage board employees, in the Oklahoma City area. I ask unanimous consent that their names be printed at this point in the Record.

There being no objection, the names were ordered to be printed in the Record, as follows:

AMERICAN FEDERATION GOVERNMENT EMPLOYEES

2. Jerri Smith.
4. Timothy Greens, Vice Pres., Local 916-A.F.G.E.
5. Bruce Harris.

Mr. HARRIS. As stated in the letter from the Chairman of the Civil Service Commission, to which I referred earlier and which appeared in the Record, the Civil Service Commission has reported that the Department of Defense has been running a survey in the Oklahoma City area and they do expect that the employees in that area will be the first to be covered by the survey. I think that survey is objectionable in that it is being carried on in counties which really do not have positions in private industry comparable to Federal Government positions in the Oklahoma City area and does not, for example, include jobs and salaries paid in Tulsa County. I have been contending very strongly that that situation should be corrected and that the surveyed counties ought to include all of Oklahoma County.

Furthermore, I think it is imperative that the Department of Defense and the Civil Service Commission move with dispatch to complete the implementation of this law. It is over a year now since the Monroney amendment went into effect. Despite that fact they continue to object to its application, and I continue to make comments—as the article to which I referred earlier shows—that there are going to be all sorts of difficulty in implementing that amendment.

Mr. President, that amendment is the law. These employees are entitled to a great deal more consideration on the part of the Federal Government than the unconscionable delay we have recently seen.

I would ask the distinguished Senator from Wyoming, who has done such an excellent job in regard to the bill previously before the Senate—and I commend him and other members of the committee for their efforts, and I support them—Do you have any report as to what we might do to get the Department of Defense and the Civil Service Commission to move a little more rapidly in regard to the employees?

Mr. MCGEE. First, may I say to the Senator from Oklahoma that I met with two delegations in Kansas City from Tinker Air Force Base in Oklahoma City and from Tulsa, when I was in Kansas City meeting on problems recently with Federal employees. I am mindful of the urgency of the problem the Senator has described and the need for prompt action in the Senate Post Office and Civil Service Committee is to begin hearings on the wage board matter. We believe that the openness and the public attention should serve the proper purpose of speeding up what has been a very long process. I think, in fairness, it is a real can of worms in some ways in terms of interpreting some of the instructions.

Mr. HARRIS. Will S. 1958, the bill which I have introduced and which has the support of the AFGE nationally and locally in my State, will that be one of the measures which the Post Office Committee will take up?

Mr. MCGEE. That is one of the measures on which we will be sitting and ordering hearings in regard to its terms.

Mr. HARRIS. Does the distinguished Senator from Wyoming believe the hearings will help clear up any difficulties that there are in the so-called Monroney amendment, or at least move the executive department and the Civil Service Commission to finally get implementation of the law?

Mr. MCGEE. I would say we are confident that it will, without being belligerent about it.

Mr. HARRIS. I am very much pleased to hear that, and I know that the wage board employees will be also. I commend the distinguished Senator for what he is doing in regard to those employees, as well as those covered by the bill now before the Senate.

Mr. MCGEE. I should have injected— I overlooked it—and the schedule has been thrown off by this postal crisis, and we have been going at it night and day for 3 weeks, now that we do have one other priority that we will be working on and ordering hearings on, and that is the issue of pornography in the mails; but that we must do simultaneously, although there is no connection between the two.

FEDERAL PAY LEGISLATION

The Senate continued with the consideration of the bill (S. 3690) to increase the pay of Federal employees.

Mr. CURTIS. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Eagleton). The amendment will be stricken out.

The bill clerk read the amendment as follows:

On page 2, line 23, after the word personal, insert "other than personnel whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives." And on page 3, strike out lines 9 through 12.

Mr. CURTIS. Mr. President, I shall not detain the Senate.

This amendment would remove from this provision of the measure which applies to both the Senate and Senate, our offices, and the committees. It would not affect the Government Printing Office or the Library of Congress.

I point out that under the bill brought in here, to do justice to the postal carriers supporting families in great cities, it would give them $375 a year raise, but not to give the raises below in the Senate $394.20 a year raise. It would also give raises to our own staff of up to $1,500.

Mr. President, that is my case.

Mr. MCGEE. Mr. President, just for the Record, no Senator in this body, under this bill, is required to violate his own conscience in terms of paying his own employees.

The Record should show that.

Any Senator who does not want to pass the increase on to his employees should exercise his conscience in terms of the rest of the Hill employees.

The formula on 6 percent is an attempt to adjust to the increase in the cost of living since a year ago. It is not an attempt to pad anyone's salary.

Mr. President, I think we have had enough of words this afternoon on this subject.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GINNINGS. Mr. President, I rise in support of the amendment of the Senator from Nebraska.

For the life of me I cannot understand what we are doing here.

We are trying to take care of the postal employees who need a raise, which has been worked out. Yet, in addition to that, we are giving a raise to Federal employees. Then we are going to add on, without any hearings or anything else, except, as I understand it, just a verbal request of one of the Members of this body, the Hill people.

Mr. President, I believe that we got into enough trouble around here recently with the raise on to his employees. I do not think we should do anything about raising Federal employees' salaries as well.

Mr. FONG. Mr. President, according to the Bureau of Labor Statistics, if our employee was worth $10,000 last year, he is entitled to a 6-percent raise this year if he was comparable in salary to those in private industry last year.

Now the figures given to us indicate that our employees are 5.7 percent behind those of private industry, as of July 1, 1969.
This increase is a $2.5 billion increase, which represents 6 percent across the board.

So far as the employees in the legislative branch are concerned, that will be $6,800,000 out of the $2,500,000,000. If the employees in the postal service and the employees in the general schedule classification deserve a 5.7-percent increase, then the employees of our departments, the employees who are working for us and the employees in the staffs, if they were worth the salaries they were paid last year, they are entitled to the 6 percent this year.

Mr. President, I should point out an additional feature, that this is not a mandatory increase. It still remains within the discretion of each Senator and Representative as to what he will do. But that amount of money will become available—

Mr. MANSFIELD. If the Senator from Utah will allow me to interject there, it is mandatory so far as the committees are concerned.

Mr. MOSS. That is true, but not the personal staffs of Senators and Representatives.

Mr. GOLDWATER. Mr. President, I do not ask this facetiously but, had not the postal workers struck, would the committees have made this recommendation?

Mr. McGEE. That is a difficult question to answer, for me or for anyone else. We are not concerned with the question of the pay bill last December but we had not gone to conference to negotiate with the House, who did have it in. It is conceivable that this could delay postal adjustment 2 or 3 days, or whatever it might take to go to conference on this, but it was not in our bill because we were addressing it to a condition existing last December, at the President's request.

Mr. GOLDWATER. Again, I do not ask this facetiously but, I am afraid, because I have heard the word "negotiate" used so often today, that it seems like this is a process and I don't quite understand what the Senator means.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senator from South Dakota (Mr. MURPHY) is absent because of illness.

The Senator from California (Mr. MURPHY) is necessarily absent.

On this vote, the Senator from South Dakota (Mr. MURPHY) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from California would vote "nay." If present and voting, the Senator from Utah (Mr. BENNETT) would vote "nay."

The result was announced—yeas 67, nays 67, as follows:

[No. 126 Leg.]

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Mr. R. G. TAYLOR. My vote for S. 3690, the Federal Employees Salary Act of 1970.

This legislation provides a 6 percent across-the-board salary increase for most Federal employees. I am happy to note that the military personnel and postal workers are also included.

Every day, our constituents place new demands upon our Government. In order to remain a strong country, our Government must attract into public service, the most qualified people available. A rapidly moving technological society can afford only the best in governmental leadership. This legislation will help to close the gap remaining between the wages of Federal employees and their counterparts in the private sector, who with similar qualifications can afford much more in monetary compensation.

Mr. President, these salary increases are for people who need pay increases. The lower and middle income American is always hit the hardest by the rising cost of living. Last year, I voted against legislation which doubled the salary of the President of the United States. I voted against increasing the salaries of the Vice President, Members of Congress, judges, and Cabinet members.

The real needs of the postal workers have not been last been met. In some areas, those on welfare receive more money from the Government than do postal workers.

This bill will also provide a 6 percent increase for our military personnel. This will be money well spent, for I—as have other Senators—have received many letters from hard-pressed military families who are unable to keep up with the rising cost of living under current military allowances. We owe much to these families, many of whom have personally carried the burden of war, to keep our country safe. They are located in Southeast Asia. The least we can do for these brave Americans, who are sent to Vietnam, is to give them the peace of salary comparability provisions of the Salary Reform Act of 1962 which attempts to adjust the wages of Federal employees to levels generally comparable with private industry.

This is a clean pay bill with no strings attached. There are no provisions in this bill for any corporation tie-in or for President Nixon's proposed 4-cent increase of first-class letter mail from the present 6 to 10 cents. There are absolutely no strings attached to this pay raise. The voting for this pay raise no one is bound expressly or impliedly or in any manner whatsoever, to vote for a tearing up of the Post Office Department.

As the ranking senior member of the Committee on Post Office and Civil Service, I have been in the forefront of the fight for the comparability pay raise in this Congress as well as in the past Congresses. While I support at least the 6 percent increase proposed before the Senate today, I believe the bill does not go far enough in postal pay but it is a positive step to correct the injustice our dedicated, loyal public servants have endured too long. This increase is both just and necessary.

Mr. President, I strongly urge Senators to join me in support of the bill.

Mr. BYRD of West Virginia. Mr. President, I shall cast my vote for S. 3690, the Federal Employees Salary Act of 1970.

Every day, our constituents place new demands upon our Government. In order to remain a strong country, our Government must attract into public service, the most qualified people available. A rapidly moving technological society can afford only the best in governmental leadership. This legislation will help to close the gap remaining between the wages of Federal employees and their counterparts in the private sector, who with similar qualifications can afford much more in monetary compensation.

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mind that their families are more adequately provided for.

Mr. President, passage of this bill must not be construed to mean that strikes against the U.S. Government will be excused or even tolerated. Thousands of postal workers and Federal air traffic controllers have clearly violated statutes forbidding strikes against the Government.

During my 18 years of service in the U.S. House of Representatives and the U.S. Senate, I have consistently worked for adequate salaries and wages for our Federal employees. Federal employment is a position of trust, and a high sense of duty is owed by civil servants to the citizens of our Nation. But, the law is clear: Title V, section 7311, of the United States Code says:

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he ... participates in a strike, or becomes a member of, or a member of a board of management of, a union or association of employees, except that this prohibition shall not be construed to mean that strikes are a fine of not more than $1,000, or imprisonment for not more than 1 year. But, the law is clear: Title V, section 7311, of the United States Code says:

We cannot allow this flagrant violation of Federal law to go unnoticed. The growing trend throughout the country of indifference to the laws of our land cannot be overlooked by the Government itself. The enforcement of these laws cannot be subject to political expediency. If one group is permitted to strike against the Federal Government, and granted amnesty, then other groups may do the same. The inevitable result would be the destruction of our form of government.

While I am certainly sympathetic to the grievance of the air controllers and the postal workers—that is, of the difficult conditions under which they work—the American public must be assured of air transportation and mail service throughout the country. Concern for the benefits of a few, must not jeopardize the well-being of the Nation.

Mr. President, so far as I know, no postal employee in my State of West Virginia participated in the postal strike. I commend these fine men, they are a credit to their State and their Nation. This is a law which I believe is in correct in correcting previously existing inequities, and I am glad to be able to support it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia, I announce that the Senator from Nevada (Mr. BINGHAM), the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. Exon), the Senator from Minnesota (Mr. HARKER), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. LONG), the Senator from Louisiana (Mr. LORAN), the Senator from Minnesota (Mr. MONDALE), and the Senator from Hawaii (Mr. BAYH) are absent from the Senate.

Mr. President, I announce that the Senator from Utah (Mr. MURPHY) is necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Exon), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. CROUGH, I announce that the President from Utah (Mr. BENNETT) is absent, and voting, the Senator from Nevada and the Senator from Maine are necessarily absent.

The Senator from South Dakota (Mr. MUNDY) is absent because of illness.

The Senator from California (Mr. McCarthy) is necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MUNDY), and the Senator from California (Mr. MURPHY) would each vote "yea."

The result was announced—yeas 84, nays 1, as follows:

[No. 127 Leg.]

S. 3183—REFERRAL TO COMMITTEE ON PUBLIC WORKS WHEN REJECTED

S. 2802—ADDITIONAL COSPONSORS

Mr. RANDOLPH. Mr. President, I ask unanimous consent that S. 3183, pending before the Committee on Public Works, be referred to the Committee on Commerce for consideration by that committee in conjunction with similar proposals dealing with coastal zone legislation before the Committee on Commerce.

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

Mr. BYRD of West Virginia, Mr. President, I ask unanimous consent that there now be a period for the transaction of the morning morning business, with statements therein limited to 3 minutes.

Mr. President, with the passage of this measure, the distinguished Senator from Nebraska (Mr. MUSKIE), the Senator from Delaware (Mr. BONE) of the Committee on Public Works, and the Senator from South Carolina (Mr. HOLLINGS), of the Committee on Commerce. It is my understanding that this procedure also has the approval of the chairmen of the Committee on Commerce (Mr. MAGNUSON).

Mr. President, I ask unanimous consent to have printed in the Record at this point a statement by the Senator from Maine (Mr. MUSKIE), the Senator from Delaware (Mr. BONE), and a letter from the Senator from Delaware and the Senator from Maine ad-
dressed to the Senator from South Carolina describing the agreement.

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

STATEMENT OF SENATOR HOLLINGS

On behalf of the Committee on Commerce and its Subcommittee on Oceanography and Fisheries I am pleased to say that we shall accept the re-referral of S. 3183. We shall consider the entirety of the legislation. We shall welcome the participation of the Commerce Committee. This bill to establish a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuaries and coastal zone was introduced on November 25 by the distinguished ranking minority member of the Committee on Public Works (Mr. Cooper), Senator Randolph, and myself. This is an administration bill. In order to give the Commerce Committee, which this legislation is holding extensive hearings into the coastal zone management, the benefits of the administration thinking in this matter, I believe it would be wise for us to consider this very important bill.

It is our understanding that any bill dealing with the subject that is reported by the Committee on Commerce will be referred to the Committee on Public Works for additional consideration.

May I at this time ask unanimous consent that the names of the Senators from Oregon (Mr. Hatfield and Mr. Packwood), the Senator from Tennessee (Mr. Baker), the Senator from California (Mr. Murkowski), and the Senator from New York (Mr. Jacobs) be added as cosponsors of S. 3183.

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

ADDITIONAL COSPONSORS—SENATE RESOLUTION 393

Mr. HARRIS. Mr. President, last Thursday I introduced for myself and the distinguished Senator from South Dakota (Mr. Hatfield), the distinguished Senator from Michigan (Mr. Hart), the distinguished Senator from Wisconsin (Mr. Nelson), the distinguished Senator from California (Mr. Murphy), and the distinguished Senator from New York (Mr. Jacobs) be added as cosponsors of S. 3183.

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

Mr. RANDOLPH. Mr. President, I further ask unanimous consent that S. 3002, pending before the Committee on Commerce, be referred to the Committee on Public Works, when reported by the Committee on Commerce. This would be for a period of 39 legislative days, for consideration of those aspects of that legislation which relate to matters properly within the jurisdiction of the Committee on Public Works, particularly with reference to rivers and harbors improvements and water quality aspects.

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

Mr. BOGGS. Mr. President, I am gratified that the Committee on Commerce and the Committee on Public Works are working in harmony and cooperation on these environmental quality matters in which we share jurisdictional interests.

Mr. BOGGS. Mr. President, I concur in the request of the distinguished Senator from West Virginia (Mr. Randolph) that S. 3183 be referred to the Committee on Public Works and have it work with harmony and cooperation on these environmental quality matters in which we share jurisdictional interests.

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tion" to those of continued war also favor the idea. Has its time come? According to the Nixon administration, the answer seems to be no. One must say "seems to be" because the administration, despite the fact that the Geneva conference approaches, tactics being discussed around town and has been actively discussed for weeks, is still seeking refuge from public comment on grounds that there has not been time to "analyze" the (French) proposal. It could be that the administration has tactical reasons for its free-lance posture for the hope thereby to get a better price for an eventual decision to attend. We do not pur­pose, however, to have evidence that this is so.

The real crunch seems to be that a Geneva conference could only produce a neutralized South Vietnam acceptable to Communists and non-Communists alike, while the admin­istration of an independent non-Communist regime. "Vietnam­ization" is its effort to end that regime with the resources and will to support itself, in good part. The administration's solicitude for Saigon—its concern to protect Mr. Thieu and the United States from the military adver­saries but from their political rivals—was amply demonstrated in the case of Tran Ngoc Chau, a Saigon-ese Democratic non-Communist contact, who was sentenced to 16 years in prison last month for pro-Commu­nist activities. The American President, once calmly walked. It goes without saying that Hanoi and Moscow and Peking would not stand idly by a situation of this kind. Moreover, if Saigon were to collapse, the administration's goal is to be saved, that they should, in effect , have the same rights as any other person. It is likely, however, to have evidence that this is so.

The white man has done his darndest to make you think that you are dead, that Indians do not exist. The Indians of Okla­homa especially have been targets of this kind of thinking. Here you are the state with the second largest Indian population in the country and, because you have no reserva­tions, people tend to forget that Indians with Indian pride in the new decade, Indian frustrations are very much alive here.

Over the years the white man has done his best to make the Indian baby out of the Indian. But somehow the Indians keep coming back.

The Great White Father in Washington started with a policy of extermination. He practiced it with episodes that would make the My Lai that first look like a coffee party. But it didn't work. Indians kept coming.

The government then tried a policy of isolation. It stocked the productive Indian lands for white settlement and left for the Indians that was poor, unlettered and unsuit­able for the kind of work the government. The government then forced the Indians—many of them descendants of yours from the Five Civilized Tribes of the South, the Choctaw, the Chickasaw, and Alaba­ma and herded them across the Mississippi River like animals. Those that survived set­tled in this land in which they were told they could have (as so many treaties stated it) "as long as the moon rises, the grass is green, the rivers flow, and the sun shines."

But then the white man changed his mind and decided to divide up Indian lands and give each of a team of white products to die on. But it didn't work. Indians kept coming.

The white man was confused. He had reduced the number of Indians, he had deprived them of their lands, he had broken their spirit. None of this, with the Indian on wasting and hating in troop withdrawals that would almost certainly have to be a part of a deci­sion to negotiate an over-all settlement. The summoning of a Geneva conference, then, must be considered not just in terms of its anticipated outcome in the neutral­ization of Indochina, South Vietnam included. It must be weighed for its suitability as a diplomatic and political vehicle for par­laying the United States, with international company, out of an involvement that may be unable to extricate itself from alone.

ADDRESS BY SENATOR MONDALE

Mr. HARRIS. Mr. President, last Sat­urday the distinguished Senator from Minnesota (Mr. Monda­le) spoke to the Oklahoma Indian Opportunity Council annual meeting at statewide Indian youth council annual meeting in Norman, Okla.

His message was highly knowledgeable, challenging, and inspirational. I don't think that the deep understanding and forceful advocacy of Senator Mon­dale—as on this occasion—has given many American Indian youth the kind of hope and encouragement they need to continue their remarkable efforts on behalf of American Indians, young and old.

I ask unanimous consent that Sena­tor Mondale's speech be printed in the Record at this point.

Thereupon, as on this occasion—has given his point he sent out researchers to do studies and surveys and reports.

And the researchers came back and said: yes, Indians fall progressively further be­hind the longer they stay in school.

Yes, the average Indian income is $1,500, 75 percent below the national average; Indians are nearly 40 percent—or more than 10 times the national average; Indians are nearly 40 percent—or more than 10 times the national average.

Yes, 50,000 Indian families live in unsan­itary, dilapidated dwellings, many in huts, shanties and even abandoned automobiles;

Yes, dropout rates for Indians average 50 percent; twice the national average;

Yes, Indians fall progressively further be­hind the longer they stay in school.

Yes, the average Indian income is $1,500, 75 percent below the national average;

example, there were 54 education projects going on concurrently at the Pine Ridge, South Dakota, reservation. The combined cost in amount of money spent was $690,000. Indians are functional illiterates in English.

Yes, a white child has a better chance of living past the point of no return. (But then the white man changed his mind and decided to divide up Indian lands and give each of a team of white products to die on. But it didn't work. Indians kept coming.

The government then tried a policy of isolation. It stocked the productive Indian lands for white settlement and left for the Indians that was poor, unlettered and unsuit­able for the kind of work the government. The government then forced the Indians—many of them descendants of yours from the Five Civilized Tribes of the South, the Choctaw, the Chickasaw, and Alaba­ma and herded them across the Mississippi River like animals. Those that survived set­tled in this land in which they were told they could have (as so many treaties stated it) "as long as the moon rises, the grass is green, the rivers flow, and the sun shines."

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Many Indians were hounded out to boarding schools where anything "Indian"—dress, language, religious practices, even outlook on life—was prohibited. But it didn't work—and it still isn't. Indians keep coming—and they are Red all the way through.

You can guess how dumbfounded the white man was at this point. All his plans to rid the world of those terrible Indians had come true. Why hadn't the Indians flung the Indian out of the Indian? The Indian only knew the answer.

It was because Indians were dumb, stupid and lazy. They weren't smart enough to learn the white man's ways. So to prove this point he sent out researchers to do studies and surveys and reports.

And the researchers came back and said: yes, Indians fall progressively further be­hind the longer they stay in school.

Yes, the average Indian income is $1,500, 75 percent below the national average;
worked for the children of immigrants, it should be for the Indian students, too. But as anthropologist Anne M. Smith points out, it didn't work and couldn't work, for both sides lost. The initiative was never looked at the values and success-oriented goals of mainstream America and said, "It is good." When the initiative was heard in the stream in light of their own value systems and said, "It is polluted."

The initiative was begun with the words of Mrs. Margaret Nick, a beautiful and articulate Alaskan native, as she spoke to our Indian Education Subcommittee, March 4, 1970, "I know," she said; "that if my children are proud, if my children have identity, if my children know who they are and if they're proud to be who they are, I think this is what education means. Some people say that a man without education might as well be dead. That's why it's a must that we include our history and our culture in our schools before we lose it all. We've lost way too much already. We have to stop this loss.

The solution, as forward-thinking people like Senator and Mrs. Harris have been advocating for the culture, is to encourage the Indian to learn the skills of society while at the same time not negate his Indianness. That is why it's so important to encourage the "Navajoness" of the students. Most schools that are doing anything have the Navajoness marked on the Navajo Reservation being the prime example—but there are too few instances. At Rough Rock, an all-Navajo school board encourages the "Navajoness" of the students. Culturally sensitive curriculum materials prepared by the Navajos themselves are in use. Bilingual teaching techniques are used. Indian teachers and aides dominate the school. When the children learn Navajo, they also learn English—and at a faster pace than when they were reprimanded for speaking their native tongue.

There is no other school in the country which has so encouraged cultural pluralism. Most schools that are doing anything have a halfway approach—an Indian History unit, a part-time class in Indian culture and traditions, an after-school Indian club, etc. When there are honest efforts to eliminate prejudices and install pride and dignity, they are often token, self-justifying efforts because it is the "in thing" to do, they say. I believe it has to be the responsibility of the Department of Interior to see that the schools are honest. Oklahomans for Indian Opportunity must forever be on guard to protect Indian interests in schools, to see that myths are replaced by facts.

This isn't an easy job, as I am sure you are well aware. For example, I think we have a promising Indian Education program in Minnesota, headed by Mr. Will Antell, an able and dedicated Chippewa. But, despite the gains we have made, we have to be ever-alert to schools unconscious adding anti-Indian materials to their curriculum. A couple years ago our Indian Education office began a sweeping inventory of history textbooks being used in our Indian schools. The survey resulted in the elimination of a number of anti-Indian books. But just when we were beginning to feel that the problem was over that just the states Library Services Institute for Minnesota Indians learned last month that metropolitan libraries were using materials which ridiculed sacred ceremonies and cultural traditions.

That is why we work on the Senate Indian Education Subcommittee that you Oklahoma students do not face any easy task. The Subcommittee, headed by Senator McCarthy, has about 10814 culture in our schools before we lose it all. People are beginning to recognize that cultural difference does not mean cultural inferiority, that one can build on the strengths of Indian culture rather than try to destroy it, that Indians deserve control over the education of their children.

Almost 200 years ago the leaders of Virginia, after signing a treaty with six Indian nations, offered to educate six of the chief's sons.

The chiefs were thankful for the offer, but they rejected it, noting that they had tried white man's education before.

Well, what was wrong with it? The white leaders said:

According to the chiefs, their children had come back from white man's schools "bad runners, ignorant of every means of living in the woods; unable to bear the cold or hunger; they knew neither how to build a cabin, take a deer, or kill an enemy; spoke no language but English, were neither fit for hunters, warriors or counselors; they were totally good for nothing."

Perhaps, the Indians would like to send a dozen white children to be educated with the Indians.

"We will let them learn of their education," promised the chiefs, "instruct them in all we know, and make men of them."

The white men would like to take the Indians up on their offer, apparently thinking the Indians had little to offer. For 200 years non-Indians have felt that way. But now, the times they are a-changing. Whites are beginning to see the many good things in the Indian. They are beginning to learn they can learn something from the Indian. It's about time!

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON REAPPORTIONMENTS OF APPROPRIATIONS

A letter from the Acting Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Labor for "Grants to States for unemployment compensation and employment service administration" for the fiscal year 1970, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

A letter from the Acting Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Labor for "Grants to States for unemployment compensation and employment service administration" for the fiscal year 1970, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT OF INDIAN CLAIMS COMMISSION

A letter from Chairman, Indian Claims Commission, reporting, pursuant to law, on the final conclusion of judicial proceedings regarding certain American Indian tribal claims (with accompanying papers); to the Committee on Appropriations.

PROPOSED LEGISLATION TO AUTHORIZE THE LONG-TERM CHARTERING OF SHIPS BY THE SECRETARY OF THE NAVY

A letter from the Acting Secretary of the Navy, reporting, pursuant to law, to authorize the long-term chartering of ships by the Secretary of the Navy, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the management of Government industrial plant equipment kept for possible future use, Department of Defense, dated April 7, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE GIRLS SCOUTS OF THE UNITED STATES OF AMERICA

A letter from the President and National Executice Director, Girl Scouts of the United States of America, transmitting, pursuant to the laws, the twentieth annual report of the Girl Scouts for the fiscal year ended September 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE POSTMASTER GENERAL

A letter from the Postmaster General, transmitting, pursuant to law, a revenue and cost analysis report of the Department for fiscal year 1969 with an accompanying report; to the Committee on Post Service and Civil Service.

PROSPECTUSES PROPOSING CONSTRUCTION OR ALTERATION OF PUBLIC BUILDINGS FOR POST OFFICE DEPARTMENT

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, prospectuses proposing location or alteration of public buildings for use by the Post Office Department (with accompanying papers); to the Committee on Public Works.

BILLS AND A JOINT RESOLUTION

INTRODUCED

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

S. 3961. A bill to amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for Foreign Service officers who are career ministers; to the Committee on Foreign Relations.

S. 3962. A joint resolution to provide for the temporary or permanent appointment of Mrs. Pulmey when he introduced the bill appear later in the Record under the appropriate heading.)

S. 3963. A bill to amend section 2 (a), section 2 (b), section 2 (c), section 2 (d), section 2 (e), and section 2 (f) (1) of title 2, to the Committee on Commerce.

S. 3964. A bill to amend section 2 (a) of the Bank Holding Company Act of 1966; to the Committee on Banking and Currency.

S. 3965. A bill to amend section 2 (b) of the Bank Holding Company Act of 1966; to the Committee on Banking and Currency.

S. 3966. A bill to amend title 5, United States Code, so as to provide for the temporary or intermittent employment of experts, consultants, or stenographic workers, and for other purposes; to the Committee on Post Office and Civil Service.

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

S. 3967. A bill to amend title 5, United States Code, so as to provide for the temporary or intermittent employment of experts, consultants, or stenographic workers, and for other purposes; to the Committee on Post Office and Civil Service.

(The remarks of Mr. Moss when he introduced the bill appear later in the Record under the appropriate heading.)
By Mr. MONDALE (for himself, Mr. BURNOY, Mr. EMANUEL, Mr. ENGEL, Mr. MANDELSON, Mr. GAVEL, Mr. HANORE, Mr. HART, Mr. HARTLEY, Mr. HUGHES, Mr. IVERSON, Mr. JOHNSON, Mr. MANFIELD, Mr. McCARTHY, Mr. MCCAGAN, Mr. McGOVERN, Mr. MCINTYRE, Mr. MOORE, Mr. NELSON, Mr. FERBY, Mr. RANDOLPH, Mr. RIEBROFF, Mr. WILLIAMS of New Jersey, Mr. YEAGROUGH, and Mr. YOUNG of Ohio)

S. 3697. A bill to amend the Federal Water Pollution Control Act, and for other purposes; to the Committee on Public Works.

[No remarks of Mr. MOWHILL when he introduced the bill appear later in the Record under the appropriate heading.]

By Mr. SCOTT (for himself, Mr. SCHWEIKER, Mr. TOWER, Mr. MANFIELD, Mr. RANDOLPH, Mr. Dole, Mr. PAYNIN, and Mr. COLDWATER)

S. Res. 192. A joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of voluntary prayer or meditation in public schools and other public buildings; to the Committee on the Judiciary.

[No remarks of Mr. Scott when he introduced the joint resolution appear earlier in the Record under the appropriate heading.]

S. 3691—INTRODUCTION OF A BILL TO AMEND THE FOREIGN SERVICE ACT OF 1946, AS AMENDED

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reconsideration a bill to amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for Foreign Service officers who are career ministers.

The bill has been requested by the Secretary of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the Record at this point, together with the letter from the Secretary dated March 23, 1970, to the Vice President and the explanation of the proposed bill.

The PRESIDING OFFICER (Mr. RIEBROFF). The bill will be received and appropriately referred; and, without objection, the bill, letter, and explanation will be printed in the Record.

The bill (S. 3691) to amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for Foreign Service officers who are career ministers, introduced by Mr. Fulbright, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the Record, as follows:

S. 3691  
* * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, under the authority to extend the service of any officer for up to five years beyond mandatory retirement age while serving in positions to which they have been appointed by the President, by and with the advice and consent of the Senate. This bill will lower the mandatory retirement age for Foreign Service officers who are career ministers.

The bill would lower the mandatory retirement age for career ministers from age 65 to 60. However, such officers would continue to be exempt from mandatory retirement for positions to which they have been appointed by the President, by and with the advice and consent of the Senate. The provision of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty shall be retired at the end of the month in which he completes such service.

"PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS"  
"SEC. 632. Any participant in the Foreign Service Retirement and Disability System, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador shall be retired from the service at the end of the month in which he reaches sixty and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty shall be retired at the end of the month in which he completes such service."

S. 362. The amendment made by section 1 shall be applied to, and shall become effective as of, any date on which an officer who is or has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador, is placed in a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador, shall be terminated and his retirement benefits in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946, as amended, unless the Secretary determines it to be in the public interest to extend his service for a period not to exceed five years.

RETIREMENT SCHEDULE

(1) Any career minister who reaches age sixty-five during the month of enactment of this Act shall be retired at the end of such month.

(2) Other career ministers who are age 60 or over at the time of enactment of the Act shall be retired at the end of the month which contains the mid-point between the last day of the month of enactment of the Act and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month; and

(3) On the last day of the thirtieth month which ends after the date of enactment of this Act, all other career ministers who are age 60 or over shall be retired, and thereafter the amendment made by section 1 shall be applied to, and shall become effective as of, any date on which an officer who is or has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador, is placed in a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate.

Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which he completes such service.

The letter, explanation, presented by Senator Fulbright, are as follows:

THE SECRETARY OF STATE,  

Hon. SPIRO T. AGNEW,  
President of the Senate.

DEAR MR. VICE PRESIDENT: Enclosed is a draft bill "To Amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for Foreign Service officers who are career ministers."

The bill would lower the mandatory retirement age for career ministers from age 65 to 60. However, such officers would continue to be exempt from mandatory retirement for positions to which they have been appointed by the President, by and with the advice and consent of the Senate. The provision of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty shall be retired at the end of the month in which he completes such service."

The majority of Foreign Service officers who are or were in the rank of ambassador, attaché, legal attaché, or other positions during their remaining careers, in chief of mission positions or in other positions to which they are appointed by the President. After it has been determined that a career minister past age 60 will no longer serve as chief of mission or fill a position requiring appointment by the President, he should be mandatorily retired as in the case of all other Foreign Service officers in class 1 and below. This change will serve to accelerate retirement of career ministers who are not assigned or appointed to positions of the type for which career ministers are needed. A detailed explanation of the bill is enclosed.

Sincerely yours,

WILLIAM P. ROGERS.

EXPLANATION

The proposed legislation would lower the mandatory retirement age for career ministers from age 65 to age 60. Such officers would continue to be exempt from mandatory retirement for positions to which they have been appointed by the President, by and with the advice and consent of the Senate. The provision of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty shall be retired at the end of the month in which he completes such service."

(1) Any career minister who reaches age sixty-five during the month of enactment of this Act shall be retired at the end of such month.

(2) Other career ministers who are age 60 or over at the time of enactment of the Act shall be retired at the end of the month which contains the mid-point between the last day of the month of enactment of the Act and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month; and

(3) On the last day of the thirtieth month which ends after the date of enactment of this Act, all other career ministers who are age 60 or over shall be retired, and thereafter the amendment made by section 1 shall be applied to, and shall become effective as of, any date on which an officer who is or has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador, is placed in a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate.

Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which he completes such service.

The letter, explanation, presented by Senator Fulbright, are as follows:

THE SECRETARY OF STATE,  

Hon. SPIRO T. AGNEW,  
President of the Senate.

DEAR MR. VICE PRESIDENT: Enclosed is a draft bill "To Amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for career ministers who are not assigned or appointed to positions of the type for which career ministers are needed."

There should be some delay in putting such a change into effect in order to provide the affected officers time to make necessary adjustments. The period of delay should take into account both the legitimate career expectations of officers now serving as career ministers and the practical need for acquiring appointment by the President, he should be mandatorily retired as in the case of all other Foreign Service officers in class 1 and below. This change will serve to accelerate retirement of career ministers who are not assigned or appointed to positions of the type for which career ministers are needed."

For example, the retirement date under the proposed legislation for an officer 64 years old at the time of enactment whose 65th birthday is ten months after the date of enactment would be 6 months earlier than under the current retirement age. The effective date of the new regulation. The attached draft legislation specifies that for officers age 60 or over whose retirement would be subject to retirement 19 months after the date of enactment of this legislation. An effective date of the type for which career ministers are needed."

* * *
of that month would be the effective date of the legislation for all career ministers reaching 60 after the date of enactment. Thus after two and a half years following the date of enactment, all career ministers would be mandatorily retired on reaching the age of 60, unless they were serving at that time in positions to which they were appointed by the President with Senate confirmation, or unless they were extended by the Secretary.

The proposed legislation also includes two technical changes. The first would permit all participants in the Foreign Service retirement system to work and earn retirement credit until the end of the month in which they reach mandatory retirement age. Present wording in the law prevents them from earning retirement credit past the birthday on which they reach such age. Since Foreign Service annuities do not begin before the first of the month following retirement, the change would make retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such officer’s service for a period not to exceed five years.

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<th>PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS [OR CAREER MINISTERS]</th>
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| (1) Foreign Service officers who are not career ambassadors other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall [upon reaching the age of sixty-five] be retired from the Service and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant’s service for a period not to exceed five years.
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| (2) Other career ministers who are age 60 or over as of the date of enactment of this Act shall be retired at the end of the month which contains the midpoint between the
amended by inserting "or pears," immediately after "a marketing order applicable to pears" and at the end of the sentence following "Thereafter, the representation of producers shall not exceed 33 1/3 percent of the total membership of such order." (Section 80(19) is amended by adding at the end thereof the following: "For the purpose of ascertaining whether the issuance of an order for the establishment of a marketing agreement applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this title, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are produced and shall conduct such a referendum only after the total volume of production, as the case may be, is represented in such referendum, the percentage approving or favoring is equal to or in excess of the majority, and if the producers approving or favoring the issuance of the order are distributed among the States in which pears are produced in such proportion as to be representative of production therefrom, the order shall be made effective in such State."

S. 3696—INTRODUCTION OF A BILL TO PROVIDE FOR TEMPORARY OR INTERMITTENT EMPLOYMENT OF CERTAIN EMPLOYEES

Mr. MOSS. Mr. President, I introduce a bill to amend title 5 of the United States Code so as to provide for the method whereby the Federal Government procures the personal services of experts and consultants on a part-time or intermittent basis; and to increase the limits on the amounts allowable per diem paid therefor to present-day economic realities.

Under present law, such services can be procured by the Federal Government only in accordance with authorizations contained in individual appropriation bills or other specific statutory provision. Section 552 of the United States Code so conditions agency power. This situation has produced a number of undesirable results including lack of uniformity among the agencies, inadequate and disproportionate rates of per diem paid, and most important, disposition of qualified experts to refrain from professing their services to the Government. The net effect is a situation operating to the Government's disadvantage calling for remedial legislative relief. My bill provides for this necessary relief.

Experience under present law has clearly demonstrated that the appropriations process is a cumbrous, inadequate, and generally undesirable method under which to procure these types of services. Several years ago, the House Committee on Appropriations, Subcommittee on General Government Matters, requested the Bureau of the Budget to conduct a study in the hiring of experts and consultants at rates of pay for individual experts and consultants as a means of obtaining the temporary services of the highly qualified individuals which the Federal Government needs.

My bill provides that an agency may procure the temporary or intermittent services of experts, consultants, or stenographic reporters, or an organization thereof, by contract for a period not in excess of 1 year. It provides that the services thereby procured, as well as any procured under any other provision of law, must be obtained under such conditions and regulations as the President may prescribe and, except where a higher rate is specifically authorized by law, the rates payable to individual experts and consultants shall be paid at rates of pay for individuals not to exceed the rate for GS-18 of the General Schedule. And in connection with the rate bearing relationship to GS-18, the Bureau of the Budget had recommended that the amount as thus calculated with respect to these services should include allow-
man's carelessness; lakes which have been used as a convenient dumping area for municipal, industrial and agricultural wastes.

Municipal sewage is increasing, filled with phosphorous materials from detergents or human wastes. In many instances, it is dumped untreated into nearby lakes.

Industries find it expedient to locate adjacent to lakes where they can pump their chemical-filled discharges.

Lakes also suffer from agricultural runoffs. Overflows contaminated with pesticide, herbicide, and fertilizer residues wash into the lakes. Siltation adds to the load.

Unlike moving rivers, lakes have no flushing system to purge themselves of these burdens.

The unrelieved surge of nutrients into these lakes causes the waters to be enriched past their capacity. The problem becomes one of eutrophication—the using up of life.

The elements added to the lakes by sewage and runoffs act as fertilizers of aquatic growth, causing a veritable population explosion of algae. These plants have a secondary effect. They create an increasing demand on the oxygen in the water, thus killing desirable bac-


teriae which work naturally to cleanse the water.

Meanwhile, lakebeds fill with silt and debris, and the marine life choking and dies.

A recent survey by the University of Minnesota indicated that the State's once-sparkling lakes are gradually taking on a new color—green. The study identifies sewage seeping from inadequate disposal systems of lakeshore homes as the main source of pollution. It also notes that runoff of fertilizers from farm-


land and nutrients from cattle feedlots reduce the water quality of many lakes.

Municipal sewage is dumped directly into the waters of 34 major recreational lakes studied.

The problems are not endemic to the 11,500 lakes in Minnesota which are in excess of 10 acres. Many of the more than 100,000 fresh water community lakes in the Nation are being victimized by the same processes.

Our lakes have too often been forgotten in the rush to improve our environment. Since lakes are so essential to our way of life and represent such an irreplaceable resource, it is obvious that they cannot be neglected.

Yet, unless restorative measures are taken soon, many of our priceless lakes will be irreparably lost.

The bill I am introducing today recognizes the desperate plight of these lakes and provides for a plan to reclaim these waterways.

There are four major points covered in this new Clean Lakes Act.

First, the bill authorizes an increase in the Federal grant now available under section 8 (b) of the Water Pollution Control Act for treatment works which are located near or adjacent to a lake and which discharge treated wastes into the lake or tributary waters. The increase would be $15 million a year over a 4-year period beginning in fiscal year 1972.

Third, the bill authorized the use of experienced Federal water resource agencies, such as the Bureau of Reclamation and the Corps of Engineers, to help carry out this program under agreements with the States.

With the bill, the Federal government would provide the States with the dollars, the know-how, and the expertise to upgrade those lakes which already have been fouled by...
ent by a success. The cost was $10,000 to pump the lakes 21 million gallons.

I am hopeful that we can correct these problems for the benefit of future generations. Lakes provide not only a source of water, but are recreational outlets, scenic sites for homes, and spiritual uplift.

Our lakes are a priceless commodity. Too much action in cleaning our lakes is to risk losing them. We cannot afford to do this.

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

The bill (S. 3697) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

Mr. MONDALE, Mr. President, I ask unanimous consent that a statement, prepared by the Senator from North Dakota (Mr. BURDICK), be printed in the Record.

Mr. BURDICK. The Clean Lakes bill proposes to use such Federal agencies as the Bureau of Reclamation and the Corps of Engineers.

Mr. MONDALE. Yes. I believe this gives our government an excellent opportunity to turn the expertise of its agencies toward remediating pollution. In many instances, Federal projects have contributed toward pollution and the destruction of our natural resources. Lake restoration would seem to be a particularly constructive project for these agencies.

ADDITIONAL COSPONSORS OF BILLS

S. 3698

Mr. GRIFFIN, Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT) I ask unanimous consent that, at the next printing the name of the Senator from Delaware (Mr. Bucoss) be added as a cosponsor of S. 3698, to establish an Environmental Quality Administration.

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

S. 3484

Mr. NELSON, Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Indiana (Mr. Baye), the Senator from Massachusetts (Mr. Brooke), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Harris), the Senator from Minnesota (Mr. McCarthey), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Oregon (Mr. Packwood) , the Senator from Illinois (Mr. Percy), the Senator from Texas (Mr. Young), and the Senator from Ohio (Mr. Byrd) be added as cosponsors of S. 3684, to the Marine Environment and Pollution Control Act which I introduced February 19.

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

S. 3491

Mr. NELSON, Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Maryland (Mr. Tydings) be added as a cosponsor of S. 3491, the Mines Lands Restoration and Protection Act, which I introduced.

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

S. 3605

Mr. BYRD of West Virginia, Mr. President, on behalf of the Senator from Washington (Mr. Jackson) I ask unanimous consent that, at the next printing, the name of the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Bible), the Senator from Idaho (Mr. Church), the Senator from Utah (Mr. Moss), the Senator from North Dakota (Mr. Burdick), the Senator from South Dakota (Mr. McGovern), the Senator from Wisconsin (Mr. Nelson), the Senator from Montana (Mr. Metcalfe), the Senator from Alaska (Mr. Gravel), the Senator from Idaho (Mr. Jordan), the Senator from Arizona (Mr. Fannin), the Senator from Montana (Mr. Hatfield), the Senator from Oregon (Mr. Hatfield), the Senator from Alabama (Mr. Stevens), and the Senator from Oklahoma (Mr. Bellmon) be added as cosponsors of S. 3605, to amend the Land and Water Conservation Fund Act.

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

S. 3619

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Indiana (Mr. Bay) I ask unanimous consent that, at the next printing, the names of the Senator from Connecticut (Mr. Dodd), the Senator from Washington (Mr. Jackson), and the Senator from New Hampshire (Mr. McMath), be added as cosponsors of S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

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

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 61

Mr. MANSFIELD Mr. President, on behalf of the Senator from Minnesota (Mr. Hart), the Senator from Connecticut (Mr. Bump), Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Alaska (Mr. Gravel) and the Senator from Texas (Mr. Young) be added as cosponsors of Senate Joint Resolution 61, proposing an amendment to the Constitution of the United States relative to equal rights of men and women.

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

SENATE RESOLUTION 384—RESOLUTION REPORTED TO AUTHORIZE ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 384), which was referred to the Committee on Rules and Administration:

S. Res. 384

Resolved, That the Committee on the Judiciary hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-first Congress, $2,000, in addition to the amounts and for the same purposes specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 211

Mr. BROOKE, Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Missouri (Mr. Symington), the Senator from Connecticut (Mr. Dodd), the Senator from Delaware (Mr. Bocce), and the Senator from Nevada (Mr. Bilal), be added as cosponsors of Senate Resolution 211, relating to agreements with the United States of Soviet Socialist Republics on limiting offensive and defensive strategic weapons and the suspension of test flights of reentry vehicles.

Mr. MANSFIELD. Mr. President, re-
serving the right to object, what total does that make now?

Mr. BROOKE. I think that makes 50 cosponsors. A total of one who have restated in one way or another their support for this resolution.

Mr. MANSFIELD. Fifty-five. I am delighted to add my name to the roll of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

NUCLEAR ARMS CONTROL

Mr. DODD. Mr. President, I have decided to co-sponsor Senate Resolution 211 because I believe it represents both a safe and reasonable approach to the problem of arms control and arms limitation.

I want to compliment the junior Senator from Massachusetts on his initiative in this direction.

I consider the resolution to be prudent because, obviously, it will be to the advantage of the Soviet people and the American people, both, if we can place some limit on the extremely costly and dangerous race in nuclear weapons.

I also consider the resolution safe because, as amended, it makes it clear that the suspension of further deployment of offensive and defensive nuclear systems will be, I quote, subject to national verification or such other measures of observation and inspection as may be appropriate.

National verification, in my understanding, involves verification by means of satellites and other existing intelligence resources. I am pleased that the wording of the resolution takes note of the fact that national verification by itself may not be adequate and that it may have to be supplemented by direct observation and inspection.

This is of critical importance because, clearly, there has to be an assurance that any agreement reached would at least make it exceedingly difficult for the Soviet Union to cheat.

Ours is an open society, where cheating on any such agreement would be inconceivable. There is a closed society, whose entire record suggests that they would be prepared to cheat if they ever thought it would be to their advantage and that they could get away with it.

This makes it imperative that we pay particular attention to the problem of verification.

There is another observation I would like to make.

I am supporting this resolution in the hope that the Soviet Union will agree to a prompt cessation of the further deployment of tracked weapons systems.

There are some who say that there is a rough condition of parity between the overall nuclear strength of the Soviet Union and our own overall strength.

There are others who say that, everything considered, the Soviets already enjoy a significant superiority over the United States in strategic nuclear weapons.

What cannot be challenged is that the Soviet nuclear assembly lines have for the past 4 years operated at a tempo which far exceeds the most pessimistic estimates of our intelligence community.

Four years ago, in July 1966, when we decided to freeze our ICBM strength at the arbitrary figure of 1,054, the Soviet Union had 250 ICBM's. In the latter part of 1969, according to hard intelligence, the U.S.S.R. had more than 1,300 ICBM's in place or going into place. These included a growing force of the giant SS-9 missiles, each of which is capable of delivering several 10-megaton warheads.

While Moscow's 100 older missile-firing submarines cannot begin to compare with the Polaris, the Soviets have for some time now been building Polaris-type submarines. If Admiral Rickover is correct in estimating that they can produce such submarines at the rate of 10 to 12 a year, then by 1972 or 1973 they will have a Polaris fleet as large as our own. And if, in the interim, their missile assembly lines have continued to function at the rate of recent years, their ICBM strength might be well past the 2,000 mark. This would give the Soviets a frightening and indisputable superiority in strategic nuclear weapons.

At that point, the United States would have to reconsider its entire strategic posture.

In cosponsoring Senate Resolution 211, therefore, I want to emphasize that I think there is a time limit tied to the acceptance of the proposed freeze by the Soviet Union.

This year we can agree to such a freeze because, clearly, there would be risks, the risks would be at an acceptable level. But if the Soviet nuclear buildup continues, then 1 year or 2 years or 3 years from now, we may not be able to agree to such a freeze.

President Nixon has already made it clear to the Soviet Union that we are prepared to enter into either a comprehensive or piecemeal agreement on the limitation of nuclear weapons.

I feel that the passage of Senate Resolution 211 would greatly help the administration strengthen the hand of the administration in future negotiations.

I earnestly hope that the Soviet Government will accept the wisdom of entering into such an agreement now rather than postponing action until an agreement becomes impossible.

Under President Kennedy and President Johnson and now President Nixon, the United States has repeatedly demonstrated that it is prepared to walk the extra mile and more in the quest for meaningful agreements in the field of arms control.

Today, we stand at a critical point in the nuclear arms race. Whether there can be any agreement is now up to the Soviet Union.

SENATE RESOLUTION 382

Mr. HARTKE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Massachusetts (Mr. Kennedy) be added as a co-sponsor to Senate Resolution 382 expressing the sense of the Senate that the President of the United States should implement the Capiotto Task Force on Oil Import Controls.

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, April 8, 1970, he presented to the President of the United States the following enrolled bills:

S. 2363. An act to confer U.S. citizenship posthumously upon L. Cpl. Andre L. Knoppert, of Ga. The Medal, the highest military honor the Nation can confer upon its brave men, was received by Sgt. Ray McKibben of Felton, Ga.

S. 2585. An act to amend the Agricultural Act of 1949 with regard to the use of dairy products, and for other purposes.

GENERAL REVISION OF THE PATENT LAWS—AMENDMENTS

AMENDMENTS NO. 575 AND 576

Mr. SCOTT submitted two amendments, intended to be proposed by him, to the bill (S. 2756) for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes, which were referred to the Committee on the Judiciary and ordered to be printed.

(A remarks of Mr. Scott when he submitted the amendments appear earlier in the Record under the appropriate heading.)

NOTICE OF HEARING ON ELECTORAL REFORM

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that public hearings have been scheduled for Wednesday, Thursday, and Friday, April 15, 16, and 17, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the subject of electoral reform.

ANNOUNCEMENT OF HEARINGS ON MEAT INSPECTION BILLS

Mr. JORDAN of North Carolina. Mr. President, I would like to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry will hold hearings on Thursday, April 16, beginning at 10 a.m., in room 324 of the Senate Office Building, on three bills dealing with meat inspection. The bills are S. 3512, S. 3592, and S. 3593.

ADDITIONAL STATEMENTS OF SENATORS

POSTHUMOUS AWARD OF MEDAL OF HONOR TO SGT. RAY MCKIBBEN, OF FELTON, GA.

Mr. TALMADGE. Mr. President, yesterday at the White House, the President of the United States conferred the Medal of Honor posthumously to 21 American soldiers for conspicuous gallantry above and beyond the call of duty in combat in Vietnam.

Among those receiving the posthumous award was Sgt. Ray McKibben of Felton, Ga. The Medal, the highest military honor the Nation can confer upon its brave men, was received by Sgt. Ray McKibben of Felton, Ga.
Sergeant McKibben, in an act of extreme heroism, gave his life in Vietnam. He paid the supreme sacrifice, and all the world was free were indebted to him and to all the young men of America who are fighting so bravely in the frustrating war in Vietnam.

Mrs. Talmadge joins me in extending our sympathies to Mrs. McKibben and the family.

I ask unanimous consent that the citation accompanying Sergeant McKibben’s Medal of Honor be printed in the Record.

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

**CITATION**

The President of the United States of America, authorized by Act of Congress, March 3, 1865, has awarded in the name of The Congress the Medal of Honor customarily to Sergeant Ray McKibben, United States Army, for conspicuous gallantry and intrepidity in action above and beyond the call of duty:

Sergeant Ray McKibben distinguished himself by his coolness and intrepidity in action above and beyond the call of duty while serving as team leader of the point element of Company B, 7th Squadron (Airmobile), 17th Cavalry operating in enemy territory near Song Mao in Quang Ngai Province on 6 November 1968. Sergeant McKibben was leading his point element in a movement to contact and destroy enemy bunkers. While traveling the lead element came under heavy automatic weapons fire from a fortified bunker position, forcing the Sergeant and his men to appraise the situation and without regard for his own safety, charged through bamboo and heavy brush to the fortified bunker, killed the enemy gunner, secured the weapon and directed his patrol element forward. As the patrol moved out, Sergeant McKibben observed enemy movement to the flank of the patrol. Fire support from helicopter gunships was requested and the area was effective in neutralizing the enemy from the flanked bunkers. As Sergeant McKibben was deploying his men to covered positions, he observed his men fall wounded. Although bullets were hitting all around the wounded man, Sergeant McKibben, with complete disregard for his own safety, crawled to his comrade’s side and under heavy enemy fire pulled him to safety behind the cover of a rock embankment where he administered a first aid He continued his assault against the next bunker, firing his rifle as he charged. As he approached the second bunker his rifle ran out of ammunition; however, he used the captured enemy weapon until it too was emptied. In the time that he silenced the bunker with well-placed hand grenades. He reloaded his weapon and covered the advance of his men as they moved forward. Observing the first bunker, a machine gunner impediment to the patrol’s advance, Sergeant McKibben again single-handedly assaulted the new position. As he approached, the machine gunner was wounded but was able to fire a final burst from his weapon. The enemy and enabling the patrol to continue its advance. Sergeant McKibben’s indomitable courage, extraordinary heroism, profound concern for the welfare of his fellow soldiers and disregard for his own personal safety saved the lives of his comrades and enabled the patrol to continue its mission.

Sergeant McKibben’s conspicuous gallantry and intrepidity in action at the cost of his life above and beyond the call of duty have earned him the Medal of Honor.

**PIONEERS IN BIOLOGY ARE UNRAVELLING RIDDLE OF LIFE**

Mr. SCOTT. Mr. President, I am pleased to announce to the Senate that Donald C. Drake and Patricia McBroom, of the Philadelphia Inquirer, have been honored by the National Society for Medical Research for their article entitled, "Pioneers in Biology Are Unraveling Riddle of Life," published in the Philadelphia Inquirer on March 7, 1969.

Mr. Drake and Miss McBroom received honorable mention citations through the National Society for Medical Research Citations of Achievement for Bernard Science Journalism contest for their profound perception of the basic issues and challenges that face science and medical research in these times.

I ask unanimous consent that this award-winning article be printed in the Record.

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

**PIONEERS IN BIOLOGY ARE UNRAVELLING RIDDLE OF LIFE**

*(By Donald C. Drake and Patricia McBroom)*

Nobel laureate Dr. James D. Watson told the people gathered around him at a cocktail party in San Diego that the time had come for molecular biology to do something nice for society—like finding a cure for cancer, hereditary diseases or mental retardation.

The interest in finding out about relationships among biochemical molecules was born 15 years ago when they found that the DNA molecule consists of chemical DNA (deoxyribonucleic acid) that acts like the letters in a word. They spell out three-letter words called codons. These words or codons, in turn, form sentences called genes.

The sentences tell the cell what protein to make and the type of protein determines whether it will be a heart cell, liver cell or bone cell.

Factory workers, if you will, called messenger RNA, make copies of the sentences and carry the instructions out of the cell’s nucleus or center into an assembly room called the cytoplasm of the cell.

Here other workers called ribosomes, read the instructions, which tell the ribosomes how to make the specific proteins needed by the cell and the entire organism.

The proteins are long chains of amino acids, arranged in a specific sequence, much like the letters in a word. When these proteins involve hundreds of thousands of letters or amino acids.

Cells have in effect two alphabets—bases that spell out genes and amino acids to spell out proteins.

Understanding this very complicated process—which has been greatly simplified here—dominated the research efforts of thousands of laboratories throughout the world for the past 15 years, ever since the great breakthrough achieved by Dr. Watson and Crick on DNA structure.

This work, undoubtedly one of the greatest scientific discoveries man has ever made,
It is believed that viruses cause disease by entering the nucleus of healthy cells and sabotaging the manufacturing process by turning on and off certain genes. When this happens, the cells start manufacturing more viruses instead of their normal proteins.

Dr. Kornberg's work raised the possibility of artificially making good virus strains that could be sent into cells infected by harmful natural viruses where they would act like doctors on the genes.

The American microscopist, engineer, and biochemist, Dr. Nirenberg, of the National Institutes of Health, who explained and demonstrated the codon theory. This explained that three bases coded or ordered the manufacture of a single amino acid.

Subsequently Dr. H. Gobind Khorana at the University of Wisconsin made another breakthrough, with a specific repeating triplet of bases.

Other scientists cleared up a major question in the codon theory. Since all cells—whether they be heart cells, liver cells or skin cells—contain the same DNA, by chance or design, researchers had wondered, for instance, why a liver cell made only liver protein and a heart cell made only heart protein.

The explanation achieved over the past few years was that only a small percentage of the genes in any given cell are active. Most of them are repressed.

For instance, in a heart cell only the heart genes are active while all the rest are repressed. In a liver cell with the exact same DNA, all the liver genes are active while all the other genes, including the heart genes, are inactive.

DRAMATIC POTENTIAL

Two years ago, another major question was answered at Harvard University by Dr. Walter Gilbert who isolated a gene repressor and discovered what it was made of.

Even for one not familiar with biology, it is obvious that scientists have now achieved the potential of this discovery—especially when one remembers that the cancer process is not the result of an uncontrolled cell growth, or, more specifically, protein manufacture.

For unknown reasons, not enough genes in cancer cells are repressed. Unlike healthy cells that will multiply only a limited number of times, cancer cells don't know when to stop. If scientists could fabricate the proper repressor and inject it into a cancer patient, perhaps it would be possible to stop cancer cells from multiplying and hence halt the disease.

Compared to our crude, block-busting methods of fighting disease with wide-acting drugs, this would indeed be disease control on its most sophisticated level.

But this is in the future.

Other molecular biologists and chemists are attacking the problem from a different angle but on the same cellular level.

PROCESS RATIONS

A little more than a year ago, newspapers front-page a story out of Stanford University announcing that the Nobel Laureate, Dr. Konrad Zuse, had announced that he had synthesized the DNA core of a virus.

This thrust of most stories was that the California scientist may very well have created life out of inert chemicals, but this was the discovery that is liable to make us think in the possibility of test-tube life but in a better understanding of the disease process.
effective in a guerrilla war in an underdeveloped country; that the attempt to protect underdeveloped countries from the dangers of an error-ous and irreversible costs to the U.S. and most important of all, perhaps, that the President's errors actually by then may be thought to have little more than the problem of suspicion as it does. Surely the suspicion that top level policy- makers may not in fact control the underlying mix- ture of delusions in the Indo-China situation remains a powerful for- cer in popular attitudes towards the war, and the recent attempt on the part of the President to control the criticism of the war. But this dramatic result should not be allowed to conceal the depth of the underlying mix- ture of delusions.

To some, politically meaningful views over Washington's ability to extricate the U.S. from the war continue to be evident in, some of the internal evidence, particularly of the Massachusetts legislature to challenge the Constitutionality of the war. The suspi- cions are also reflected in public opinion polls which recently have shown an ominous shift towards immediate withdrawal, despite the seeming soundness and responsibility of the President's Vietnamization policy. Indeed, if the course he has chosen has succeeded in winning him some support and a period of tranquility at home, Mr. Nixon remains highly vulnerable. He dare not let this public think he has rekindled a long- term U.S. commitment to defend South Viet- nam—even if measures which create such an impression also seem to the President's secret testimony to cancel. The impression of the President's secret testimony to cancel a speech fearing of disaster from continuance of the policy of Vietnamization. And though the continuation of troop withdrawals at the present rate or better might end the sus- picions once and for all, high level military men are reported pressing for a slowdown.

Right now, these may seem insubstantial rea- sons for worry. Yet, perhaps because we are touched by a bit of the Vietnam suspi- cions ourselves, we cannot ignore them. It is easy to feel the President may soon face the sentiment postponed choice between humiliating disaster abroad and new and surpassing domestic trauma. If he does not weigh the power of the popular sus- picions in his thinking now, his capacity to handle the future agony is not comfortable to ponder.

DOES OIL OWN THE INTERIOR DEPARTMENT

Mr. PROXMIRE. Mr. President, Evans and Novak, the noted columnists, de- tailed in this morning's Washington Post the subversive role the Interior Depart- ment has played to the oil industry in the regulation of production from Federal off- shore oil leases.

The Interior Department has, in effect, become an active participant in the oil industry's scheme to maintain high oil prices by insulating themselves from the law of supply and demand.

Despite the law which requires the Interior Department to control oil produc- tion from Federal oil leases, the Interior Department has not done so. It has arrogated its responsibility to the State of Louisiana which has market demand price laws allowing market proration laws permitting the oil companies to tell the States how much oil they will buy that month and to protect the high domestic oil prices.

Market demand proration laws permit the oil companies to tell the States how much oil they will buy that month and then the State only allows that much oil to be produced. In effect, it permits the oil companies to set the price for oil at whatever level they chose because there is no need to try to drive down the price. These laws effect- ively insulate the oil industry from any adverse effects that might result from competition.

There are approximately 500,000 barrels a day excess production on Federal offshore oil leases that cannot be pro- duced because the Interior Department has sold out to the price-fixing scheme of the oil industry. This oil could be pro- duced today if the wells were allowed to operate at their maximum efficient rate, rather than at the rate limited to protect the high domestic oil prices.

Because the oil industry has caved in to the oil industry pressures, the Ameri- can taxpayers are not getting full value for their Federal oil leases which are put up for bid. If the oil companies bidding on these leases knew they could produce oil from these leases at their maximum efficient rate rather than at the lower rate limited by market proration laws, they would bid more for these leases. These leases would be worth more to the oil companies because they could get a faster return on the capital investment.

The most important adverse effect, however, of allowing the oil industry's price-fixing scheme to apply to Federal oil leases is that it costs the American consumer billions of dollars more for oil and gas than it should. This sellout by the Interior Department has allowed the oil companies to just recently raise retail prices for the first time, a raise which will cost the American consumer an additional $800 million a year. It is a highly inflationary price increase at a time when every Government ought to be doing everything it could to dampen inflationary fires eating the foundations of our economy, but I guess this does not apply to the Interior Department's relations with the oil industry.

Now, rather than the oil import pro- gram in conjunction with these State market proration laws costing the Ameri- can consumer $5 billion a year, the cost is about $6 billion a year. Why? Cer- tainly not national security. That argu- ment was put to rest by President's own Task Force on Oil Import Control and by Barry Shillito the Assistant Secre- tary of Defense who is in charge of none of our oil, the Interior Department must take steps to curb the enormous power of the oil industry which is injur- ing our Nation's economic health.

We, as elected representatives of the American people, not the oil industry, must take steps to curb the enormous power of the oil industry which is injur- ing our Nation's economic health.

There being no objection, the article was ordered to be printed in the Record.

LOUISIANA ALLOWED TO KEEP OIL PRICES HIGH BY PRODUCTION LIMIT ON FEDERAL LAND

An internal memorandum given by the Interior Department to the senate antitrust subcommittee proves that under a long- standing "tacit arrangement" the state of Louisiana is itself limiting Federal oil production, that is, holds it down—by Federal oil leases on the Outer Continental Shelf—owed outright by U.S. taxpayers—play a major role in limiting oil production (thus creating artificially high prices) from the fantastically rich Con- nector Shelf.

But the Interior Department internal memorandum dated May 26, 1966 (sent last week to Sen. Philip Hart of Michigan, chair- man of the antitrust subcommittee now in- vestigating federal oil policies) spells out for the first time how pervasive that role is. It tells how federal oil-and-gas superintendents of the Interior Department are relegated to sec­ ond-class status in regulating the mechanics of oil production on federal tidelands. The memo states:

"The Louisiana (oil and gas) commis- sioner does not consult with the (federal) superintend- ent, is not required to do so under the present tacit arrangement, and the effect is that the superintend- ent at New Orleans has little or no control and it is in some sense a serv- icer position in his relationship with the state."

An astonishing thing about this "subservient" status of the U.S. government is that the Outer Continental Shelf Lands Act of 1953, which conveyed the tidelands to the federal government, was sup-
posed to give Washington total regulatory control over production. During the debate on the bill, Senator Hill, former Sen. Price Daniel of Texas, no enemy of the oil industry flatly stated that "the federal government would be center for allowable"—that is, levels of production.

At stake here are millions of dollars in profits from crude oil sold at an artificially high price by the simple mechanism of ap­plying state-imposed production limits on state-owned wells, called prorationing, to federally owned wells.

This policy of creating artificial scarcity of crude oil (which translates into higher prices) is simply inviting higher imports the more restricting production limits are set up. It is a policy of giving the states a big advantage over the federal government. Yet the majority of that commission, headed by Secretary of Labor George Shultz, argued persuasively for switching from the present import quota system to a tariff system. The majority said that "substituting a tariff for the present quota should make clear the futility of attempting to maintain prices by restricting production."

There are states with no quota barrier blocking imports, domestic producers would simply be inviting higher imports the more they restricted their own production. Although no majority report was rejected by Mr. Nixon, it estimates that operating wells in offshore federal lands to­day have "excess capacity" of at least 500,000 barrels a day—enough to reduce the price of gasoline and oil to hard-pressed consumers.

Moreover, the May 26, 1966, Interior De­partment memorandum leaves no doubt that production limits ordered by the states (Louisiana is the most important) are de­signed far more to maintain high prices of crude oil at the wellhead than for "con­servation"—the high-sounding word used to justify production controls.

The memo, for example, states that in holding production down the states are "clearly concerned with monetary advan­tages"—which is not to be confused with advantages to the oil-and-gas buying con­sumer.

At issue here is a matter of fundamental policy lying far above parochial interest of the Interior Department, which can only be resolved by the President. Lyndon John­son said in 1960 that if the state of Texas did nothing despite the hard money in its pocket during his administration in the May, 1966, memorandum. Nor is there any indication that the new Interior Secretary embraces the oil Southwest, will as­sert federal control in the interest of all the taxpayers.

But that may be shortsighted. With infla­tion a major political concern, a presiden­tial decision ending arbitrary controls and requiring production of the 500,000 barrels a day "excess capacity" in federally owned offshore waters could mean lower gasoline and oil to hard-pressed consumers.

USIA RESTRICTIONS ON FOREIGN BROADCASTERS

Mr. MURPHY. Mr. President, sometimes it would seem that the many free­doms that exist in America and are so often taken for granted by all of us are not always extended to our immigrant citizens. I refer spe­cifically to recent situations that exist between the USIA and foreign corre­spondents as reported in the April 8 Los Angeles Times.

Certain foreign broadcasters assigned to duty in the United States to report the news have criticized the U.S. Infor­mation Agency, whose facilities are made available to them at no cost, for censor­ing their programs before they leave the United States.

This is an incredible situation, Mr. President. The USIA lets these foreign correspondents have full use of its film equipment and technicians, maintained, I might point out at the taxpayer's expense. And now the correspondents who have the privilege to enjoy all of America's free­doms begin to criticize the USIA because they cannot film anti-American propa­ganda.

Here, too, is an example of those foreign correspondents who have lost sight of the fact that in no other country in the world could they expect to take such liberties in their news reporting.

I ask unanimous consent that the full article first appearing in the Chicago Daily News and reprinted in the Los An­geles Times be printed in the Record.

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

FOREIGN BROADCASTERS VS. USIA RESTRICTIONS—MANY USING FACILITIES OF GOVERN­MENT-OWNED STUDIO WITHOUT ANY CENSORSHIP

WASHINGTON—Foreign broadcasters as­signed to duty in the United States by the U.S. Infor­mation Agency—which provides them with studio facilities—monitors and sometimes censors the programs they produce.

Most of the correspondents interviewed said the restrictions on their operations have been tightened under the Nixon Administration.

A USIA spokesman defended the agency's right to regulate the content of the programs by saying the agency was "in the world's only news service that is totally independent of government control".

The most recent complaint was made to the USIA by Klaus Hendricks, a correspond­ent for the Dutch radio and television net­work, AVRO.

Like a number of foreign broadcasters with small budgets, Hendricks has been permitted to use the AVRO studio and technical facili­ties in New York and in Washington, free of charge, to produce features, documentaries, in­terview shows and commentaries.

If the correspondents were to hire cameramen or rent a network studio, the costs would range from several hundred dollars to more than $1,000 a day.

VERBAL AGREEMENT

So, under a verbal, informal agreement with the correspondents, the USIA provides facilities and money to help them cover news stories but does not say what they may say. This is the so-called "verbal agreement" in which the USIA can keep an eye on what is being said about America.

Hendricks has been doing a documentary on Ellis Island, which before it was closed was a reception center for immigrants who came to this country in the 19th and early 20th centuries. It was also a place where foreign workers who did not gain entrance and who were deported.

Hendricks got his film segments for his show from the National Archives, which produced a program on Ellis Island when it was closed a year or so ago. NBC got permission from the Library of Congress to use its film from the Library of Congress.

USIA RESTRICTIONS ON FOREIGN BROADCASTERS

Hendricks said he took his film to the USIA studio to dub in his narration andForeign officials watching it balked at one segment which showed police rounding up aliens for deportation during the "Red scare" in the country following the Soviet revolution in 1917.

"There were 72 feet which showed a de­portation scene," said Hendricks. "There was no sound, but it showed police coming to get people in their houses, and taking them to Ellis Island. Then it showed the aliens leaving, while smoke was coming from the mouth of the St. Louis Island."

Hendricks said USIA officials refused to assist him in making the film unless he de­leted the segment. He then appealed to Sidney Fine, in charge of USIA's Western Europe operations.

DOCUMENTATION SKIPPED

Hendricks said he explained the film seg­ment came from a film made when the island was closed and had already been shown by NBC. He said he intended to say, in his narration, "The aliens were being rounded up and knocked around a bunch of Wob­blies."

If their objection to the film of Ellis Island "is going to far," he added. "I've de­cided to do the film anyhow and pay for private facilities. I have worked in East Germany and Hungary and I had a lot of doc­umentary stuff using government facilities and there was no problem."

Fine referred questions to Eugene Rosen­feld, a USIA public information officer.

"But their objection to the film of Ellis Island is going to far," he added. "I've de­cided to do the film anyhow and pay for private facilities. I have worked in East Germany and Hungary and I had a lot of doc­umentary stuff using government facilities and there was no problem."

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get his film done elsewhere. There was no attempt to censor; we simply wouldn’t do it.”

Mr. Rutanen, correspondent; for the Japanese television network, who has been using the USAIs facilities for more than three years, said he had no collegialities, other than the Department's promotion, the prisoners to do a interview show was refused because the agency did not have like the guest, Rutanen didn’t say why the was.

“There are indications it is getting tough,” Rutanen said. “They are taking a second look at the people using the facilities and they make tapes and transcripts of the shows. I don’t have any proof, but I have the feeling after talking to people at the agency—especially the technical people—that if we talk too freely, if we are too critical, we will not be able to use the studio.”

GORAN BYTTNER,

ORAN BYTTNER, a Swedish broadcaster, said he was told by USAIs officials last March “If I am too biased, I must count on difficulties.”

He has had no trouble, but then I do not use the USAIs facilities for documentaries. I just want to read what I saw, I worked in Eastern Europe and they did the same thing there.

“I feel that Congress is cause trouble for the USAIs if we use government facilities and we are hostile. If I paid for the facilities, it would be a different matter.”

Peter Pagmanisten, of the British Braidnian, said he understood and agreed to by correspondents that the USAIs facilities should not be used unless “it is in the interest of the United States.”

“Other countries are not as generous in making studios available,” he said.

Mr. Nieuwenhuis, another Dutch correspondent, has used the USAIs studios for four years.

He opposed the gentleman’s agreement that we should not use the studios to embarrass the United States. Obviously the bureaucrats are frightened, and I can understand this. They once asked me to cut out some segments of a film I was doing on American ghettos, because they showed a bare-breasted woman.

“Over the last year, they have become more frightened than ever,” he added.

DEPARTMENT OF JUSTICE: BAIL STUDY REJECTS NEED FOR PREVENTIVE DETENTION

Mr. ERVIN, Mr. President, I am pleased that the Law Enforcement Assistance Administration of the Department of Justice has released its study on bail reform and the operation of Washington's criminal courts. This study was commissioned by the Department of Justice, many months ago, after the Department had proposed its preventive detention legislation. It was a study carried out to find a way of putting it. I have had no trouble, but then I do not use the USAIs facilities for documentaries. I just want to read what I saw, I worked in Eastern Europe and they did the same thing there.

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“Over the last year, they have become more frightened than ever,” he added.
SIONAL RECORD, but there is an "Executive Summary" which will be helpful to Members of the Senate. I ask unanimous consent that it be printed in the RECORD in full at this point, but I would like to add the admonition that the full import of these findings can only be understood after a careful reading of the underlying data, and analysis contained in the full text.

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

EXECUTIVE SUMMARY

Several prior studies of criminal activity during pre-trial release have developed figures ranging from 7.0 percent reincarcerations for persons indicted on felony charges to 70 percent rearrests of persons charged with robbery. Subjective judgments have been offered for each of the end points of the high end of the range. This study was charged with discovering what a thorough analysis of all written court records, as well as data relating to dangerousness, that would disclose. Raw data relating to 712 defendants was analyzed in the System. For those who wish to consider the System, it was an integrated court procedure that would offer little hope in the near future for a practical tool for the prediction of rearrests. Many crimes are being committed for the first time of their second involvement. The Criminal Justice System is a highly sophisticated and complicated one, in which judgment plays a dominant role. The description in Chapter III of procedures and problems of this System may be of particular interest to those about to begin analysis in the System. For those who wish to consider the System, it was an integrated court procedure that would offer little hope in the near future for a practical tool for the prediction of rearrests. The reader is particularly cautioned that the results quoted in the following paragraphs are for a limited data base collected in the first half of 1968. These results may not be representative of the data situation or even of the 1968 time period.

1. In this sample of 712 defendants, we were able to trace thoroughly 401 who received some form of pre-trial release. Of these 108 rearrests. Thus, the total number of releases for each defendant was limited to 8 weeks prior to trial; and (8) a somewhat larger propensity to be rearrested while awaiting sentence or appeal after trial. Among those rearrests, the recidivist index showed (1) an increased propensity to be rearrested where the release period extended beyond the release day; (2) an increased propensity of persons classified as dangerous under the proposed legislation to be rearrested while awaiting sentence or appeal after trial. We hope the reader is particularly cautioned against a casual use of the averages reported in the Executive Summary: the recidivist index that if the "dangerous" (as defined in this report) has been fully applied to the sample defendants, then 52 fewer releases and 17 fewer recidivists would have resulted. The reader is urged to probe deeply in the body of the report to determine proper release combinations within the time frame and resources available was not feasible.

THE DISTRICT OF COLUMBIA CRIME BILL

Mr. BROOKE, Mr. President, the District of Columbia crime bill, S. 2001, which passed the House and the Senate, is now on its way to a conference committee. There has been much discussion on certain sections of the bill. It passed the Senate by voice vote and without much opportunity for careful scrutiny. Certain provisions raise grave constitutional questions, which William Raspberry's column entitled "District of Columbia Crime Bill Is a Can of Worms," pays tribute to the Senator from North Carolina (Mr. Ervin) for his careful legal analysis of various provisions of the bill.

I ask unanimous consent to have Mr. Raspberry's column of April 5, 1970, printed in the RECORD.

I hope the conference committee will review the bill with these criticisms in mind. There being no objection, the article...
was ordered to be printed in the RECORD, as follows:

DISTRICT OF COLUMBIA CRIME BILL IS A CAN OF WORMS

(By William Raspberry)

District of Columbia residents owe a very large debt of gratitude to North Carolina's Sen. Sam Ervin for exposing the D.C. crime bill. It is an affront to all principles of law and the Constitution. When all is said and done, the people of the United States owe a very large debt of gratitude to North Carolina's Sen. Sam Ervin for exposing the D.C. crime bill. It is an affront to all principles of law and the Constitution.

Mr. FULBRIGHT. Mr. President, in recent weeks two outstanding Arkansas poets, both internationally recognized, have died. On February 19, Edsel Ford, who had won numerous poetry awards and whose poetry had been published in hundreds of publications, died in Little Rock. On March 26, Rosa Zagnoni Marinoni, Arkansas' poet laureate, died in Fayetteville. My family and Mrs. Marinoni were friends for 50 years. She was a beauti­ful and gifted woman who contributed greatly to the literary world. She left a treasury of fine poetry which will live for many years.

The death of these two notable Arkansans is a considerable loss, but they leave a treasury of fine poetry which will live for many years.
tion" that she was the best poet ever pub-
lished in the column.

Mrs. Marini oni led the drive to have Oct.
28 declared "National Poetry Day" in Arkan-
sas.

The movement was carried a step further in
1969 when it was announced that the move-
ment resulted in a national resolution making Oct. 15 of each year "Rosa Zagnoni Marini oni Day" as well.

Senator Mathias said that Mrs. Marini oni was "poet laureate in the hearts of untold
thousands in this great state and in the
nation."

POETRY FOLLOWED RULES

Brown said that Mrs. Marini oni's poetry was
usually structured, and "followed the rules."
"Some of Mrs. Marini oni's poetry was
what she could write for anybody—the lowly or the
mighty."

"Mrs. Marini oni was a close friend of Edsel
Ford, who died Feb. 19 in Little Rock. Ford
was another poet of international recognition
and he had been a protégé of Mrs. Marini oni.

OTHER POSITIONS

Besides her position as poet laureate of
Arkansas, Mrs. Marini oni was poet laureate of
the University of Arkansas Women's Clubs. She
was founder of the Northwest Arkansas branch of American
Penwomen and the University-City Poetry
Club.

Surviving are a son, Paul A. Marini oni Sr.,
of Fayetteville; a daughter, Mrs. Maria Mel-
ton, and her husband, and six grandchildren
and six great-grandchildren.

Funeral will be Monday morning at St.
Joseph's Catholic Church in Fayetteville.

[From the Fayetteville (Ark.) Northwest
Arkansas Times]

ROSA

Rosa Zagnoni Marini oni, grande dame of
Arkansas letters and the state's poet laureate
during her time, went to her rest just a few steps east of the University campus—
this week.

We are not apt to see her like again.

Mrs. Marini oni's energies, guile, charm,
talent and enormous sense of human dignity
helped make her a woman of extraordinary
accomplishment. She was a teacher, a busi-
nesswoman, an artist, a poet, a writer, a
speaker, an administrator, a guide on foreign
travel and a major patron and sponsor of the arts.
She was also an accomplished connois-
seur of life.

For all, indeed, are those whose sense of pur-
pose and strength of character enable them to
overpower the eccentricities and whims of fate that would alter their chosen course or change their life design. Rosa was one
who would brook at fate and make it a bet-
ter world. She leaves behind an impressive
list of contributions to her friends and her
community. She is author of a dozen books
and hundreds upon hundreds of poems and
stories; she founded the University Poetry
Club; she has helped and encouraged count-
less young writers and artists, and she has
given generously of her time on behalf of
the humanities.

Rosa also showed by ample demonstration that a sense of culture and a grace of living
can be, and should be, part of life in these
hills of our home. That, surely, is one of her
finest legacies. Arkansas and the Ozarks are
better places for having had her as a friend.

SUPPORT OF S. 952, OMNIBUS
JUDGESHIP BILL, SENATE VER-
THESE

Mr. TOWER. Mr. President, I wish to
draw attention today to the pending con-
ference action on S. 952, the omnibus
judgeship bill. The tremendous growth of
the State of Texas in all areas since
the last judgeships were created was only part
of the need for passing the Senate version
of this legislation. Our State has added
literally millions of people to its popula-
tion in the last few years. Furthermore,
the incidence of crime has far outstripped
the population growth. New
judgeships in Texas and around the Na-
tion are urgently needed.

As an example, I will cite the figures from the University of Texas, a
district which is fairly representative of
the rest of the State. Since 1961, when
the last judgeship was added in the
northeastern corner of this district has increased over 500,000, to
around 5 million, and is increasing at
the present rate of about 70,000 yearly.
The district covers more than 85,000
square miles and is divided into seven
divisions. The area is served by only five
judges. The caseload increase since 1961
has been over 50 percent. Citing 1969 and
1968 figures, this breaks down as follows:
civil cases from 739 to 1,261; bankruptcy
cases from 212 to 583; and criminal cases
from 396 to 553. These figures do not
include nondocketed prisoner petitions.

There are currently pending in the area
440 civil cases involving multiple parties,
91 cases for injunctive relief, 45 patent,
cases, 29 condemnation cases, 30 com-
mon disaster cases, 57 criminal cases, 84
multiple issue mail fraud, conspiracy,
fraudulent claims cases, and 56 other
type cases.

Mr. President, the situation is similar
in nearly every other section of Texas.
These figures show that we must have
the extra judgeships that were provided in
the Senate version of S. 952. The Fed-
eral judiciary likes to pride itself on effi-
ciency of operations with its streamlined,
simple set of rules, and the method of
case assignment. If we are to continue to
maintain that efficiency, and it is the pri-
mary responsibility of the Congress that
we do so, we must provide the additional
judgeship to assure that the judiciary
keeps pace.

I urge the Senate conferees to push for
quick resolution of the differences in the
House and Senate bills, but to remain
resolute in their support of the number
of judgeships approved by the Senate.

There is a strong argument that can be
made for an increase even above the Sen-
ate level of the number of additional Fed-
eral Judgeships. The agreed-upon figure
was a compromise one. There should be
no further compromise on this subject.

I hope that we can secure the necessary
number of judgeships at the earliest pos-
sible date.

PLUMBERS SIGN AGREEMENTS FOR
INDUSTRIALIZED HOUSING—RE-
MARKS OF PETER T. SCHOEMANN

Mr. PROXMIRE. Mr. President, at the
15th National Legislative Conference of
the AFL-CIO Building and Construction
Trades Conference here in Washington
last month, the general president of the
United Plumbers and Pipe Fitters, Peter T. Schoemann discussed
some of the key problems in housing
construction.

He announced that first agreements
have been reached with companies who are
constructing housing and plumbing in
factories. Work will be performed with-
in the factories by members of the United
Association.

If others follow his lead, a real revolu-
tion can take place in the industry. Pro-
duced manufactured housing was 90 percent
of the single family units built last year.
Some believe that half of all housing will
be factory built by 1975, exclusive of
mobile homes.

I think it is quite clear from President
Schoemann's remarks that he and United
Association not only understand the pos-
sible problems of such a change, but that
they have taken constructive action and are an integral
part in the movement to increase the
quantity of housing construction.

One of the oldest myths about housing
construction in this country is that the
pitifully bad performance in meeting
our housing needs is due in substantial
degree to the restrictions of the craft
unions. This is an old canard which is
used as an excuse and a shibboleth by those in the industry and in Government agencies to justify their bad rec-
ord of performance.

The facts are that while the construc-
tion trades are involved in the building
of only 20 percent of large scale
commercial establishments, they have been
only marginally involved in housing con-
struction. The best estimates are that
about 50 percent of the housing units
in this country are built by nonunion
labor.

Second, in case after case where large-
scale building under union auspices is
involved, "project agreements" which provide for the use of new materials and
methods have been negotiated.

Third, vast numbers of alleged restric-
tions have really been restrictions by
producers rather than the unions. Plastic
pipe in plumbing is one example. Al-
though the unions are not perfect, they
have been certifying for many restric-
tions which are either unnecessary, or where producers of specific products are the
key groups pressing for restrictions.

Fourth, the really major problems which plague housing production are directly the fault of the Federal Reserve
System, the policies of the Treasury De-
partment, and the acts of some of the
key financial institutions in the economy
whose restrictions on credit, whose re-
straint over the money supply, and the
instituion of policies which foster higher
and higher interest rates have brought
a disastrous condition to the housing
industry.

This country needs at least 2.25 million
new housing units a year. We are now
it is possible that he and his union have negotiated with

4,000 about 1.3 million a year, or at
least 1 million less than we need.

The greatest housing needs are for low-
and moderate-income groups. But it is
time that half of the families in this
country cannot afford to buy a new
house. They are priced out of the market.
That is the tragic state of affairs.
industrialized builders of housing cer­
tainly point the way.

Let me unclench the text of Mr. Schoemann's speech be printed in the Record, I hope it will be widely read by those who have assigned the wrong role of the Head of housing construction in this country.

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

ADDRESS OF GENERAL PRESIDENT
PETER T. SCHOEMANN

This afternoon I want to discuss with you two of the most critical and perplexing problems that face America as we begin this new decade.

These problems are the acute and increas­
ing shortage of two of the basic needs of the people of our great country—jobs and houses. Both of these shortages are complicated by the problems of race relations and economic opportunities for members of minority groups. And these shortages directly affect the interests and aims of the United Asso­ciation and the welfare of our members and their local unions.

The general officers of the United Association—Martin J. Ward, the Assistant General President, General Secretary-Treasurer Bill Dodd, and myself as your General President—have been very concerned with these problems. We have devoted much of our energy over the past months to seeking new answers, charting new directions—and redirections—to meet the chal­lenges they present.

I want to bring you up-to-date on what we have been doing to provide leadership to solve these problems within the framework of our free society. And I want to call upon each of you to work with all your general officers and jointly meet our responsibili­ties to the United Association in these areas.

Let me say that all of us in this room are in the labor movement because we believe that it offers us the best opportunity to make a contribution to building a better society. Building a society in which the American citizens have a greater measure of security and dignity to which they are entitled. We believe that America has a special responsibility to help the weaker and weaker and strong, so that together we can build the kind of America that we all want.

Let me say that the basic values that we cherish cannot be divided up so that some of us have them and others do not. We must make progress for all members, unless all Americans share the ability to advance.

One of the most important, unfinished jobs on the agenda of the American labor movement is the problem of providing de­cent homes for all of our citizens. This is especially a problem which concerns the unions in the building and construction trades—and the United Association is in the forefront of these organizations.

For more than a generation adequate hous­ing has been America's greatest unmet need. It is the chief unmet need of the American people. President Franklin Delano Roosevelt called at­tention to the plight of the one-third of our nation that was ill-housed, ill-clothed, and ill-fed.

Today, in the midst of the American economic boom that we were in 1929, the general conditions are even worse. The housing shortage is even greater, and the need is much more acute, more pressing than ever before. Our housing shortage is at the root of this problem. Interest rates that are at the highest level in 100 years. Rising cost of land is another important factor that inflates the price of houses. But the United Association is doing more than talking about the housing shortage. We are trying to do something about pro­ducing more houses, and at least attempting to hold the current price level, if not reduc­ing prices.

In two important actions we have signed first agreements with companies construct­ing housing and apartments in factories. As a result of these agreements our work will be performed by U.A. members.

We have stepped up our pace because we are looking to the future. We can see that we are at the beginning of a new phase in the construction of housing in the United States: the fabrication of housing compo­nents and modules in factories.

Last year prefabricated homes accounted for 20 per cent of the single-family units built. This was an increase from 25 per cent in 1968, when 225,000 prefabricated units were marketed. The Home Manufacturers Associa­tion expects that at least half of all housing will be factory built by 1979. These figures do not include mobile homes.

It is obvious, then, that factory built housing poses problems that we must face squarely.

For many of our local unions, factory built houses are now a matter of necessity. Our organ­izations and gain control of work in the home construction field.

A great step in extending our jurisdiction to this new industry was made in November, when Assistant General President Marty War­de, the Craft Director, Bill Dood, Executive Vice President Joe Walsh and myself, as your responsible general officers joined forces with the United Association of Carpen­ters and Electrical Workers to represent the workers of Prestige Structures, Inc. of Char­lotte, N.C. Who had signed five other Tri­Trades agreement's with builders of low-cost, factory housing.

Prestige Structures, Inc. and the compa­nies we have been successful in taking to collective bargaining agreements with the three trades, as well as others who may do so in the future, should provide a model for the whole industry in the United States and Canada, could create a million new construction jobs.

T. J. Schoemann and all of those that will come after it—provide that all on-site work will be performed by non-union members, to union members belonging to other craft unions, or to indus­trial unions.

However, we have responded to changing conditions, and we will not be left behind in the world move toward non-union, to union members belonging to other craft unions, or to indus­

This important first step was followed in February with another pace-setting agree­ment.

In a press conference at the headquarters of the Department of Housing and Urban Development, and with the National Association of Manufacturers, to the non-union under area building trades conditions and at prevailing pay rates.

When I signed this agreement, I told re­presentatives of the United Association that I thought we had two other critical problems. One was the fabrication of housing compo­nents and modules in factories. The second was the need for a new type of constructed housing that would be suitable for all income levels.

As a result of these agreements our work will be performed by U.A. members.
The program is financed by a Labor Department grant of around $1.4 million over an 18-month period.

Five hundred workers will be trained under the program which will involve 33 major construction companies.

Those selected for training will be men who have been working in the piping field without benefit of related training, who are beyond normal apprenticeship age, and who may have less scholastic preparation than the normal apprentice. They will be recruited from among workers who construct a great many of the jobs are about to start. Journeymen trainees will be hired at the location only after the union, the company, and the Labor Department investigate and determine that a short-age of skilled manpower exists.

To make individuals must be physically fit and have had experience and educational background sufficient to be properly experienced and competent for previous experience in the trade.

Enrollees will be given a maximum of 120 hours of orientation before going to work. On-the-job training will be provided by skilled journeymen, and about 200 hours of related classroom instruction will be required each year.

All trainee-workers will be paid local wage rates. Wages will be increased for those paid apprentices and will depend on the level of experience at which a man is rated.

Secretaries Shultz told reporters that the agreement is a major step toward training workers and to get more minorities into the construction trades.

He added, "President Schömann and his union have taken the lead among international building trades unions to provide both on-the-job training and related classroom instruction to develop journeyman training for minority workers across the country."

"Members of the Plumbers Apprentice Union, who are among the highest skilled workers in America, should take justifiable pride in opening opportunities for everyone regardless of race."

I want to repeat: This agreement is now part of the national contract and all our local unions are bound by its terms just as they are bound by the terms of the other provisions of the agreement.

Further, we recommend to every local union that they conclude similar agreements on a local basis with contractors who are not a party to the National NCA agreement.

This is not merely a charitable or altruistic gesture. We need these craftsmen in many areas of the country. We cannot supply the needs of this country in construction jobs. Nearly every week, the General Office is involved with contractors who need skilled craftsmen to look to us to discharge our obligations under our contracts. In too many instances, we have to tell them that the men they ask for are not available.

In the decades ahead, the demands for our members' skills will increase. Pollution control, houses for our citizens, a new industrial plant for our rapidly growing population—all of these will combine to strain the GA's resources to provide for our members. We have only 18 months to do this. We must start to plan today to meet these needs if we are to discharge our responsibilities and maintain our influence in the nation.

There will be some who say that we can't expect too much for these funds. We have always been men of little faith. I emphasize that we must commit ourselves to these tasks. We must not use the funds in any fashion that has the resources and the philosophy to do these practical jobs.

We have the responsibility to make the unions do more and to get more people doing these things, thinking about the alternatives. Out of that greater understanding, we will forge the means to move forward together to build the America we all dream of.

LORNE GREENE, OUTSTANDING TELEVISION PERSONALITY OF 1969

Mr. MATHIAS. Mr. President, recently, I had the privilege of attending the 62nd annual banquet of the Advertising Club of Baltimore, the "Frolics of 1970." Mr. I. H. "Bud" Hammerman II, the executive chairman, presided over this annual civic event in which the entire business community of Baltimore participates. Mr. Hammerman is known for his stimulating television personality of 1969: Lorne Greene, actor and star of "Bonanza." It also gave the Advertising Club and its members the opportunity to present Mr. Howard I. Scaggs, honorary president, a gift for his service until last June as club president.

All who have seen Mr. Greene on his television series "Bonanza" know he is a competent actor. But I was pleased to find that he is also a thoughtful speaker. Television is fired on from many sides these days. Mr. Greene answered many of the criticisms convincingly in his analytical address. I ask unanimous consent that his remarks be printed in the Record.

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

SPEECH BY LORNE GREENE

I'm sure many of you have heard something good about television recently. But have any of you heard something good about television recently?

Nicholas Johnson's told us that network has not given enough voice to activism and dissent. Television is the handy whipping boy for another social ill. Name a problem. Someone is bound to fire on from many sides these days. Mr. Greene answered many of the criticisms convincingly in his analytical address. I ask unanimous consent that his remarks be printed in the Record.

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Are you against "instant analysis and querulous criticism?" The public was asked to vote on this issue. Do you know what's happened?

If a television network today tags on some and others with a bash of critical mail saying "Shame, shame," and worse.

An entertainment network judges an event to need no immediate news analysis, it gets a bash of critical mail saying "why not?

Personally, I like to hear how knowledgeable people interpret things. I thought this was the essence of the notion of the press in America. I've met many of the top newsmen. Any of them worth their salt—and that's most—can analyze what they're covering a lot better than I can. Particularly on short notice.

I paid my dime for their paper. I've tuned my TV set to their station. I'm entitled to their conclusions. I might not agree with them. I'll make up my own mind whether they're querulous. But they are the professionals in their business, not me. I'm only the dross among the public.

People's feelings about television are emotional, not reasoned. It's a highly personal medium. A fixture in 59 million American homes. It appeals differently to each of us. People in their great variety are different. How do you please them all, all those different tastes and quirks?

Television's not perfect. It has never claimed to be. It can and should thrive on meaningful criticism. But one vital truth seems to constantly escape critics and those who nod yes to all the criticism. They want to remake television to fit their own image of what the medium should be. Folk singer Bob Dylan hit it in the lyrics of a song he wrote calling "Bonanza's Farm.

"Well, I try my best

To be just like I am

But everybody wants you

To be just like them.

I happen to think there's a lot right with television instead of wrong with it. And I suspect that it is satisfying somebody—even if it only happens to be the overwhelming majority of the people who own television sets. We cannot define public tastes in terms of our own personal preferences and project them as the standard for the majority.

For 23 years America has lived with television. Not all of us love it. Not all of us want it. But few of us can imagine a world without it. And the mass medium, responsible to a total audience, with a million people, individually different, can't appeal to all of them. The drums are beaten by many of my friends, and I'm sure many of yours. The drums are beaten for more serious drums—serious drums conveying the problems of the world, specialized news, massive doses of news and information.

Television, of course, supplies all of this, although apparently not in the quantities each special interest faction would like. A mass medium, responsible to a total audience, high-beat like a drum, just isn't going to do enough to satisfy any one group. But it has more balance than many people imagine. The news and information scheduled for approximately 25 per cent of the total NBC Television schedule, for instance, is composed of news and informational programming. The medium may appear to be dominated by shows like "Bewitched" and "Bonanza" and "Carroll's Folly" but that's what most of the public prefers. But the aesthete who claims that he can't find anything worthwhile is wrong.

There are thousands of network and local programs to choose from every television season. There is change and variety. There is an increasingly robust educational television service. There is something for every personality and every television moves in to cover a moon voyage, a national political convention and election, or a Presidential speech, it does stimulate universal interest.

And credit some of those so-called "professional" entertainment shows with a lot more than just eye-appeal. Their mind-appeal shouldn't be dismissed.

"Laugh-In," aside from its fun and tre­mendous and unprecedented ability to laugh at ourselves and our ingrained prej­udices. It has proven that comedy doesn't have to be highbrow to produce laughter but must have nothing to do with the real issues of living.

Johnny Carson, on the other hand, the force of both television and their attractive personalities, may be popularizing a side of American humor that may one day become a regional icon of America—for too long considered corny.

For all that is said about it, television has brought people, for the first time in history, face to face with the variety and reality of life.

Anthropologist Margaret Mead calls television a shatterer of myth, a medium through which "the whole world can participate simultaneously in events about which it is impossible to lie."

We've been fond of some of our myths and we reject some of the things we see. But the shocks and shocks of the world which television confronts us with—wars, rioting, slavery, prejudice—will not disappear unless we are aware of them, and concerned enough to do something about them.

If television tells you, remember that somebody else considers it too bold. If you think television is a pacifier that makes the world safe for both tooth and nail, consider it an agitator. For the very reason that it is all things to all people—as it should be—I think it is valuable. And I've been proud enough to do something about it.

REVERSION OF OKINAWA TO JAPAN

Mr. HOLLINGS. Mr. President, on April 7, my colleague from South Carolina (Mr. THURSTON) presented a fine statement regarding the problem sur­rounding the reversion of Okinawa to the Government of Japan. Unfortunately, due to the pressing business before the Committee on Post Office and Civil Serv­ice, I had to be present at their execut­ive session and could not be on the Sen­ate floor at that time. I wish to associate myself with the remarks and analysis made by Senator Bryan on this vital issue and the colloquy which resulted with the Senator from Virginia (Mr. BYRD).

Although the Senate on December 5, 1969, approved a vote of 63 to 14, approved Senator Bryan's amendment regarding the understanding entered into by the President of the United States and the Prime Minister of Japan concerning article III of the Treaty of Peace with Japan that it shall not take effect without the advice and consent of the Senate, I felt it necessary to communicate with the President in that I did not believe that the joint communicte issued on the ques­tion of Okinawa was absolutely clear as to the Senate's role in this matter. The President replied to my correspondence on January 1970, that the executive branch would maintain close contact with the legislative branch, including the appropriate form of congressional participation. Such participation would of course, be necessary to be accomplished to approve or disapprove, which is funda­mental to the entire issue.

I believe Senator Thurston has pro­vided an extremely beneficial service to the Senate by analyzing this complex is­sue.

EXPROPRIATION OF AMERICAN-­OWNED PROPERTIES ABROAD

Mr. TOWER. Mr. President, in De­cember of last year, the Senator from Louisiana (Mr. Long) called our attention to the unpleasant experience of an American mining company in Mexico. As I recall, he characterized the government of Mexico toward the sulfur operations of Gulf Resources & Chemical Corp. as "creeping expropriation." The means by which this attempt to be accom­plished are first the placement of re­strictions on the company's operations, there­fore forcing it to seek a purchaser of Mex­ican nationality, and second, the subse­quent refusal of the company to allow the procedures found acceptable to it in the Mexicanization of other sulfur companies. Being aware of the growing concern of many of us over the expro­priation of American-owned properties abroad, I have followed the Gulf Re­sources case with interest.

Currently, I must report that no re­lief for the company in sight and that little effort is being made by the Mexi­can Government on the company's be­half. On the contrary, the issue is clouded by denials and confusion.

To view these events in proper perspec­tive, we must be aware that almost 20 years ago Gulf Resources was issued a concession contract by the Mexican Gov­ernment to produce sulfur in the State of Veracruz. The legality and validity of such concessions, and Gulf's vested rights thereunder, have never been se­riously questioned. With pioneering ef­fort and the expenditure of large sums of money, Gulf created in the remote jungle of the Isthmus of Tehuantepec an industry employing more than 500 per­sons, nearly all Mexican nationals, and providing housing, utilities, medical care and schools which otherwise would not be possible.

During its operating history, more than 80 percent of Gulf's sales dollar has been paid as salaries, royalties, and taxes or reinvested in the Mexican economy. All this was done in the good faith belief that it shall not take effect without the expro­priation contract would be honored and that expropriation could not be a serious threat.
I question whether Gulf has received the full benefit of its bargain with Mexico. The concession rights have been cancelled nor have its sovereign powers been used to destroy any vested right; it may well be that the same result has been accomplished by indirect means. There seems to be little difference between the exercise of sovereign power to repudiate contract rights and the imposition of restrictions which make it impossible to realize the purpose for which the contract was intended. Whether it be expropriation or sovereign interference, the result is the same—Gulf cannot continue its sulfur operations nor can it sell its properties to a Mexican investor, even for salvage value.

I find small comfort in the fact that, technically, the letter of international law may have been honored. In the final analysis only one conclusion clearly emerges: Gulf has been deprived of its contract rights without compensation.

There have been attempts to cloud the issue by accusations and countercharges that Gulf is free to operate its properties and that the Mexican Government will not expropriate land proposed sale which complies with Mexicanization laws. But the damage to Gulf already has been done. As a result of the restrictions imposed early last year, the confidence of Gulf's major customers has been destroyed so that continued operations no longer are economically possible; and no responsible Mexican investor will negotiate to purchase the properties in such a hostile atmosphere.

The Mexican Constitution states that private property shall not be expropriated except for reasons of public use upon payment of indemnity. I fail to see why there cannot be just compensation for the harmful result of discriminatory restrictions which have the same effect as expropriation. Unless direct and immediate relief is forthcoming, Gulf's properties ultimately will revert to government ownership at the expense of the more than 10,000 public stockholders of Gulf who will have seen the assets of their company reduced by some $13 million.

**VETERANS' MEDICAL CARE**

Mr. DOLE. Mr. President, on April 2, 1970, President Nixon announced he would seek $56 million in additional funds from Congress for the Veterans' Administration medical program—$15 million for the remainder of this fiscal year and $40 million added to the budget request for fiscal year 1971.

Mr. President, I commend the President and the able Administrator of Veterans' Administration, Donald E. Johnson, for their recognition of the importance of providing a full range of medical services for our veterans.

Unfortunately, at the very time that the needs were increasing, budgetary limitations made it impossible to respond. Furthermore, there have been changes in the types of wounds suffered by our veterans. We have become realistic in the need to save their lives through better battlefield care and faster evacuation, we have not yet dealt adequately with the great number of patients with multiple amputations and spinal cord injuries.

Being a veteran who benefited greatly from Veterans' Administration medical care and having visited numerous hospitals where those with multiple injuries are adjusting to their new condition, I wholeheartedly endorse then, President's commitment that "no American serviceman returning with injuries from Vietnam will fail to receive the immediate and total medical care he requires."

An article written by Sandra Blakeslee, graphically describing the plight of the Vietnam veteran, was published in the New York Times. I am raising the point. I ask unanimous consent that the article be printed in the Record.

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

**CHIPPED VETERANS FIND HOSPITALS CROWDED AND ATTITUDES AT HOME AMBIGUOUS**

(By Sandra Blakeslee)

"The calls begin the moment the people ever see a Vietnam casualty is when he's got blood running out of him on the Cordonite program. After that, he's forgotten."

The man who said that speaks from personal experience. His name is Max Gleland and he had both his legs and his right arm blown off near the Saigon airport in Vietnam, 23 months ago.

At that time, a long and arduous journey began for Captain Gleland. From a field emergency station in Vietnam he was taken to a hospital in Japan, then to a military hospital in the United States where he received formal discharge from the Army, then to a Veterans' Administration hospital, and finally, home.

More than 13,000 other Vietnam veterans, whose wounds have been severe enough to merit a military discharge, have made that same journey—some disabled for life, many in pain and perhaps most in varying stages of depression and confusion.

Not all of their troubles stem from their wounds, however. There are some things about the war in Vietnam, many experts on veterans' affairs say, that make these wounded men different from American soldiers returning from World War II that make readjustment to civilian life more difficult.

They show up on three fronts—on the battlefield, in the military and veteran's hospital, and back home as he strives to live with his disability. Going home often means encountering ambiguous or hostile attitudes toward the war in parlor discussions about its "worth" or "morality" attitudes to which the injured veteran is acutely sensitive.

In a veterans' hospital, according to most experts, the young man will still get good clinical care but will find facilities seriously understaffed, underfunded and overcrowded—conditions that President Nixon approved to get the VA's budget to $2.8 billion a year, 6.5-million increase in the VA's budget.

On the battlefield, the chances are good that he is one of the increasing number of soldiers who are experiencing and surviving more severe, permanent disabilities than ever before. In Vietnam, 81 per cent of those he is surviving their wounds compared to 74 per cent in Korea and World War II.

12.4 PERCENT FULLY DISABLED

The Veterans Administration classifies disabilities on a percentage scale. Only 4.4 per cent of the 669,000 veterans were 100 per cent disabled for conditions such as multiple amputation, paraplegia or blindness.

In Korea the figure was 6.7 per cent. In Viet-

The wounds suffered in this war are more devastating for two reasons. Combat is close up, guerrilla-fashion. Also, the enemy weapons are more prone to maim and kill with weapons such as the high-powered AK-47 rifle, rockets, mortars, claymore mines, booby traps and punk shells.

At the same time, more lives are being saved because of greatly improved medical training techniques and the helicopter. During World War II it took an average of 10.5 hours for a man to reach medical attention. In Vietnam it took an average of 2.8 hours and can take as little time as 20 minutes. All of this means that the wounded entering American military and V.A. hospitals are more battered than in previous wars.

"Some patients who in earlier conflicts would have died on the battlefield and been counted among killed in action, are now reaching hospitals alive," says Lieut. Gen. Hal B. Jennings, Jr., Surgeon General of the Army.

The V.A. and military hospital systems are having a tough time coping with the crush. Frequently military hospitals are forced to shuttle men on or out quickly because of lack of manpower and bed space. Veterans' hospitals, by their own admission, have deteriorated in the last five years.

"We have a Vietnam veteran in the Veterans Administration Hospital in Washington, speaking for the House staff, said recently, "After our hospital is filled, we fully keep lawns watered by a newly installed sprinkling system; there are newly paved parking lots, and a new chain-link fence, and its facade smells on the rest of the city while inside it harbors a festering fungus.

The Veterans Administration, with 1,000 fewer beds available this year than last began short hospital facilities. Fallen back on nursing homes to pick up the slack. In 1965, 168 nursing homes were so used; in 1970, nearly 7,500 are.

Because of budgan restrictions and the costs associated, many have been closed. Some have been counted among killed in action, are now reaching hospitals alive," says Lieut. Gen. Hal B. Jennings, Jr., Surgeon General of the Army.

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PET FOR VA PHYSICIANS

In addition, tight budgets have left pay for VA physicians far below levels per cent below that of physicians in university hospitals. No funds are available to train additional VA physicians. And the number of beds in spinal cord injury units has been reduced at a time when the ratio of paraplegics and quadriplegics is eight times that of World War II.

But beyond any shortcomings of the hospitals, the war seems to continue exacting a psychological price after the wounded veterans go home. Captain Cleland, who today drives his own car and plans to enter state politics from his home town, Lithonia, Ga., described his return from the war in an interview.

"I have to defend what you did, explain it," he said. "But the veteran can't communicate the actual feeling of being there, the dressing that goes on personally. You come back 13,000 miles to a country that can't understand anything that happened to you. There's no understanding in the military. There's an out in around your uniform."

At recent hearings held by Senator Alan Cranston, Democrat of California, who heads the subcommittee on the veteran's affairs, Captain Cleland elaborated:

"To the devastating psychological effect of getting maimed paralyzed or in some way un-
able to re-enter American life as you left it, is the added psychological weight that it may not have been worth it, that the war may have been a cruel hoax, an American tragedy that left a small minority of American males holding the bag.

The fighting man in past wars came home to brass bands filled with the sense that his sacrifice and that of his buddies were worth-while. The wounded serviceman, a psychiatrist at Yale's School of Medicine who has studied the psychological impact of the war.

But Vietnam is different, he and many other experts agree. The stresses of guerrilla warfare bring on an unusually high state of psychic numbing, they say, and hostility toward the war at home often leads to a deep sense of betrayal if it has been manipulated. "The Vietnam veteran serves as a psychological crucible of the entire country," Dr. Lifton said.

Not all of the hospital experiences of wounded veterans are depressing or discouraging. The 1,627 military hospitals around the country. The wounded serviceman is sent, on his first stop home, to the one nearest his family or to the one where the best care is given for his particular injury or condition.

Many veterans say that the time spent in the military hospital can be helpful to a wounded man, surrounded as he is by friends in similar straits. A few weeks ago Jack Farley, a 27-year-old Army captain from Massapequa, N.Y., who lost his right leg from a knee to the ankle, told a visitor to the officers' amputee ward—affectionately called "The Pit"—at Walter Reed Army Medical Center in Washington D.C.

"Every now and then you find a guy who's really sorry for himself," he said, "a guy laying up sorry. He turned to a friend in the room. "Remember Carpenter? Lost a foot. He would cry a lot, even after weeks here. He could stay in his bed for three days in a row, and then get up and run out the door."

The average stay in a military hospital for a wounded man is six months. During that time, the serviceman is "processed for disability," that is, a medical board decides if he should stay for treatment or is ready to go back to the line. If he is to go on to a V.A. hospital, the wounded man is treated until he reaches "optimum hospital improvement," or until he is sufficiently stable to be moved on. He is discharged or retired from service at this juncture.

Between 1966 and 1969 admissions in military hospitals rose by 134,000, reflecting the buildup in Vietnam, while the number of military medical personnel rose by 10,000. The Army today has 7,100 full-time physicians and 5,866 full-time physicians serving 27 million veterans. Congressional Record—Senate 1053

CONGRESSIONAL RECORD—SENATE 1053

Mr. TYDINGS. Mr. President, on October 15, 1965, shortly after I became chairman of the Subcommittee on Improvements in Judicial Machinery, I stated on the floor of this Chamber that, although on the whole the general caliber of the Federal judiciary has been extremely high, "the problem of the unfit judge is a sufficient challenge to our entire judicial system." At that time I announced that the subcommittee was going to undertake an extensive study of the problems caused by disabled judges and by judges whose conduct fails to meet the standards of good behavior required by the Constitution.

On February 24, 1970, the subcommittee held its first exploratory hearings on the sensitive subject of judicial fitness. Among the witnesses that first day was Bernard G. Segal, now president of "The Corporate Group," of New York City. Joseph S. Smiler, at that time chairman of its standing committee on judicial selection, tenure, and compensation. Mr. Segal's testimony and that of Judge John M. Biggs and Joseph Borkin, author of The Corrupt Judge, helped to dramatize the need for the study that the subcommittee initiated and gave it direction.

Subsequently, in 1966, the subcommittee inquired into the matter in which the States deal with the unfit judge. These hearings concentrated on the New York Court of the Judiciary and the California Commission on Judicial Qualifications, both of which have had success in dealing with these sensitive problems.

On February 28, 1968, after much further discussion, research, and analysis, I introduced the Judicial Reform Act, S. 3055, 90th Congress. This primary feature of the act is the establishment of a permanent Commission on Judicial Disabilities and Tenure composed of five Federal judges and appointed after the successful California Commission on Judicial Qualifications. This Commission would be empowered to effect the retirement of disabled judges and to recommend the removal by the Judicial Conference of Federal judges who violate the constitutional standard of good behavior. Closely related to the removal provisions of the act are provisions dealing with judicial conflicts of interest and requiring financial disclosure of Federal judges.

During 1968 the subcommittee heard 6 days of testimony on the specific provisions of S. 3055. Those hearings produced 240,000 words of printed material. We recommended in the legislation that was incorporated in the revised act, introduced on March 12, 1969. The act is cosponsored by a distinguished bipartisan group of a few of our colleagues and other Senators who were able to sponsor the bill, and I am grateful for their support.

The act received its endorsement from The ABA at the annual meeting of the American Bar Association in Chicago.

JUDICIAL REFORM ACT—AN ABA ENDSORSEMENT

The American Bar Association last year began its own extensive inquiry into standards of judicial conduct. Moreover, the American Bar Association Committee on Judicial Admissions and its subcommittee on judicial selection and tenure, and compensation both undertook studies of the provisions of the Judicial Reform Act.

On February 24, 1970, acting upon the recommendations of the subcommittee, the American Bar Association's section on judicial and constitutional law committee on judicial selection and tenure, and compensation in dealing with these sensitive problems.

The section of the American Bar Association received significant and favorable editorial comment throughout the country. I ask unanimous consent that these representative editorials be printed in the Record.
The American Bar Association has given a welcome boost to the efforts of Senator Tydings to cope with the problem of disability and misconduct of federal bench members. As well as Congress are traditionally reluctant to face the fact that judges, no least because the process sometimes leaves much to be desired. Caper to work and occasionally bring disrepute upon their courts. Of course judges who be permitted to fulfill the law must be impeached, but that crude and virtually obsolete procedure does not reach the lesser cases of misbehavior and gross incompetence.

We have long favored Senator Tydings’ proposal which would let the judicial system handle its own unfit members. Its judicial reform bill would set up a commission of five federal judges to investigate complaints about official conduct of the federal bench. It could dismiss any such complaint or order a hearing and make recommendations to the Senate. Any legislation of the United States Law. If the conference should find it necessary to relieve the judge of his responsibilities because of disability or misconduct, an appeal could be taken to the Supreme Court.

Over the years during which this problem has been under discussion, one has come up with a better approach. Indeed, the proposed proposal that might invite the President of Congress to meddle with the status of disabled and unfit judges would be open to possible grave abuses. The Tydings bill is well guarded against abuses as well as being in line with the policy of judicial independence and legislative responsibilities in separate branches. It is entitled to more serious consideration than the Senate has given it to date.

RELEASING UNFIT JUDGES

The house of delegates of the American Bar Association should be commended for passing this week a resolution in support of legislation for dealing with federal district judges who are accused of being unfit or disabled.

This support should help persuade many presently hesitant U.S. senators to vote for a judicial reform bill authored by Senator Joseph Tydings, D-Md., and 12 other senators.

The Constitution provides that federal judges are to serve “during good behavior,” which normally means for life. The only way of removing a corrupt judge is by impeachment. Under that procedure, the House of Representatives must bring charges, after which the Senate acts as a court and tries the case. This method is so cumbersome that it has been employed only eight times in history and resulted in only four convictions. Furthermore, impeachment is limited to misconduct and cannot be used in cases of physical or mental disability.

The Tydings bill would establish a commission of five federal judges to investigate complaints about the official conduct of any judge in the federal court. "While obviously frivolous or insubstantial allegations would be weeded out, but complaints that appear to have merit could be thoroughly reviewed, with the accused judge given an opportunity to at a formal hearing to defend his conduct.

The procedure is designed to encourage unfit judges to retire or mend their conduct. As a result, the Senate would be authorized to make a recommendation to the Judicial Conference of the U.S. whose decision would be subject to review by the U.S. Supreme Court.

On the whole, the nation can be proud of the caliber of its federal district judges. But it is most essential to recognize that even a few senile, alcoholic or unethical judges can poison the atmosphere of our federal courts. Congress should act promptly and favorably on this judicial reform measure. To ignore the problem is not to solve it.

REVIVE LAW FOR IMPROVING FEDERAL JUDGES

A problem long overlooked in the U.S. federal bureaucracy is the matter of who judges the federal judges in cases of alleged misconduct. A situation where physical or mental incompetence becomes a factor in a jurist’s ability to perform his duties. At the same time a case outcome available is the impeachment route, a cumbersome and difficult way to get results.

With the approval of the House of Delegates of the American Bar Association, a bill has been introduced in Congress which would establish a commission of five judges, appointed by the chief justice of the Supreme Court, to examine complaints and make recommendations subject to supreme court review. Final assent of the President would be required for removal of a federal judge.

It is expected that the commission would deal primarily with judges whose age or some form of disability constituted an impediment to their discharge. Dis/customs machinery for misconduct cases also would be included. Unfortunately, the bill is now tied up in committee.

While legitimate misconduct cases are rare, better machinery is needed to deal with such situations as well as developing a means to encourage the removal or retirement of judges who have become incapacitated by illness or who have declined.

Michigan recognized this problem two years ago and moved to correct it. The electorate approved a constitutional amendment in 1968 allowing for establishment of a State Judicial Tenure Commission. The commission has the authority to investigate citizen complaints on lack of qualification of judges and make recommendations to the state supreme court. The supreme court has the authority to then suspend, remove or retire a judge.

Proper administration of justice demands that judicial incompetence must be exposed and corrected. This could be done by allowing for removal or retirement of all federal judges at a specified age as is required of other federal employees.

ON REMOVING JUDGES

One missing element in the otherwise over-stuffed federal judiciary is an effective, relatively simple procedure for the removal of judges guilty of misconduct or impaired by physical or mental disability. Not many occasions arise when judges have to be compelled to leave the bench, but nevertheless there is a recognized procedure to remove them—equitably, but with dispatch.

That lawyers think so, too, can be found in the overwhelming approval by the House of Delegates of the American Bar Association of the Judicial Reform Act, a bill introduced in Congress by Senator Joseph Tydings, D-Md., and 12 other senators.

The Tydings bill, which faces some trouble in Congress, would provide a better method of removing federal judges in cases of whose ability has been impaired by senility. We believe the measure would be impractical if included in a federal judicial reform measure. The mandatory retirement of all federal judges at a specified age is required of other federal employees.

ABRAHAMS TYDINGS BILL

The American Bar Assn. at long last has endorsed legislation to remove unfit or otherwise unable to discharge (his) office, efficiently. That order, signed by four judges including New York’s Judge Oliver Wenzel, effectively prevented the Oklahoma jurist from trying any more cases—but allowed him to retain his seat and his five-dollar-a-year salary.

Tydings’ bill, which faces some trouble in Congress, would provide a better method of removing federal judges in cases of whose ability has been impaired by senility. We believe the measure would be impractical if included in a federal judicial reform measure. The mandatory retirement of all federal judges at a specified age is required of other federal employees.

EASING OUT THE UNFIT

No really effective provision exists for getting rid of federal judges who have become infirm through age or are otherwise unfit to continue on the bench. By an act of Congress, a trial before the Senate, is now provided for. By this means a judge found guilty of corruption or misconduct may be removed. This does not, however, meet the situation of incompetence caused by physical disability. The following has been given attention by the American Bar Association. In response to a strong plea by Sen. Joseph D. Tydings of Maryland, the ABA’s House of Delegates has approved—though only “in principle”—of a reform plan.

The commission would deal primarily with judges whose age or disability constituted an impairable impediment to continued service, but at least as important, there would be a barrier for the cases of judicial misconduct.

The proposed procedure would appear to be a reasonable alternative to the cumbersome impeachment process, the only means authorized for the removal of a federal judge and so seldom invoked that it can be regarded as moribund.
The reform plan also gets at the matter of physical or mental disability. In such cases, should a judge decline to retire voluntarily, the commission of judges would recommend to the President that he be removed.

Some past cases show the need for a definite way to oust an incompetent judge. One case involved a man so deaf that he could not even hear an oral argument, and so blind that he could not read a written statement. In the future, the commission—five federal judges appointed by the President—would investigate complaints about federal judges and make recommendations to the President that he be removed.

If a motion to remove a judge is not granted, the commission—five judges appointed by the President—would have the authority to investigate complaints about federal judges and make recommendations to the President that he be removed.

Mr. Tydings has introduced a bill to remove from the bench of five-man commission of five federal judges appointed by the President that he be removed.

Mr. Tydings has introduced a bill to remove from the bench of the United States.

Mr. President, the failure of the Senate to ratify the Genocide Convention has drawn substantial criticism from many outstanding legal scholars. The criticism is certainly well taken—this treaty is a crucial link in the chain that we must forge to insure international protection of human rights.

April 8, 1970

CONGRESSIONAL RECORD—SENATE

BETTER FEDERAL BENCH

Life tenure for federal judges, including the privilege of opting to retire on full pay, is often criticized as a method which is seldom effective. This kind of law should have been enacted a long time ago, but it has been found to be too cumbersome and ineffective.

The proposed reform has—and it could not otherwise be achieved—adequate built-in safeguards. This does not mean that it is home free, as Tydings noted, even with ABA support it will be much too hard to get the bill through the Senate. Even with ABA support, he said it may have a chance. Even with ABA support, he said it may have a chance. Even with ABA support, he said it may have a chance. Even with ABA support, he said it may have a chance.

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The situation cries for a workable remedy. Tydings (D-Md.) has been leading a drive to legislate one. The central feature of his proposed judicial reform bill is the establishment of a permanent commission of five judges appointed by the President. It is a method which is seldom effective, but a judge presumably would feel forced to remove himself if the Supreme Court told him to.

Tydings has just won the probably crucial battle of the House of Delegates of the American Bar Association. That ought to tip the scales for enactment. Proper manning of the federal bench is of the highest public importance.

The proposed reform has—and it could not otherwise be achieved—adequate built-in safeguards. This does not mean that it is home free, as Tydings noted, even with ABA support it will be much too hard to get the bill through the Senate. However, it certainly is a sound measure that should be approved without undue delay.

MORRIS ABRAM SETS FORTH THE CRUCIAL NEED FOR SENATE RATIFICATION OF THE POLITICAL RIGHTS OF WOMEN AND FORCED LABOR CONVENTIONS

Mr. PROXMIRE. Mr. President, the failure of the Senate to ratify the Genocide Convention has drawn substantial criticism from many outstanding legal scholars. The criticism is certainly well taken—this treaty is a crucial link in the chain that we must forge to insure international protection of human rights.

Mr. President, there is no justification for our inaction in this vital area. Our failure to assert our moral leadership is inexusable. We have nothing to lose from Senate ratification of these treaties, and we have everything to gain.

Mr. Morris Abram, a distinguished New York lawyer and a man of outstanding experience in the field of human rights, has spoken of the treaty. He has spoken of the treaty. He has spoken of the treaty. He has spoken of the treaty. He has spoken of the treaty. He has spoken of the treaty.

Mr. Chairman, if the abolition of slavery in its various manifestations is an acknowledged objective of our foreign relations, and if prevention of violence is a primary element in our foreign policy, it is relevant to mention that already then, over 40 years ago, this treaty was ratified.

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"The cab driver told the police the gunman fled from his taxi in the 600 block of B Street NW."

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBER

Grocery store, 2928 Georgia Ave. NW, was robbed about 2:10 p.m. Monday by three young men who knocked on the door and asked for old newspapers. They forced the clerk at the cash register to turn over the money and fled on foot.

"The police found it difficult to identify them," police said.

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to handle this area's problems.

To this end, I ask unanimous consent to print the following list of crimes committed within the District yesterday as reported by the Washington Post.

Whether this list grows longer or shorter depends on this Congress.

The nation has no objection, the list was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 8, 1970]

BANK TELLERS FOIL HOLDUP TRY

Two bank tellers foiled an attempted holdup yesterday by an armed man who forced a cab driver to take him to the drive-in window of a Southeast Washington bank branch.

The cab pulled up to the window at the National Capital bank at 316 Pennsylvania Ave. SE at about 3:15 p.m., police said.

The passenger in the rear seat placed an envelope into the tray with a note threatening to blow up the bank if he was not given money in cash, according to bank officials.

When the teller, Devora Devaughn, noticed that the envelope contained a note, she screamed and another teller rushed to her window, police reported.

He said he pushed Miss Devaughn to the floor and then tried to strike her. As he stood up, the cab had driven off, police said.

"The cab driver told the police the gunman fled from his taxi in the 600 block of B Street NW."

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[From the Washington Post, Apr. 8, 1970]
Two television sets, an adding machine, a typewriter, a Waring blender, and a movie camera, with a total value of $800, were stolen between 1:30 p.m. and 2:30 p.m. Monday from the home of Pearl Alexander, 4851 Indian La. NW.

An IBM electric typewriter was stolen from the business room at Catholic University sometime between 7 a.m. March 31 and noon April 4.

The radio-phonograph, a stereo tape-player, a stereo cassette tape deck, two record players and a stereo set, with a total estimate of $1,000, were stolen sometime between 9 and 11 p.m. Monday from Wexie Maxie's Record Shop, 3683 South Capitol St. SE, at the corner of 7th St. SE. A cash box and an assortment of liquor were stolen between 11:30 a.m. Saturday and 8 a.m. Monday from a metal cabinet in the rear office of the Majestic Distilling Corp., 7226 Eastern Ave. NW after some ceiling tiles were removed.

A stereo tape deck was stolen sometime between 2 p.m. March 26 and 8 p.m. Monday from a car belonging to Rep. Silvio Conte (R-Mass.). The tape deck was stolen from Rep. Conte's car while it was parked in the Cannon House Office Building garage.

An electro-printer machine was stolen between 5 p.m. Monday and 9 a.m. yesterday from an office at McCabe Hall at American University.

Assorted tools from the supply cabinet, a $1,000 electric hand drill, two sets of drills and chisels, a number of drills, three hammers, a set of taps and dies, a tool box, an attache case, six gallons of cement, several rolls of pipe and paste polish from the auto body shop were stolen between 5 p.m. Monday and 8:15 a.m. yesterday from Francis C. Turner, head of the Transportation School, 36 Benning Rd. NE. A factory installed air conditioner was damaged when the burglars tried to remove it from the shop.

A white bank bag containing $519.15 was stolen from the rear of the Hub Vending Co. between 6:30 p.m. Saturday and 9 a.m. Monday.

Marshall Macarthur Callier, of 1652 West Virginia Ave. NW, was treated at Rogers Memorial Hospital for stab wounds he suffered about 8:05 p.m. Monday during a fight in his apartment with a woman. Callier told police the woman took a kitchen knife and cut him on the arm during the struggle.

Francis Thomas, of 3032 Stanton Rd. SE, was treated at Hare Hospital for injuries and a wrist wound she suffered about 8 p.m. Monday when she was beaten in the head and knocked to the floor by a man who attacked her in her home. When she tried to get up, her assailant kicked her in the arms and back.

William T. Wilson, of Washington, a Marine, was shot in the arm about 9:20 p.m. Tuesday during a fight with three men, one armed with a handgun, in the unit block of V Street NW.

The Oregon and Portland chapters of the League of Women Voters. Their president, Mrs. Wanda Mays, of the Portland chapter, and Mrs. Polly Casterline, of the Oregon chapter, have reached the issue of direct election of the President and Vice President. Letters from them both endorse this proposal.

As one who long has advocated election reform and sponsored legislation to achieve this end, I take particular pride in these letters.

Mr. President, I ask unanimous consent that the two letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:


DEAR SENATOR HAYFIELD: The League of Women Voters of Oregon strongly urges you to support the direct popular election of the President and Vice President of the U.S. Senate. We request your support of this bill not only by voting for it when it reaches the Senate floor but also by urging you to use your influence on the members of the Judiciary Committee to get this very important piece of legislation passed.

The League of Women Voters of Oregon believes that the direct popular vote for electing the President and Vice-President is essential to representative government. We support the replacement of the out-moded Electoral College method with one that will be representative of the people responsible for making the important choices and which also will correct such defects as the faithless elector, non-election of candidate with popular vote, and the present contingent election provision.

It is imperative that Senate Joint Resolution 1 be passed soon to give each State opportunity to ratify the proposed amendment in time for the 1972 presidential election.

Again, the League of Women Voters of Oregon urges your support in this matter. Sincerely.

MRS. GEORGE CASTERLINE, President.

SILVIO CONTE, of Portland, Ore., March 25, 1970.

Senators Mark O. Hatfield, Senate Office Building, Washington, D.C.

Dear Senator Hatfield: When the electoral reform bill calling for the direct election of the President, now pending before the Senate Judiciary Committee is reported back to the Senate, we hope your vote will be "Yes."

The League of Women Voters, after two years of study and research, reached a national determination supporting the national direct popular vote method to elect the President and Vice President. The League believes that the direct popular vote is essential to representative government and should include provisions for a national run-off election in the event the candidate is below the 40% of the popular vote. We also support uniform national voting qualifications and procedures for presidential elections.

Your support of direct election of the president will be appreciated. Thank you for your courtesy.

Very truly yours,

MRS. C. W. MAYS, Jr., President.

WASHINGTON.-The Government's modest attempts to limit highways that tear up homes or mar scenery appeared destined for scuttling when long-time road champion

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the Record.

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

[From the Wall Street Journal, Apr. 7, 1970]

HALTING HIGHWAYS: VOLPE STIFFENS STAND ON ROADS THAT DISRUPT HOUSING, SCENIC SITES; ON TRANSPORTATION PROJECTS IN PARKS AND HISTORIC URBAN AREAS; NEW ROUTES PUSH COSTS UP

(Robert R. Karr)
John A. Volpe took over as President Nixon's Transportation Secretary.

But instead Mr. Volpe is emerging as an even stronger opponent of disruptive highway projects than his predecessor, Alan Boyd, who launched the Government's first major highway program. In decisions affecting highways from Texas to New Hampshire, Mr. Volpe is stopping projects that conservationists say would damage parks or sites of historical interest.

In San Antonio, the Secretary has dealt a heavy blow to a proposal by Mayor Wallace McAllister and Texas highway officials by halting a road due to cut through two parks and by suggesting an alternate route. Mr. McAllister insists "there's no justification" for this change of plans now, and the state highway men have offered instead to complete the original plan without any Federal money, but Secretary Volpe spurns that proposal. The unbuilt part of the road has come to be known as "the Volpe gap."

**FRANCONIA NOTCH FIGHT**

In New Hampshire, Mr. Volpe has blocked construction of a 15-mile segment of Interstate Highway 93 that would have cut through picturesque Franconia Notch. Conservationists, displaying "Save the Notch" bumper stickers, have fought the project for over a decade. The plan, they say, would damage parks or sites of historical significance. The unbuilt part of the road has come to be known as "the Volpe gap."

Mr. Volpe intervenes not only because the highway lines are being built through picturesque areas. Now he, predict plans, many roads not do not and highway plans are being upset. Despite the Secretary's move "in refusing to accept the proposal of Sen. John Tower's aides pushed for that plan, they heard from the conservationists that "there's tremendous community opposition."

Here in Washington, resistance to roads is everywhere. The Government's top levels. High Nixon Administration officials have begun attacking the highway trust fund, saying it can prevent allocation of funds for critical mass transit needs. Top White House domestic affairs staffer John Ehrlichman repeatedly presses for changes to minimize such effects but stopped short of canceling it.

The Secretary has also given opponents of continued freeway building in Washington partial backing in their protest over displacement of housing and damage to scenic areas. Now white suburbanites are joining Negro neighborhood of Rosemont. A design plan, they heard from the conservationists and backed off.

**MISSING A DEADLINE**

What's more, Federal officials expect state highway planners to proceed more cautiously on future projects. Many roads now are being examined for cost and complexities raised by the new restrictions on roadbuilding.

"I wouldn't anticipate much pressure from states to build new highways in metropolitan areas any more," says an official of the Bureau of Public Roads, a Transportation Department unit.

Because of various controversies, Highway Administrator Turner predicts that some 150 miles of interstate highways, probably costing more than $2 billion, will not be finished by the current 1974 deadline—if they're built at all.

Partly because of these delays, the cost of the interstate system is climbing and the time set for finishing it keeps lengthening. Mr. Volpe is expected to ask Congress for more money in his 1976 budget. The highway trust fund and the taxes going into it to pay for the interstate roads; this arrangement is now scheduled to run out in 1972. Conservationists say an official of the Bureau of Public Roads, a Transportation Department unit.

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**NEW ORLEANS PROJECT KILLED**

So far, his decisions have met with widespread approval, with threats to parks and scenic beauty. Last summer Mr. Volpe vetoed an interstate highway in Charleston, W. Va., and Philadelphia, Pa., he cut the proposed Interstate 278 in Newark, N.J., forced cancellation of a $2 million urban freeway system. Seattle has rejected a Washington State project. The Volpe-proposed alternative, which the Secretary has offered, "There's tremendous community opposition."

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The Secretary has also given opponents of continued freeway building in Washington partial backing in their protest over displacement of housing and damage to scenic areas and historical attractions; he has recommended that some segments be restudied or rerouted. He tells Congress that no roads be built without firm assurance of replacement housing could mean that highway planners may have to slow down by building on a block-by-block basis, lest they get caught if the cost of finding new homes. Some 50,000 persons a year are uprooted by new highways. Replacement-housing problems have marred highway projects in Charleston, W. Va., and Philadelphia, among other places.

There is ample evidence that the rising concern over the social and environmental effects of highways is making roadbuilding considerably costlier. A dispute over the proposed Richmond Parkway on New York's Staten Island, which was to penetrate a scenic area flanked by parks, camp and a golf course, has brought a proposed rerouting of $42 million, against $30 million for the original route. Baltimore's freeways now are tagged at $800 million, against $400 million when they were thought cut to, when plans were made.

**POLLUTION IN EUROPE**

Mr. Mathias, Mr. President, every day, each of us receives more evidence that we are destroying our environment through carelessness and abuse. Moreover, the immediacy of the problem is made all too clear by more people, by more people, by more people, by more people.

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The bill, for Congress to enact legislation to save the environment, is well founded. President Nixon has taken the initiative in his message to Congress on environmental quality. I have supported the cosponsorship of seven bills submitted by the administration and by introducing several other pieces of legislation.

But we should not forget that the consequences to the environment of technological progress, human carelessness, and governmental myopia are not native to the United States. The European community, faced with the same crisis as our nation. In fact, this year has been proclaimed European Conservation Year, recognizing the warnings of Dr. Hans Palmdahl, Sweden's environmental expert. He stated:

I am afraid a real disaster may have to occur before people really will realize the utter necessity of environmental control.

I commend the Morning Herald of Hagerstown, Md., for publishing an article which calls our attention to the international nature of the pollution problem.

I ask unanimous consent that the article be printed in the Record.

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

**Pollution in Europe Both Concerns and Baffles Leaders**

London.—The picturesque Oereorsund between Denmark and Sweden is known as "the sewer." Last June, an estimated 40 million fish died in the Thames, which carries seven million tons of salt into the Rhine and its tributaries.

No salmon have been found in the Thames for 200 years.

Most living things have disappeared from the lakes and many rivers of northern Italy.

The Seine is gray, greasy and repellent. Europe sits in an ever-widening mess, her streams, lakes and many rivers of northern Italy.

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The year 1970 has been proclaimed European Conservation Year and there appears to be a new sense of urgency. The North Atlantic Treaty Organization has set up the Committee on Environmental Problems to stimulate action by member governments.

The Council of Europe, with a score of members, is gathering a series of conferences to spur action on an international scale.

The majesty of the Rhine, so prominent in table and military history, touches Switzerland, France, Germany and Holland on its way to the North Sea. It has been called "Europe's biggest river."

More than 7,500 municipalities deliver raw sewage into the Rhine and its tributaries. For example, in the town of Alasse dump seven million tons of salt into the Rhine annually.

Yet, when the Rhine reaches Holland, it supplies half of the drinking water consumed by the Dutch after passing through Holland's industrialized region.

Georges Houel, Belgian president of the European Consultative Assembly's working group on water pollution, says the bacteria count of Rhine water near its origin in Switzerland is only 10 per cubic centimeter, but 500,000 cubic centimeters. By the time it reaches Holland the count has soared to 1,500,000 per cubic centimeter.

Joseph Addison England's 17th century essayist once wrote that every true Englishman believed the Thames was "the noblest river in Europe." But when a few four- or five-inch fish were hooked in London last summer it was a pitiably small catch.

No other angler had reported a bite on the London banks for 50 years. The salmon which once frequented the Thames have shunned the noble river for 300 years.

Tourists find it a muddy smelly stream pock marked with floating rubbish. The oxygen content of the Thames water, a measure of its health, frequently sinks to zero during the summer.

There are 30,000 miles of main rivers in Britain and for a quarter of that distance they are polluting the Thames, where Jason Walton once fished, is one of the worst.

As Attingham, one-third of the river is said to be composed of effluent from sewage plants.

What is recognized as Britain's most notorious river, the Trent and its tributaries, carries 25,000 tons of industrial grime settled on the Thames every day and 25,000 tons of suspended matter is added yearly.

Italy has 5,000 miles of Mediterranean and Adriatic coast and more than 3,000 miles of sea and rivers and 100 planned.

The Soviet press writes indignantly about the pollution of lakes and rivers, particularly when it kills off the sturgeon which produce the caviar. Tons of fish have died in the past several years, "inflicting a large amount of damage to national wealth.

West Germany's Industrial Ruhr area has both the worst water and air pollution in the country. The Duisburg chamber of industry and commerce above steel plants, 3 million cubic yards of suspended dust from factories, and 100,000 tons of industrial grime is settled on the area in 1968 compared to 312,000 tons in 1962.

More than $600 million has been spent fighting air pollution in Northrshire—Westphalia, the past 15 years. But the new official admitted "it will never be possible to make the air over the Ruhr anywhere near as clean as over the Bavarian Alps."

Britain too has spent millions of dollars and government scientists now say that London's smog, which killed 4,000 persons in the one in 1952 which killed 4,000 persons, is still growing.

There are still high concentrations of sulfur dioxide in the air in London.

Italy is preparing stiff regulations to control air pollution from heating, factories and motor vehicles. And Belgium has set up 300 air pollution control stations. The new regulations will establish protected zones and regulate oil burning.

Oil floating in from the sea adds to the griminess for Britain and other maritime countries of Europe. Britain is particularly

April 8, 1970

CONGRESSIONAL RECORD — SENATE

10839
sensitive because of its experience with the Torrey Canyon, a tanker which ran aground off southern England and dumped 100,000 tons of oil into the sea in 1967. The beaches of Cornwall and Brittany, in France, were massively polluted.

**MEETING OUR NATIONAL HOUSING GOALS**

Mr. HATFIELD. Mr. President, I have brought before Senators on many occasions the fact that the timber industry is tied to a demand of wood products. The timber industry which is vital to Oregon's economy is imperiled with a near state of depression due to the growth of inflation and tight monetary policies affecting housing and especially in view of the fact that Oregon supplies a fifth of the softwood and nearly half of the softwood plywood used for America's homes.

It is most reassuring to note the administration's understanding of the many dramatic changes in demand for housing and the timber industries and that lack of mortgage money is one of the most pressing restraints on housing. I call to mind remarks by President Nixon on January 21, 1970 in the National Association of Home Builders' statement of policy:

Yesterday I met with Secretary Romney, Louis Barbo, and officials of the National Association of Home Builders to discuss the crisis situations we are facing in the housing of our nation. In addition, the decline in housing production, the outflow of funds from savings institutions supporting the housing market, and the drying up of traditional mortgage sources are contributing to a serious housing shortage which is of grave concern to our national well being. Housing and the industry which provides it are bearing a disproportionate burden of both current inflationary pressures and the anti-inflation measures instituted to restore price stability. As a result, a major national resource-the housing capability of home building industries to meet our national housing need—is being greatly threatened.

The decline in housing production must and will be stopped. The private sector and all of America must take the necessary to assure that the nation's housing needs are fully met now.

There are no easy answers to the housing problem, and a full solution will require time. Extraordinary and unprecedented steps have already been taken. These include extensive direct support to the mortgage market through the Federal National Mortgage Association and the Federal Home Loan Bank Board. In addition, the Department of Housing and Urban Development has authorized issuance of mortgage-backed securities fully guaranteed by the government and has loaned $1.150 billion of funds to provide special assistance in the financing of housing production for low and moderate-income families.

The need now is to go beyond these steps-to build on these and require all federal, state and local governments to follow patterns of activity-so that we can reach more quickly the full solutions we seek.

The need is for all sectors of our economy—business, labor, consumers, and all levels of government—to be fully aware of the nature of this crisis, and for each of them to address itself vigorously within its sphere of responsibility toward adequate solutions. And I hope to convince all Americans with an opportunity to participate in quality recreation in a quality environment.

**LAND AND WATER CONSERVATION FUND ACT OF 1965**

Mr. JACKSON. Mr. President, on February 25, I was joined by the ranking minority member of the Committee on Interior and Insular Affairs, the Senator from Colorado, and the ranking minority member of the Committee on Appropriations, Senator ALLTOP, in my sponsorship of S. 3950, a bill to amend the Land and Water Conservation Fund Act of 1965. S. 3950 would amend this act by providing a minimum annual appropriation of $300 million for the purposes of the fund. This amounts to a full 50 percent greater funding authorization for the Land and Water Conservation Fund Act of 1965.

Mr. President, I feel it is incumbent upon Congress to move expeditiously in the enactment of this legislation if we are to avoid the need for further land acquisitions. In my view the control continues to gain in importance, in our national need and responsibility to meet the President's January 21 statement that the housing of our people is and must be a top national priority.

Not only is Oregon's economy affected by the lack of new housing starts but it is a national need and responsibility to meet our housing goals. I would concur with the President's January 21 statement that the housing of our people is and must be a top national priority. Every citizen has a right to adequate housing. Supplying housing is the number one national need and responsibility to meet.

Further, the President's report of April 1, 1970, on national housing goals announces the measures that are being taken to alleviate this crisis by maintaining and expanding mortgage credit at more reasonable interest rates. The President is hopeful that these steps will encourage an increase in housing production by the summer of 1970.

Not only is Oregon's economy affected by the lack of new housing starts but it is a national need and responsibility to meet our housing goals. I would concur with the President's January 21 statement that the housing of our people is and must be a top national priority. Every citizen has a right to adequate housing. Supplying housing is the number one national need and responsibility to meet.

In his recent message on environment the President proposed new legislation to possibly increase the fund. Secretary Hickel's letter of February 10 to the President of the Senate submitted the legislation recommended by the President. Its intent is to increase the fund above the $300 million level currently authorized by the sale of surplus property, the receipts from which now go into the fund. Although I applaud the goal of increasing the fund, I believe the method unnecessarily proposes a complicated and uncertain formula that may increase the fund by a small amount or might result in no increase at all depending on the sale of surplus Federal real estate in any given year.

In an effort to increase the amount of money available to the States and the Federal Government for park and recreation purposes, and at the same time to provide the public with a real degree of certainty as to just how much money would be available to them each fiscal year, Senator ALLTOP and I have sponsored S. 505, which provides a minimum amount of $300 million a year for the remaining life of the land and water conservation fund.

Mr. President, I regard it as highly significant that every member of the Senate Interior Committee has now asked to cosponsor this legislation. This action is, I believe, indicative of the deep feeling by the members of this Committee that steps must be taken in the near future to provide the necessary funds for acquisition and development of desperately needed park and recreation lands.

Land is a finite resource, and as such will become more valuable as demand for this resource intensifies. We have already lost many opportunities because the more difficult and costly it will become, the more valuable land will become. It will become more valuable as demand for this resource intensifies. We have already lost many opportunities because the more difficult and costly it will become, the more valuable land will become.

Mr. President, it was my privilege to have sponsored the 1965 act, together with the 1968 amendment to that act which provided the State and Federal recreational agencies with a guaranteed annual income of $300 million through the fiscal year 1973. Since 1965, the fund has made available almost $335 million to the States for park and recreation land acquisition, development, and planning. That has been successful in providing millions of acres of additional recreational properties. However, the demand for recreation has been increasing at such a tremendous rate that it has far outstripped the present supply of funds to meet that demand.

This fact was elaborated upon by the President in his state of the Union message, in which he stated:

As our cities and suburbs relentlessly expand, we are finding that the recreation areas accessible to their people are swallowed up—often forever. Unless we preserve these spaces while they are available, we will have none to preserve.

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Mr. MATHIAS. Mr. President, daily the inactive list of U.S. flag passenger liners grows, and there are only 13 in operation. While it would seem that a strong commercial force is required, a pattern of retreat has developed. In addition to the sale of a cynosure of national commercial pride, there is a need to consider our defense requirements. Our policy of maintaining both a nuclear and conventional response capability requires that ships, wholly owned by our country, be available.

Dr. Robert A. Kilmann, Director of Soviet Seapower Study, Center for Strategic and International Studies, Georgetown University, argues persuasively for a reexamination of the present legislation relating to our passenger fleets.

I ask unanimous consent that his article be printed in the Record as follows:

**U.S. PASSENGER FLEET—THE BROKEN LINK**

*(By Robert Kilmann)*

In the 1950s, when the strategic concept of a passive retaliatory was the order of the day, and conventional forces were relegated to a distinctly secondary place, America's passenger fleet was strong and many elegant liners plied the trade routes. In the 1960s when the shift was made to a flexible strategic force, with the emphasis being placed on nuclear response, the very ships necessary to transport that response were, in increasing numbers, being laid up, or deactivated.

It is a grim, and dangerous paradox that when we did not plan to use them there were over fifty U.S. flag passenger liners in operation, but now, when we are very much in need of them there are only 13; and in a few years there very likely will be none.

First to become idle was the American Export-Lebrandtsen Lines liner *Atlantic* in October 1967. She was joined in August-November 1968 by the *Constitution*. Then Moore-McCormack laid up the *United States* in January 1969. Finally, in November, the majestic *United States* was placed on the inactive list. Today, they are out-of-the-way piers in Baltimore, Jacksonville and Newport News, their hope for future use at best uncertain.

The Independence and her sister liner the Constitution sailed lucrative routes to Europe and to the Mediterranean during their heyday; the Independence carried 1960 passengers and a crew of 590—the passenger list was usually full. Now, only a crew of two aboard are needed. The result is not only a most inopportune time, occurring just as Soviet penetration of the Mediterranean by political, economic, military and psychological means was going into high gear. This is not an isolated situation, quite the contrary, it is the beginning of a consistent policy to treat a strong posture was needed.

**FEW OPERATING**

The only U.S. flag passenger ships still operating are the coast boats are the Ore Line's *Santa Rosa* and the Indian Line's *Peru* of which can carry only about 500 passengers, and are entirely incapable of any type of combat. Part of the reason these ships are able to operate lies in the fact that they are not true passenger ships, although they are most comfortable, since they carry cargo as well as people. Even such combination ships have had problems, too are required by law to adhere to specific routes.

Cruise shipping, which would seem to be the answer, is impossible on a full time basis, for with the schedule of a cruise ship not eligible for government subsidy, and without subsidy they can not remain economically feasible. Hence, great liners tied up at piers.

On the west coast the story is the same, although one ship, the Midson Lines *Lurline* operates without subsidy—the only American flag vessel to do so from either coast. While the American Seaboard Oceanic subsidiary, still sails two combination ships to Australia and American President Lines has three combination ships operating from the west coast. The sands of time are running out, however; these ships have not been operating on a year round basis and one has already been sold.

**NO PROVISION**

The future holds out little hope for improvement since President Nixon's proposed legislation for our Merchant Marine, which may soon be enacted, does not contain any provisions directly relating to the U.S.-flag passenger ships. And we must assume that passenger ships pose a disturbing dilemma, for management that they have no future. To become accountable to public and to economy and political liability, their operation is only to sustain intolerable losses—counting government subsidy, the losses in this business have been produced by high operating costs and the failure to achieve parity with foreign competitors, who profit from government subsidy, as well as the lack of suitability for cruising, under existing statutes. No short of amendment of the 1936 act, which established the present subsidy structure will resolve the problem and there is strong political and strategic sentiment in Congress.

The result is that the United States, at a time when it needs passenger ships not only for commercial, and "show-the-flag" reasons, but for very valid defense reasons, finds itself locked into a system whose change would create great political problems.

As important as labor and other operational improvements since President Nixon's proposed legislation have been in producing the problem, by far the most devastating onslaught on America's passenger fleet was the entry of the country's commercial aviation—which transports people for less money more quickly. That "quickly" is not out of the cruise trade, but still must be considered on a point-to-point liner.

Fewer than one in five of all travelers on the North Atlantic route by air by the 1950's. Since then, with the availability of jet aircraft the figures have reversed—and are even worse—passenger ships on this route now carry only a 7 percent share of this travel market.

**NATIONAL NEED**

Clearly, without commercial justification, the only basis remaining to continue the operation of passenger ships would be a national need, a national government, to assure that seafarers is at hand to transport our armed forces in case of a future conflict.

Arguments about the contribution of the U.S. flag passenger ships to the United States' image abroad, to our national prestige, to the tangible values of state apparently have not been effective. Their casuistry that U.S. flag passenger ships are necessary to move troops in case of emergency, and in cases is even older having served as a troopship in World War II before underwriting the additional TAPS in the Maritime Administration does not seem inclined to grant construction subsidies for replacement, and ship purchases from abroad with subsidy are illegal. The Military Sea Transportation Service will not provide the answer in the 1970's. Only three transport ships (TAPS) are presently operational in MSTS. There are about 9,000 additional TAPS in the Maritime Administration Reserve Fleet, or in the process of being transferred from MSTS. After having 18 additional TAPS in the Maritime Administration, the Maritime Administration does not seem inclined to grant construction subsidies for replacements, and ship purchases from abroad.
low-on vessels, too, have run into major problems, partly because of budgetary constraints and refereed journal concern about govern­ment competition.

At the same time as the passenger capa­bility of the amphibious sea-lift vessels have been hit. Active amphibious sea-lift ability has been markedly reduced be­cause of budgetary constrains. A number of the U.S. Navy's LWA's, LPAs, LSDs and LSTs have been disavowed or scrapped during the recent years. Moreover, it will be some time before new LLAs are available, thus the danger exists of a major gap in quick reac­tion amphibious sea-lift performance, as well as follow-on seaborne logistic support, especially to areas of the world where port capabilities may not be adequate. There might be even be to have large-type ships, with roll-on-roll off capability, carrying 600 to 1000 troops or more with organic equip­ment.

**MAIN TRADES**

The sea-lift capability from many of the major oil-producing nations is restricted because of their non-self-sustaining characteristics. They are designed primarily for the purposes of oil carriage to underdeveloped countries. Even with the incorporation of defense features, as in some instances, they may not be adequately armed or equipped unless guided by a comprehensive Department of Defense sea-lift program for the 1970's.

One of the problems is adequate DOD sea-lift planning: planners apparently have not effectively tackled some key issues of stra­tegic mobility. As Vice Admiral Lawson P. Ramage told the Naval War College on 6 April 1969, I have been appalled in recent months to discover how many senior officers of all services particularly those who are in charge of forward planning, have no real conception of the problems of moving troops and equipment to the combat zones.

A number of Pentagon military planners agree that some measure of sea-lift is essen­tial, but they worry about where it may come from in the years ahead and cannot estimate how much will be required with high confidence.

**AIRLIFT INADEQUATE**

In spite of the availability of C-141 and C-5 air transports, the adequacy of an "air­lift only" doctrine in the new military strat­egy is not evident to many knowledgeable military spokesmen. Contingencies that can be envisaged might call for the em­ployment of U.S. military forces under cir­cumstances in which the landing of troops by air and their marriage to unit equipment in the theater might not be feasible. Insu­perable problems may arise because of the vul­nerability of the aircraft and of the landing sites, or their lack of availability, problems of overflight rights and the requirements of supporting logistic bases in nearby territory might arise. The very magnitude and char­acter of required operations may preclude airlift alone.

A further reason for concern is the inade­quate support in Congress for forward float­ing deployment of military equipment. Ap­proval for Fast Deployment Logistics ships may not be forthcoming and the danger even exists that the forward base supplies that have been used by the Viet Nam war will not be replaced. The logistical support ships also are needed as more of our forces are withdrawn from Vietnam.

There seems to be ample justification for the comments about sea-lift contained in President Nixon's foreign policy statement. When he was announcing NATO's new policy, he stated, "Strategy for Peace" last month, he included the following, "Questions have been raised concerning whether, for example, our logistic support . . . our air-lift and sea-lift capabilities are sufficient to meet the needs of the existing strategy. The answer to these questions may be 'not sufficient'. The difficulty may turn out to be the strategy."

**COUNTER REACTIONS**

Since the operational meaning of a partic­ular strategy is dependent upon capabilities, constraints such as these are alarming—sym­ptomatic. They could markedly limit not only our war-making capabilities but even our capabilities, if the will could be found. In the case of some of our allies and friends, such constraints may even force the creation of counter-reactions. They could be forced to decline to act in their own defense with in­adequate means. They may accommodate to threats so that hopeless defense efforts would not be necessary. Some might even turn to the Soviets for assistance.

The fact that the Soviet Union now is at least equal and probably will become super­ior in some measure in strategic offensives, nuclear warfare capabilities, puts an increased burden on the current credibility of conven­tional forces defense. These should not be wanting. Serious danger exists that the Soviets, mindful of the chang­ing nature of the military forces, including the logical hardening and unstable, weak political leadership, may seek unanticipated opportunities to political gain, when no response from the United States is expected. For the Soviet Union is turning more to an external global policy, while U.S. priorities are turning inward.

Flexible response in many contexts could thus become a hollow shell. The prospect of denial of conventional military options to the President in future contingencies and the political price that may have to be paid for such denial could be very great con­cern. Insufficiency even in sea transport can undermine a successful "Strategy for Peace."

**MIDDLE EAST LOBBIES**

Mr. HATFIELD, Mr. President, one as­pect of the Arab-Israeli conflict that has drawn much attention is the lobbying techniques and groups re­presenting the various sides of the Mid­dle East question. Not only are there ef­forts by the official representatives of the respective countries involved, but there are numerous interest groups which try to influence policy having to do with issues in the Middle East.

The New York Times of April 6, 1970, contains an article written by Robert H. Phelps describing many of the people, within as well as without political, con­cerned with this question.

I ask unanimous consent that the arti­cle be printed in the Record.

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

**MIDEAST LOBBIES: UNEVEN MATCH**

(By Robert H. Phelps)

WASHINGTON, April 5.—Days before the of­ficial announcement, one of the first copies of the Nixon Administration's statement turning down Israel's request for more jet fighters was delivered to Max M. Fisher, the Detroit industrialist. His mission: to explain to Jewish leaders around the country that the President had based his decision on Israel's intelligence reports showing continued Israeli military superiority in the air. The President was trying to assure them that Israel would get more planes when really needed.

The gray-haired millionaire, who gave more than $107,000 to Republican candidates in 1968, does not have the best credentials within his Jewish community. But the response to the jet-sale rejection was muted, in marked contrast to the strongly critical statements that had followed previous Nixon Administration moves.

The fact that Mr. Nixon, like other Pres­idents, finds it necessary to take such pre­ventive action is a tribute to the pro-Israel lobby, one of the most potent of Wash­ington sub-government. While there is also a pro-Arab lobby, it is much smaller and less effective.

The foundation stones of the pro-Israel lobby are an embassy that is generally con­ sidered the best run in Washington and scores of Jewish organizations, which have large amounts of manpower, money and influence.

Whether the influence of the Israeli Gov­ernment amounts to control of some Amer­ican organizations is a subject of debate in the United States and Israel.

The pro-Israel lobby utilizes a complex of deep-going foreign-policy ranks to make maximum use of the American press to political pressure through Congress to se­cure changes of major features of the U.S. foreign policy.

"They are articulate, they are organized, they are terribly public relations oriented and very smart," one official commented admiringly of the pro-Israel lobby.

But on the Arab side, the embassies are un­derstaffed and generally do not understand the American mind; the old-line Arabists in the Department of State there but there have been outflanked; American scholars and reli­gious groups with Middle East ties continue to work quietly behind the scenes, putting back quickly when their activities are detected.

The oil companies are major contributors to organizations staffed by strongly pro-Arab Americans. These organizations include the American Friends of the Middle East, which, since its exposure as an indirect recipient of Cen­tral Intelligence Agency funds, has cut its budget more than half, and American Near East Refugee Aid, which is directed at raising funds for Palestinian refugees.

Dr. John H. Davis, director of American Friends, who is a former Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, is probably the best-known Amer­i­can who is an outspoken supporter of the Arab cause. But he has a difficult time rais­ing funds.

Under such circumstances friends of Israel have won the hearts of the American peo­ple, the votes of Congress and usually, but not always, the mind of the President, no matter who he is.

They have won the hearts of the American people, the votes of Congress and usually, but not always, the mind of the President, no matter who he is.

**MIDWEST LOBBIES**

Asked why their message is so well re­ceived, Israeli Embassy officials point to the guilt feelings of Christians who cannot for­get Hitler's murder of millions. The Jew, re­spect for little country that "made the desert bloom," delight in Israel's David vs. Goliath role, admiration for its position as a democ­racy, support in a vast anti-communist camp and fear of growing Soviet power in the Middle East.

"The Jews do not find American ground so fertile. There is compassion, especially among religious groups, for the millions of Arab refugees, but not a strong desire to keep going. There is sympathy for the Arab cause among black militants, disturb­ing the anti-Semitism of many blacks who have not suspected it."

There is a questioning of American Middle East policy among students of the New Left. And there are even signs of anti-Semitism on the ultra right to portray anything in­volved with Jews as a Zionist plot. 
None of these groups is broad-based enough to have much effect on Government policy. Most significant from the Arab point of view are the Israeli six-day war, 20-year-old issues. The American Jewish Committee, which concerns itself with the status and security of Jews all over the world, is officially non-Zionist, although there are many Zionists among its 49,000 members.

The American Israel Public Affairs Committee, a lobbying group financed by contributions from Israeli citizens and the overseas branches of the American Zionists, is significant in four big states—New York, Pennsylvania, Illinois and California. In addition, it supports campaigns con- cerning aid to Congressional, state and local, as well as Presidential candidates.

A Western Senator said there were only one or two thousand Jews in his state, "but they all contribute to my campaign."

Some of the most important help that Jews render to candidates is not money but work as staff men, drawing up campaigns, writing speeches, composing television commercials and deciding on strategy.

Such political strength can be translated into action as it was when American aid packages for Israel were added to the 1969 foreign aid bill as the result of lobbying by Mr. Fulbright, a Democrat, by Hadassah—the Women's Zionist Organization of America, Orthodox rabbis and by other Jewish groups. Pro-Israel groups appealed to the Jewish vote, which is 80 per cent or more Democratic since the 1930's, and the Nixon Administration has been less subject to pressure from that direction than its predecessor. The Senate Committee is working hard to get a bigger slice of the Jewish vote. It is paying Warren Adler, a Washington public relations man, $25,000 a year as a special consultant on Jewish affairs.

FULBRIGHT WORKS ZIONISTS

Jewish political power impels most Senators and Representatives to take a pro-Israel stand, but there is one man the Zionists worry a great deal about. He is Senator J. W. Fulbright, the Arkansas Democrat, who is chairman of the Foreign Relations Committee.

Mr. Fulbright was the only man in Congress who pressed the Administration's decision to reject, at least temporarily, the request for more jets. Nor can American Zionists forget that it was Mr. Fulbright who conducted an investigation into the Foreign Assistance Act in 1965. The inquiry showed that funds donated for Jewish philanthropies were being sent directly back to the United States. Their vote is significant.

Senator Jacob K. Javits, Republican of New York, is widely considered a spokesman for Israeli causes. But Arabists in the State Department and Congressional experts agree that Mr. Javits is not only knowledgeable about the Middle East, but also eminently fair.

Mr. Javits is probably the best-known Jew in Congress. The Jew with the highest position in the Administration is Henry A. Kissinger, the President's Special Assistant for National Security Affairs. Anti-Arab sources report that Mr. Kissinger studiously refrains from taking sides on Middle East questions. If Jews are confident of support in Congress and at least neutrality in the White House, they have always been about the State Department. For years pro-Israelis have complained that State's Middle East section has been packed with pro-Israeli's, because of their years of experience as diplomats in Arab countries, have favored the Arab point of view.

Many of the important posts are still held by Arabists. But when Mr. Rogers took over the Department of State in October, the President appointed John J. Sisco, an expert on the United Nations and unidentified with either the Israelis or the Arabs, as the overseer of Middle East Affairs.
The Department still maintains close contacts with the most powerful of the groups in the United States sympathetic to Arabs—the big businessmen.

The most influential are David Rockefeller, chairman of the Chase Manhattan Bank; John J. McCloy, former president of Chase Manhattan; and Robert B. Anderson, secretary of the Treasury and a director of Dresser Industries Company, which has oil interests in Kuwait and Libya.

"They are the Establishment," a pro-Arab observer noted. "They can see the Secretary of State, the President—anyone—almost any time."

Mr. Rockefeller is briefed before his trips abroad and reports to the State Department on his meetings. He will not take sides but to be a reporter for the Government.

"I don't have a one-sided role in this thing," he explains. "But it's useful for the President to know what I hear. I'm just a citizen concerned about the situation in a part of the world that's in danger."

TALKED WITH NASSER

Last Dec. 9, Mr. Rockefeller, in an unannounced visit with the President, reported, on his return, that his one-hour talk with President Gamal Abdel Nasser of the United Arab Republic.

Two weeks later, when word of the secret White House meeting was published, 700 letters of protest descended on Mr. Rockefeller in Washington. On the 17th floor of the Chase Manhattan building in lower Manhattan, there were crank phone calls. He was denounced by depositors, threatened to close their accounts and a few did.

The protests upset the mild-mannered Mr. Rockefeller, who subsequently endorsed direct negotiations between Israel and the Arab states—a fundamental demand of the Israelis. He plans a trip to Israel this year.

The protests invariably charged that Mr. Rockefeller was more concerned about American business interests in the Middle East than In justice for Israel.

INTERESTS IN MIDDLE EAST

The Chase Manhattan has extensive interests in Arab countries. The bank will not discuss these interests, but there are ties with many oil companies as well as branch banks.

It is not well known, however, that Chase Manhattan is also the leading bank for Israel in the United States, although this business is far less than the bank's stake in the Middle East. When Israel declared war on Jan. 1, Chase Manhattan has been the only fiscal agent for Israeli bonds and handles other banking matters for Israel.

In any event, there is little doubt that what Mr. Rockefeller and other businessmen tell the Government amounts to an argument for a more even-handed policy in the Middle East.

Mr. Rockefeller is not alone in learning the risks of talking about the Middle East situation. So deep are emotions on both sides, Arab as well as Israeli, that one State Department source commented:

"It is impossible to please anyone unless you are 900 percent for their side."

IMPACT OF THE NEW SOCIAL SECURITY INCREASES

Mr. WILLIAMS of New Jersey. Mr. President, approximately 25½ million men, women, and children on the social security benefit rolls are receiving checks this month which include the 15-percent increase in benefits enacted by the Congress last December.

On a national scale, the increase will:

- Raise the monthly benefit by $345 million, or
- Raise the total for the year by $2.5 billion.

Raise the average monthly benefit from $170 to $196. For my home State of New Jersey, it will:

- Increase monthly benefits for retired workers from $106 to $122; for retired males, from $124 to $142; and for retired females, from $78 to $90.

- Increase average monthly benefits for a retired couple from $192 to $220;

- Increase the benefits for a widow (or widower) from $55 to $109; and

- Increase annual social security benefits by an estimated $150 million dollars.

Such statistics are gratifying, in particular, for members of the Senate Special Committee on Aging.

In our hearings and studies on the "Economics of Aging," we have attempted to alert the Nation to the importance of social security as a mainstay of retirement income, still in need of additional upgrading despite the very welcome increase of 15 percent. As chairman of that committee, I will continue to present this case for additional reforms, including a mechanism for automatic adjustments in benefit levels to keep pace with changes in productivity, fair treatment for working wives and widows, increases in minimum benefits, and some use of general revenues.

The major purpose of social security reform, of course, is to give help to persons with low incomes and to provide economic security in retirement. But, as indicated in the Washington Post of April 6, there is another dividend: higher benefits provide a useful infusion of buying power into the economy.

Mr. President, the Associated Press story which appeared in the Post is an excellent account of the economic impact of the new Social Security benefits. I ask unanimous consent that it be printed in the Record:

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

Rise in Social Security Seen as Aid to Economy

A 15 percent boost in Social Security benefits took effect last week adding $4 billion a year to consumer buying power and firming up the nation's defenses against a recession. The increase in old age and disability payments to 25.5 million recipients is retroactive to Jan. 1. The three-month back payments will all be mailed in April, adding more than $1 billion to this month's regular benefit checks.

While House economists are counting on this infusion of new disposable income, followed at midyear by the end of the 5 percent income tax allowance, to cover up the demand for new cars and other consumer goods, The Budget Bureau's chief economist, Ass. Director Maurice Mann, said the changes "are modest shifts but enough to provide some important support to the economy."

"The economic and fiscal position comes at a time of slight softening in the economy," Mann told an interviewer.

"It is possible that that might revive inflationary pressure, but it is enough to stabilize the economy and prevent it from lagging seriously.

The Social Security checks for March, now being mailed, will add some spring zip to the country's spending power. They will carry the retroactive 15 percent increase for March, and initial $345 million payment.

An extra mailing will take place in the week of April 20, bringing the retroactive benefit increase for March. Social Security Commissioner Robert M. Ball has announced.

The increase in benefit payments, signed into law Dec. 30, will total $4.2 billion this year and move up to $4.4 billion in 1971 as new names are added to the list of beneficiaries, Ball said.

The average monthly benefit will rise from $170 to $196 for a single, from $204 to $232 for a widow with two children. There will be no offsetting rise in the Social Security payroll tax until Jan. 1, 1971. Present law calls for an increase then from 4.8 percent to 5.2 percent each on employees and employers. President Nixon has proposed that the 77,000 wage base on which the tax is levied be increased to $9,000 at that time. The House Ways and Means Committee is studying this and other proposed changes.

FUTURE HOMEMAKERS OF AMERICA

Mr. DOLE. Mr. President, some individuals seem to be going out of their way lately to point up real or imagined shortcomings, dangers, and ominous characteristics of today's youth. Elders have been advising young people with hesitation since before Socrates' time, but, somehow, the very great majority of each young generation achieves responsible adulthood in spite of these dire visions and predictions. One likely reason for the high percentage of productive adults who enter society from each generation of youngsters is the large number of organizations which are now trying them for the responsibilities which lie ahead.

One organization, the Future Home-makers of America, has established a particularly impressive record in helping high school girls look forward to the challenges of home economics in adult life.

This is National FHA Week in America, and throughout the country more than 600,000 members in 12,000 local chapters are marking 1970 as the 25th anniversary of the establishment of the national organization.

I received a letter and an article from Miss Karon Hosley of Kneale, Kans., Kansas State FHA songleader, explaining FHA Week and the significance of FHA in the lives of many young Americans.

Mr. President, I ask unanimous consent that Miss Hosley's article be printed in the Record, so that the Senate may know fully of FHA's contribution to our country.

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

KANSAS ASSOCIATION OF FUTURE HOMEMAKERS OF AMERICA

Topeka, Kans.


1970 is the 25th anniversary of the establishment of Future Homemakers of America as the national organization for home economics students in high schools throughout the United States, Puerto Rico, the Virgin Islands, and some American schools overseas.

April 8, 1970
Eldery Support S. 3154, the Urban Mass Transportation Assistance Act

Mr. WILLIAMS of New Jersey. Mr. President, during recent hearings conducted by the Senate Special Committee on Aging, it has been forcefully pointed out that transportation is a major problem confronting many older Americans, particularly for the infirm and the low-income elderly.

In February the Senate took significant action in meeting this problem with the passage of the Urban Mass Transportation Assistance Act, a bill which I sponsored. Recently the Housing Subcommittee of the House Banking and Currency Committee conducted hearings on this legislation and other related measures. During these hearings, persuasive testimony—presented by William Fitch, Executive Director of the National Council on Aging, for so long, we have watched and studied the problems of these individuals. We have seen them overlooked. I cannot imagine anything in the field of the aging that has as much significance as improvement in transportation for our older persons.

Nothing could document it more, I believe, than the report that we have just submitted. We very much appreciate this opportunity. Working in the field of aging as we have been for the past several years, we have watched and studied the problems of these individuals. We have seen them overlooked. I cannot imagine anything in the field of the aging that has as much significance as improvement in transportation for our older persons.

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hours between buses, not out to the suburbs, but to a point two or three miles from the central part of the city. But the effect is very interesting. Due to the changes in our topography of our cities, we have now 7 drug stores left. In another area there are 7 left. There are five chain stores and my wife and I plead with your committee, to make the older citizens of our community known to your colleagues.

Thank you.

Mr. Frics. Thank you, Arthur.

Mr. Chairman, there is evidence of senior power being organized around the country. We have one of the better exponents of Senior Power right here. He is Norman Sewall, who is the Chairman of the Retirees on the City of Louisville, and Retirees only. We believe in whatever our program. Our guiding principle has always been that the senior person is the best one to work with the community. We have seen a change in the whole way of life. And any time you talk about any part of this program, it always seemed to me that the older persons is the fact that many of them are not able to get around. You see, they have left their jobs, their homes, to get some recreation and to see their peers and to get some fresh air.

And retirees only. We believe in whatever program that they have. And they have been able to do. And we have been able to work with them. And many of them are the best people to work with. And we have seen a change in the whole way of life. And any time you talk about any part of this program, it always seemed to me that the older persons is the fact that many of them are not able to get around. You see, they have left their jobs, their homes, to get some recreation and to see their peers and to get some fresh air.

I am sure that when your bill comes before the House, that you will come a time when they may not be able to. And without the transportation almost all the things we talk about are meaningless—a center, the recreational facilities, even the money they pay. They just become isolated unless there is available transportation.

At a meeting that I attended last night in New Jersey, many of the older persons were meeting to consider programs and services for older persons, they were unfamiliar with the bill, and they were able to do. And others of them realized that there will come a time when they may not be able to. And without the transportation almost all the things we talk about are meaningless—a center, the recreational facilities, even the money they pay. They just become isolated unless there is available transportation.

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April 8, 1970

CONGRESSIONAL RECORD — SENATE

10847

other organizations working in the field and put something in the record before next Wednesday for you.

Mr. BARRETT. Could you do that?

Mr. FITCH. I would be pleased to.

Mr. BARRETT. Glad to have it.

Mr. FITCH. Mr. Widnall.

Mr. WIDNALL. Thank you, Mr. Chairman.

Mr. FITCH. I would like to compliment you on your testimony, and that of your two assistants, so to speak, who are sitting with you up here. I think that you have pointed out some things in connection with the problems of the senior citizen which have not been discussed in the past, and a lot of people are really quite unaware of the problems as they have been developing.

The problem of transportation is certainly very, very serious for them. I have seen it in the area in which I live with the narrowing down of the ability to get around. I know that as we have moved into a more affluent society for the young people with lots of money going for the high speed cars and for everything else where they can go by car one block or two blocks, there has been a constant downgrading of the transportation for those who need it the most and whose demands are the most simple, really, that is the elderly citizen in the community.

I think we have very much of an obligation to do our best to help in this area.

I would like to add this, though, that the problem is not only that the senior citizen on many of these things. The exact same problem exists for almost every citizen. And in the change in our society, a lot of things that are done for bigness, growth, so-called progress, a lot of the great things in our society have disappeared.

And much of the friendliness that used to exist has disappeared also in the zest for greater profit, greater this, that and the other thing.

We have got to do a lot together in order to solve some of these problems. I am sure that the Chairman is very mindful of this, and the members of our committee, and we appreciate your suggestions, your criticisms and anything you can submit to us.

Thank you.

Mr. FITCH. Thank you very much. I would like to add just one postscript.

Mr. BARRETT. Thank you.

Mr. KLEIN and Mr. Seaton.

Very fine statements, very interesting, very human type statements. We are certainly glad to have your testimony.

EXHIBIT 1: EXCERPT ON TRANSPORTATION FROM REPORT ON PROJECT FIND

(Submitted by Mr. Fitich)

TRANSPORTATION

The frequency of transportation difficulties expressed as a major problem of the elderly poor was probably one of the most surprising findings of Project FIND. In some of the target areas transportation appears, indeed, to be a major problem, since not only food, but health and medical care, church attendance, cultural activities, recreation and social contacts depend on adequate transportation facilities.

In many rural areas public transportation has disappeared, the buses having given way to the private automobile. For persons able to afford cars and to drive them, the disappearance of public transportation may seem so important. But, when reduced income or impaired physical ability makes driving a car impossible, mass transporta-

tion becomes a necessity. It is usually the elderly who suffer most from this lack.

Even where mass transportation is available, as in the cities, the cost of the fare is a problem for the poor, and the cost of taxis is prohibitive. For persons who are incapacitated, the walk to bus, tram or subway system presents a problem, particularly if stairs are involved.

This page contains a table titled "Incomes in Relation to Frequency of Transportation Problems" which provides data on transportation difficulties and income levels. The table categorizes individuals and couples based on income brackets and reports the frequency of transportation problems, expressed as a major problem of the elderly poor.

Transportation appears most acute past the age of 70, presumably because persons under 70 are generally more agile and able to manage. Again, it is useful to note the difference in frequency of transportation problems between the poor and the near poor in the same age groups.

As shown in other consumer and service needs, race seems to be a factor in the existence of transportation problems, though the difference between racial groups is less than that between the poor and the near poor within racial categories.

Higher education appears to have some positive relationship to ease of transportation. This again is probably related to the fact that higher education means higher income, and income seems to be the important factor here.

Maleness seem to have a slightly less severe transportation problem than women among the poor. Among the near poor, the advantage is even more pronounced. Increased income seems to help males ease transportation problems relatively more than females. However, more income helps both sexes no-
Likewise, married women have fewer problems than unmarried. However, increased income seems particularly beneficial to the income group reporting transportation problems among single persons. While 42% of poor singles with transportation difficulties had them often or very often, only 26% of near poor singles reported difficulties that frequently. Similarly, while only 38% of poor singles with difficulties reported them occasionally, 41% of near poor singles so described their difficulties.

### TABLE 61—MARITAL STATUS IN RELATION TO FREQUENCY OF TRANSPORTATION PROBLEMS

<table>
<thead>
<tr>
<th>Marital Status</th>
<th>Poor</th>
<th>Near poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>37</td>
<td>28</td>
</tr>
<tr>
<td>Single</td>
<td>25</td>
<td>26</td>
</tr>
<tr>
<td>Widowed</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Separated</td>
<td>20</td>
<td>20</td>
</tr>
</tbody>
</table>

Percentage distribution of replies for poor and near poor groups

<table>
<thead>
<tr>
<th>Occasionally</th>
<th>Seldom or never</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor</td>
<td>Near poor</td>
</tr>
<tr>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>30</td>
<td>23</td>
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<td>25</td>
<td>23</td>
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<tr>
<td>10</td>
<td>10</td>
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</tbody>
</table>

How the problems of transportation affect people's lives is illustrated in the following quotations from reports:

"Mr. L. lives with his wife in an isolated area. He is a double amputee. He had become used to one artificial leg when the other leg had to be amputated. He needs to go four times a year to a physical therapist about ten miles away. Whoever takes him must be strong enough to manage the wheelchair, which is heavily tipped over. When he is ready for the second prosthesis he will have to go several times to a city thirty miles away for a cast and fittings. He can spend two weeks in the hospital there to start getting used to the new balance, but thereafter physical therapy will continue, as his muscles at age 63 will require much retraining."

"Mr W., aged 50 trying to support himself and his wife. The only job he can get is during a split shift. The bus schedule is inadequate and he has a two-hour bus ride for a one hour shift."

In one Project FIND area the problem of transportation proved to be so great that station wagons were secured to aid in carrying out the project. The project director wrote:

"There are 907 square miles in the County and there are only four station wagons owned by the CAA. These are kept busy carrying semi-invalid clients to physicians, clinics, and hospitals. There are many senior citizens without any transportation except that which is provided by the CAA, relatives, or neighbors."

In one sparsely populated rural area where the nearest service to the Project was through a Red Cross station wagon, several state government surplus vehicles, transportation or escort services to doctors, banks, stores and churches were the one direct service most frequently given, with 3,560 such trips recorded during the project's duration.

By any standards of measurement and interpretation, transportation is one of the major problems affecting the elderly, especially the elderly poor.

### EXHIBIT 2: LETTER FROM SENATOR WILLIAMS TO CHAIRMAN BARRETT

Hon. William A. Barrett, Chairman, Subcommittee on Housing, Committee on Banking and Currency, House of Representatives, Washington, D.C.

Dear Mr. Chairman: As you know, I have already testified on the bill before your Committee today. My purpose at that time was to discuss the major thrusts and provisions of the legislation. At this point, I wish to associate myself with the very important point which will be made by Mr. William Fitch of the National Council on the Aging and his associates here today.

The point is simply this: That transportation inadequacies cause widespread, intense, and, in some cases, overwhelming hardship among older Americans. As Chairman of the Senate Special Committee on Aging, I have heard, again and again, about such problems. They occur in both urban and rural areas. There are many difficulties among a group of Americans who suffer from general economic insecurity and many demands upon their fixed incomes.

I therefore commend the National Congress on the Aging for making its presentation to you today, and I ask your permission to have included in your hearing record two additional exhibits—attached to this letter—dealing with the transportation problems of the elderly.

With thanks for the many courtesies you have extended.

Sincerely,

HARRISON A. WILLIAMS, Jr., Chairman.

### RIGHT-TO-WORK LAWS

Mr. DOLE, Mr. President, Kansas is one of 19 States which have enacted what are known as right-to-work laws concerning compulsory labor union membership.

These laws stand as firm expressions of individual rights and exercise of State authority in a field which has, to a considerable degree, been preempted by Federal power under the influence of powerful labor unions.

In the Washington Star of March 11, David Lawrence analyzed recent statistical phenomena on labor unions and trends in the collective bargaining field.

Mr. President, I ask unanimous consent that Mr. Lawrence's article be printed in the Record.

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

THE COMPULSORY UNIONIZATION ISSUE

(By David Lawrence)

The latest survey shows that nearly 81 percent of the union contracts made with companies nowadays provide some requirement either for membership in the union or dues paying on the part of the employee.

The Bureau of National Affairs, Inc., which has just completed a comprehensive study, says that the most prevalent form of union security is the "union shop," which requires all employees to join the union after 30 days on the job and to maintain membership as a condition of employment.

By any standards of measurement and interpretation, transportation is one of the major problems affecting the elderly, especially the elderly poor.

The Bureau of National Affairs, Inc., has found that nearly 81 percent of the contracts cited in the survey call for the deduction of union dues from pay envelopes; in 9 percent of the contracts, employees who do not become members are required to pay service fees equal to the amount of union dues.

Hiring provisions—for example, requiring union preference in hiring and training in the area or those with prior experience in the industry—are found in 17 percent of the contracts. But agreements expressly stipulating that union members be hired are almost nonexistent, as these are illegal in companies subject to the Taft-Hartley Act.

In construction and other skilled trade unions, the labor union office supplies the worker when an employer begins a building project in a new area or expands his working force. As a practical matter, a building contractor who operates under a union contract usually asks the union office to send out carpenters, plumbers and other skilled craftsmen for jobs that come up.

This is where union leaders run into conflict with the government. The government has a purpose to protect job applicants from unfair hiring practices. But some union leaders claim that the government is trying to force them to take into their unions unqualified construction workers—unqualified Negroes.

Labor unions for the most part conduct their internal affairs amicably, though frequently there are bitter contests between rival candidates for leadership. This is true even for unions which stir up ill feelings. Officials of labor unions have found over the years that they...
April 8, 1970

CONGRESSIONAL RECORD

10849

In my State of Minnesota, over 1,000 farmers in 50 counties planted trees or shrubs for forestry and erosion prevention purposes on 28,806 acres, with the Government sharing the cost of these plantings in the amount of $141,000.

Another 1,016 farmers in 64 counties established reservoirs for agricultural uses, with the ACP program sharing the cost to the extent of $386,000.

Mr. James T. Shields, executive director of the Minnesota Conservation Federal Department, Division of Game and Fish and received ACP cost-sharing payments of $233,000.

The average payment per farm in Minnesota for all ACP practices performed in 1968 was a modest $186 and in 1969, $292.

Our experience with the ACP program and the cooperation between the county ASCS committees and the State Department of Conservation in Minnesota is not an isolated case. I am told that similar cooperative arrangements exist in most States with the result that some 227,000 farmers in the United States in 1969 established permanent cover or planted shrubs and trees for forestry purposes and to prevent erosion. These permanent conservation practices covered 4,300,000 acres, with the ACP program cost-share payments amounting to over $42 million.

After reviewing the wide range of conservation practices encouraged by the ACP program in my own State of Minnesota and the country at large, I think this country gets more benefit from the $185 to $200 million ACP program funds spent each year than for many other Federal expenditures. I urge that authorization for the continuation of this highly beneficial program be made in the 1971 agriculture budget.

Mr. President, I ask unanimous consent to have printed in the RECORD a portion of a recent address by Edwin Christianson, president of the Minnesota Farmers Union and vice president of the National Farmers Union, concerning the agricultural conservation program.

Mr. Christianson, speaking at the 68th annual NFU convention, said:

"It is inconsistent in our opinion to stir the hopes of the hungry and poorly-nourished that hunger is going to be wiped out and then to seek to end the school milk program which has been such a mainstay in our nation's nutritional effort.

"It is unfortunate to cast reflections upon the Federal Crop Insurance program, when it is as well known that the Federal budget, bankers, large labor organizations and cooperatives as it is to the producer himself, is a highly important protection of the cash investment of the farmer in his crops, and important to any community who has a stake in any of the inputs which the farmer uses in production.

The Agricultural Conservation Program (ACP) is another example of how the public might get an unfortunate impression from the President's remarks.

"For a long time, farm people and particularly those of us in Farmers Union have been concerned about the land, water, forest and wildlife resources of our nation. We have had to fight some difficult battles for enough appropriations for ACP, for Soil Conservation Services, for Great Plains conservation, for watersheds and flood control.

"So, we are delighted when the public finally starts to take an interest in the environment. We welcome the great publicity and public discussion of the quality of our environment and hope that the new Federal programs to safeguard the environment will become a reality.

"We disagree with the President of the United States or any other political official who makes official proposals to set back the entire pollution control effort by recommending the elimination of federal funds for the ACP program.

"People who are familiar with pollution problems, recognize sediment as the No. 1 pollutant in our nation.

"Nothing is more important than sediment control to reduce run-off from cities, dairies, farm chemicals and pesticides in surface waters than the ACP program.

"If for some reason the ACP program pays farmers to do something which they ought to be doing on their own account, it is not that simple. The government only makes cost-sharing assistance available on those practices which have a lasting value and which the farmer received no immediate return, and practices which the public would not undertake without this assistance.

"The government offers cost-sharing up to 50% and the farmer supplies the materials and labor. Farmers receive $82 in labor and materials for each dollar of assistance from the government. So, if you have an $82 million ACP program, then you endanger about $800 million in conservation work.
and Water Conservation needs was made public. It indicated that 39% of our national forest land and 63% of the range land and 62% of the commercial forest land are in need of conservation treatment.

It may be true that some of this work could be put off, but don’t forget that we are falling behind in soil conservation even at present rates and that we will fall further behind if we cut out the ACP program.

If we choose to delay this conservation work now, it is going to cost much more in the future.

It is relatively cheap to control erosion if you do it at the initial stage. The soil specialists feel it takes an expenditure of only 3 to 5 cents a cubic yard to control the sediment on the land.

But, just let erosion take its toll—and when you get downstream and start to dredge it out of the lakes and waterways, it is going to cost you $1 per cubic yard. You are going to have a loss of topsoil on the farm—and it is going to cost you 20 times more downstream to repair things than it would have cost to maintain the soil where it belonged.

So, we cannot help being disappointed to hear all the big talk about environmental programs coming out of Washington and the White House and then to hear a recommendation which would cut the heart out of the conservation effort.

The whole problem of stabilizing the soil is crucial to the whole controversy of pesticides and chemical and fertilizer run-off. It is only if you have a serious erosion and run-off, that you are going to have a significant movement of pesticides and chemicals off the farm.

DEWEY ROUSH.

JACOBSEN, MINN.,
March 14, 1970.

SENATOR WALTER MONDALE,
Washington, D.C.

DEAR SIR: I would just like to write you and express my sincere belief in both the different farm programs, in my simple way. I’m a small dairy farmer on 164 acres. I know how much the govern’t programs mean to me and the rest of the farmers here in Aitken Co. and all over the Nation.

I would like to urge you very strongly to support especially the Agriculture Stabilization program which is in Congress at present for consideration. The A.C.P.

I am very sure if the A.C.P. is discontinued, the other programs like the Soil and Water cons program and also the R CD, in our area will be falling to waste very shortly. These programs are very much dependent on the A.C.P. cost sharing.

Also if the farm is not protected by the A.C.P. by cost sharing on many different practices, many of us will soon be out of business.

We are losing the family farmer in my opinion very fast, dangerously fast. I am beginning to think and I also feel our Senators and Congressmen should think what will be the outcome of this in the next 5 years. I am afraid our farm commodities are going to be very short and very high in price for the consumer.

I am sure you Mr. Mondale do understand the farm problems, but there are so many that are so ignorant about our farm problems in Washington and all over the Nation.

Sincerely,

VUPKE NORDBURG.

ZIMMERMAN, MINN.,
February 28, 1970.

HON. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: I understand the President intends to cut out the Federal Agricultural Conservation Program (ACP). I am a forester for the State of Minnesota, and part of my job is to make needs and compliance checks on ACP forestry practices. I am convinced that without the cost sharing of ACP, many of our conservation and wildlife projects would fall off drastically.

I deal personally with the applicants, and a large percentage of them cannot afford these extra projects without help. We must keep this program to continue to improve our private woodlands, wildlife habitat and field erosion problems.

Cut more spending from military spending, and leave this program alone.

Sincerely yours,

BRIAN L. GARBET.

REDWOOD FALLS, MINN.,
March 4, 1970.

SENATOR WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am writing in regard to the reported efforts of the Nixon administration to kill A.C.P.

Men, in general, tend to exploit, rather than conserve which is why the administration content that soil conservation practices should be privately carried out is absurd to say the least.

I contend that the time is here for compulsory soil conservation practices because our cropland is an irreplaceable national resource, which may have to be used for longer than can be seen ahead. Had we continued to exploit our timber resources, as was done in northern Minnesota, there would not be a forest left standing in the country.

This analogy, while not perfect, is a legitimate one and makes a valid point.

The need for increased soil conservation practices out here is becoming more obvious every year. Higher prices on rolling cropland are largely devoid of topsoil. Land of this type should be terraced. Grass waterways for runoff should be constructed. Ponds to impound waste runoff from feedlots must be built to lessen pollution of our streams. Shelter-belts to prevent wind erosion and to protect wild life must be planted.

Farmers in general have neither the resources nor the will to carry out these practices without assistance. Furthermore, if expanded to be considered an irreplaceable national resource, it should be more in the public interest to spend this one-fifth of a trillion dollars for ACP than put the $1 billion for example, which is not vital to this generation, much less to future generations. This should be a matter of high priority.

Sincerely,

ROBERT J. BUCKLEY.

1969 AGRICULTURAL CONSERVATION PROGRAM SUMMARY OF PARTICIPATION AND ASSISTANCE BY COUNTIES

PART F—STATE MINNESOTA

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## 1969 Agricultural Conservation Program Summary of Participation and Assistance by Counties—Continued

### Part F—State Minnesota—Continued

#### Participating Farms

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#### State Total

18,746 82,983

### Part G—State Minnesota

#### Low-Income Farmers

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<th>Low-Income Number</th>
<th>Low-Income ACP</th>
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#### Regular ACP

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<th>Cost shares before SCI (dollars)</th>
<th>Amount of SCI (dollars)</th>
<th>Gross assistance to farmers (dollars)</th>
<th>Amount transferred to other SCI (dollars)</th>
<th>Amount transferred to other agen (dollars)</th>
<th>Total amount transferred to other agencies (dollars)</th>
<th>Total gross assistance (dollars)</th>
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<tr>
<td></td>
<td>(12)</td>
<td>(13)</td>
<td>(14)</td>
<td>(15)</td>
<td>(16)</td>
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### PRELIMINARY - TABLE 2 — SUMMARY OF THE 1969 AGRICULTURAL CONSERVATION PROGRAM

#### SEC. 1 — PARTICIPATION AND PAYMENTS

<table>
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<tr>
<th>Item</th>
<th>Unit</th>
<th>Regular ACP</th>
<th>Naval stores program</th>
<th>ECM F-4</th>
<th>Total regular</th>
<th>NSIF and ECM</th>
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<td>Farms participating at least once during 1965-69</td>
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<td>Cost-shares</td>
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<td>8,1970</td>
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<tr>
<td>Small cost-share increase</td>
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<td>8,1970</td>
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THE POLITICS OF OCEANS

Mr. HOLLINGS, Mr. President, yesterday Dr. Edward Wenk, Jr., former executive secretary of the National Council on Marine Resources and Engineering Development and now professor of engineering and public affairs at the University of Washington, presented a talk on "The Politics of the Oceans" before the National Association of Broadcasters in Chicago.

Dr. Wenk spoke eloquently of the importance of the oceans to the United States and of the recent history of oceanic affairs in the United States. He pointed out that "it was the Congress rather than the executive branch that exercised the leadership of seeking not only more intensive study but also more productive use of the sea." But despite the clear definition of the benefits to be obtained from the oceans to meet our needs and aspirations, our ocean programs are funded on a base "equal only to the interest on the investment in space."

Dr. Wenk said:

I am concerned that the Ash Council will inadvertently do him a disservice in not giving the attention to the oceans they deserve, simply because there has not been political pressure to act. . . . The management of marine agencies could be accomplished now by accepting the Straton Commission recommendations.

Mr. President, we await the recommendation of our Federal civil oceanic and atmospheric affairs. Let us hope that he takes the opportunity to strengthen those programs by taking the next step that has been offered to date, the creation of an independent National Oceanic and Atmospheric Agency.

I ask unanimous consent that Dr. Wenk's speech be printed in the Record. There being no objection, the address was ordered to be printed in the Record, as follows:

THE POLITICS OF THE OCEANS
(Edward Wenk, Jr.)

Members of the National Association of Broadcasters, I am singularly honored by this platform and by your invitation to address this distinguished audience. And I am pleased to have received an assignment to discuss "Oceanography." I realize that the visions of research submarines with Owlish eyes and fantastic mechanized arms, grizzled emerald-cool tropical waters; earnest sailors brilliantly colored fish; sunsets mirrored in brilliant blue spume; blurred waterfalls; and enclosed islands with turquoise shores, are appealing.

This audience has seen these photogenic visions of research submarines with Owlish eyes and fantastic mechanized arms at work on the previously inaccessible sea bed. This audience has seen these photogenic portraits often. As men close to communications media, I can imagine your asking "what's new?"

I intend to answer that question. But to

April 8, 1970
CONGRESSIONAL RECORD—SENATE
10853

MINNESOTA

<table>
<thead>
<tr>
<th>SEC. 2.—CONSERVATION PRACTICES—REGULAR</th>
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<td>Practice name</td>
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<tr>
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<tr>
<td>Number of counties</td>
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<td>Number of farms</td>
</tr>
<tr>
<td>Extent</td>
</tr>
<tr>
<td>Cost-shares</td>
</tr>
<tr>
<td>Percent of State total</td>
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<td>Average rate per unit</td>
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<td>Amount transferred to SOZ.</td>
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<td>Amount transferred to other agencies.</td>
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<td>Amount needed to be used for programs.</td>
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<td>Total gross assistance.</td>
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<td>Average per farm.</td>
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<td>Participating low-income farmers.</td>
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<td>Cost-sharing for low-income farmers.</td>
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<td>Pooling agreements.</td>
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<td>Agree.</td>
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<tr>
<td>Number</td>
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<td>Number of counties</td>
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<td>Acre served</td>
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<td>Acre served per unit</td>
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<tr>
<td>Acre served per number of counties</td>
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<tr>
<td>Acre served per number of farmers</td>
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<tr>
<td>Acre served per number of units</td>
</tr>
<tr>
<td>Acre served per number of acres</td>
</tr>
<tr>
<td>Acre served per number of percentage of State total</td>
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<td>Acre served per average rate per unit</td>
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<table>
<thead>
<tr>
<th>Practice name</th>
<th>Practice number</th>
<th>Number of counties</th>
<th>Number of farms</th>
<th>Extent</th>
<th>Cost-shares</th>
<th>Percent of State total</th>
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<td>Conservation practices to enhance natural beauty</td>
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* Those farmers who established eligibility for increased rates of cost-sharing under the special provision for low-income farmers.
do so means that we must leave behind these romantic images that the oceans are benign. This is likely to be a source of concern to the politicians of the oceans.

You may be tempted to reject that notion on the grounds that the fish don’t vote. But the fact is, the fish don’t have to vote, for the fish don’t have a choice. What’s new is putting people in the oceans.

ment to the social and economic goals of romantic images that the fish don’t vote. The people who make the decisions about the oceans must consider the social and economic goals of the people who depend on the oceans for their livelihood.

In the short time available in this address I shall try to portray a broad spectrum of uses of the sea; discuss some projections for the year 2000; and to outline some of the issues before the nation.

These issues comprise the politics of the oceans.

The fact that they may have been lost in the noise level is itself a symptom of the problem of the oceans. For if these concerns are not on the political agenda, then only continue unresolved, but the opportunities to advance this nation to a more durable role in the enjoyment of its maritime environment may be delayed with serious losses to us and to all mankind.

Recent photographs of the earth from space reveal that the predominant terrestrial feature is the blue of the world’s oceans. That this is so is what every population knows—that the earth is a water planet—that its 70.8 per cent of the earth’s surface.

Other statistics on the sea are impressive in terms of its size and content, its ability to absorb energy from the sun and thus energy, and technical muscle we can now accomplish things on, in, or under the sea that we have longed to accomplish and have been deterred by the strengths of the hostile nature of the marine environment.

With this frontier stretching out ahead of us, we should recall the eloquent question when he visited our West one hundred years ago, "What are we going to do with the vast ocean?"

What are we going to do with the vast ocean? When are we going to do with the vast ocean? For industrial society; to provide sanctuaries for the ocean life; and to declare our responsibility for the ocean.

And how can the seas foster national un­terprise progress and science? A new avenue toward world order rather than a handcrafted roadmap toward some long term goal. Where are we today? We certainly aren’t where we thought we were when children in the year of 2000. With almost 10,000 oil wells already in production, the number of drilling platforms will have at least quadrupled to 8 billion by the year 2000. We will have at least quadrupled to 6 billion tons. It will grow well over a billion tons in the year 2000. And by then worldwide oil shipping will have at least quadrupled to 6 billion tons. Oil, chemicals, and ore can be carried by ship far cheaper than by any other mode. The cost per ton-mile is roughly 1/100 of that by air. This explains why almost every nation has begun its industrial growth around the coastline. Almost all of the major megacities are dependent on the sea; and more than 45% of the ocean’s energy is generated after the Thresher disaster in 1963.

In considering the future of the seas, we must remember that the future of the seas is the future of the people. The marine sciences council defined that--seriously concerned about the feeble leadership of seeking not only more intensive research—and research—called the attention of the government to its deficiencies. This deficiency has been under continuous scrutiny ever since. It was the Congress rather than the Executive branch, however, that exercised the leadership of set goals and priorities, coordinated the Federal effort and develop momentum.

This action inadvertently reinforced some of the drumbeating for a crash program in oceanographic research that began to be generated after the Thresher disaster in 1963. In considering the future of the seas, we must remember that the future of the seas is the future of the people. The marine sciences council defined that--seriously concerned about the feeble leadership of setting goals and priorities, coordinated the Federal effort and develop momentum.

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What’s the problem?

First, we have experienced no dramatic threat—nor imagined threat—such as the Soviet, October 1957 space shot that galvanized the American space program into the largest man-made technological project the world has ever known. And second, we have lacked any special interest or well-publicized public interest in oceanography. It would seem that in the absence of either crisis or political pressure, pure logic won’t move this program to center stage.

And the reason logic alone won’t do it is because the retarding forces are exhausting the energies of the few political and scientific leaders who have dedicated themselves to advancing this nation’s destiny in the sea. Let me give you a few examples.

The Administration and the Congress now have a stand-off on the question as to whether the Federal government is well enough organized to provide the leadership necessary to this program. When the Congress assumed initiative to strengthen our oceanographic efforts ten years ago it tried vainly to give a fragmented, unsteady enterprise some sense of unity and momentum.

Congress's recommend Congressional recommendations to move ahead have been repeatedly resisted and opposed by the Executive Branch.

Congress’s first legislative efforts were vetoed in 1968 by President Kennedy on recommendations of his cabinet. A wave of effort in 1969 was successful in establishing both a charter and improved governmental body, but only the Bureau's objections. When President Johnson signed the Marine Science Act into law, he asked Vice President Hubert Humphrey, as chair of the cabinet-level Marine Council, to get on with the job. During the Johnson Administration the council was established and launched despite the stubborn resistance of a ponderous and multi-headed bureaucracy. The council has become known because they have, for the first time, turned to function as a creative activist body. It sharpened goals and priorities to accomplish the social objectives listed earlier; it helped oceanography come of age.

But Congress never intended that as a final solution. It also provided for a Presidential Commission to study whether Federal organization was needed in the long run. That Commission was chaired by Dr. Julius Stratton, a long-serving member of M.I.T. It was composed of distinguished citizens from Industry, banking, education, law, science, state and local government. It found that:

- The incoming president of the American Bar Association, the founder of a major oil company, a lawyer and an owner of a number of radio stations. With only three oceanographers, it can hardly be called self-serving.

The Stratton Commission said that while the council performed well as a steering mechanism, the government, it was inadequate for the job ahead because—like in a rocket—a superlative guidance system cannot compensate for deficiencies in thrust. They recognized that apart from the Navy, many other Federal agencies were involved:

- Coast Guard, Bureau of Commercial Fisheries; Corps of Engineers; geological survey; Environmental Science Services Administration; National Oceanic and Atmospheric Administration; National Aeronautics and Space Administration; National Oceanic Data Center; Federal Water Pollution Control Agency; Maritime Administration; five bureaus in the State Department.

- The Administration has yet to develop programs for coastal environmental research that the President requested from Congress.

In fact, President Nixon has repeatedly stated he is interested in this Nation's maritime future. He gave the request for Federal Government's emergency plan to develop oil containment and clean-up technology.

The Navy has had the responsibility to deliver a major five point program last October that extended goals and fulfilled promises that the Administration had focused on maintaining quality of the oceanic environment.

I am concerned that the council will inadvertently do him a disservice in not having the attention to the oceans that this president seems to want. He indeed has not expressed any public pressure to act. They are likely to wait on the administration in the important but uncertain future of recommendations to reorganize for all environmental problems. The management of marine agencies—to provide better performance—will be the only podium for leadership could be accomplished now by accepting the Stratton recommendation.

But we must be aware that in the absence of either crisis or political pressure, pure logic won’t move this program to center stage.

In the present paralysis of official action we face another growing conflict between the executive and legislative branches. We may seriously erode the progress of the last four years.

There is a time of fiscal stringency. In the short term this consolidation would assure “more bang for the buck.” The three present agencies have not been as effective as a unified NOAA. They say they are losing face, lost time, we are not using resources.

In May 1969, five months after coming into office, President Nixon requested his Advisory Council on Executive Organization under Mr. Roy Ash to study this proposal. By September, Mr. Ash responded to a Congressional inquiry by noting that he was about to study whether to study the Stratton Report.

No one knows how often the Ash Council has met, or with whom, or who were there. They apparently never talked to any member of the Stratton Commission. It is known that they are largely staffed by Bureau of the Budget and that if the past is any portent of the future, the Ash Council may well reflect some of the opposition to oceanography that has characterized the Bureau's little publicized position for ten years.

Preliminary findings of the Ash Council have become known because they receive quietly endeavors through Administration staff to lobby for Congressional support. On the grounds of administrative necessity the Ash Council is not set up any new agency regardless of justification. The Ash Council initially recommended this entire maritime enterprise be turned over to an Assistant Secretary of the Interior. Now the Department of Interior is the operation.

Mr. Griffin. Mr. President, I regretfully call the Senate’s attention to the fact that the committee has heard testimony from 11 hearings suggesting that the proposed executive branch agency be headquartered in Seattle. Senator Hollings, Senator Magnuson, Senator Kerr, Senator Dirksen, Senator Javits, Senator Goldwater, Senator Humphrey, Senator Robertson, Senator Warren, Senator Tower, Senator Long.

But in his environmental message in February, President Nixon, he did not make any noteworthy claims by White House staff that he would deal with the Stratton proposal. Committees in both the House and Senate have delayed action, they say, to further courtesy to the President. They say they are losing time.

In the present paralysis of official action we face another growing conflict between the executive and legislative branches. We may seriously erode the progress of the last four years.

Let me conclude by some words of wisdom by one of our elder statesmen—Oliver Wendell Holmes—aimed in his day at the ship of state. They seem so applicable to our present condition of marine science affairs. Said Holmes: “We must put an end to this drift. It is in the interest of all of us to prevent this wind and sometimes against it—but we must sail, and not drift, nor lie at anchor.”

Indeed we are drifting. The American community has responded to U.S. leadership beginning in 1966 to use the seas for the benefit of all.”

Unfortunately, neither they nor we consider the budget as the only indicator of significance.

In the case of the ocean, literally the medium can be the message.

Enactment of the bills before Congress to establish NOAA are the medium.

This field is too limited to sustain a prolonged debate between the two branches. It is time for the people to speak. It is time for the executive branch—aid in this administration—to take this opportunity to establish a truly national agency.

RUTH THOMPSON, LATE A REPRESENTATIVE FROM MICHIGAN

Mr. GRIFFIN. Mr. President, I regretfully call the Senate's attention to the fact that the committee has heard testimony from 11 hearings suggesting that the proposed executive branch agency be headquartered in Seattle. Senator Hollings, Senator Magnuson, Senator Kerr, Senator Dirksen, Senator Javits, Senator Goldwater, Senator Humphrey, Senator Robertson, Senator Warren, Senator Tower, Senator Long.

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Miss Thompson was born in Muskego, Wisconsin, in 1887. She graduated from Muskego Business College in 1905, and studied law while working in a law office from 1918 to 1924.

She was admitted to the Michigan bar in 1920 and served as registrar of the probate court of Muskegon County for 18 years. She was judge of probate for Muskegon County from 1925 to 1937, then elected to the House of Representatives in 1940, where she served until the beginning of World War II. Ruth Thompson came to Washington during the war, worked for the Social Security Board, and was appointed to the Labor Department, and the Adjutant General’s Office. After the war she served in the U.S. Headquarters Command in Germany, and in Denmark. When she retired in 1960 she served as a member and chairman of the Michigan State Prison Commission for Women for 4 years before being elected to the 82nd, 83d, and 84th Congresses.

Mr. President, Miss Thompson was my predecessor in service as the Representative from Michigan’s Ninth District. The people of that district and the State have lost a distinguished public servant.

LET US PERSEVERE IN SAVING THE BIG THICKET AS A NATIONAL PARK

Mr. YARBOROUGH. Mr. President, for many years citizens have called for action to save the Big Thicket. Interest in the Big Thicket and its protection is not a recent thing, it is not a new cause among those who love nature.

The Big Thicket is a continuing battle, but the necessity for a timely victory becomes more urgent as man’s destructive forces ravage more and more and of this once great, but now in danger, national treasure.

An eloquent plea for the Big Thicket National Park appears in a recent article in the official publication of the Texas Garden Clubs, Inc. It was written by Mr. Charles Flemmons, chairman of this fine organization. Mrs. Griggs captured the beauty and wonder of the Big Thicket when she wrote: “To meander through the Thicket is to see miles of wildflowers and crystal clear bubbling brooks; towering majestic, primeval, impenetrable forest; layers and layers of seemingly hundreds of tints and shades of green. This is a place to stand in awe, a place to feel the infinite—a place we cannot allow destroyed.

The fauna is equally imposing. Three hundred species of birds nest in the Thicket among others, the ivory-billed woodpecker, long thought extinct.

As for the wildlife there are deer, squirrels, turkeys, black bear, puma, panther, red fox, wild pigs that grow to three or four hundred pounds, coons, possum, skunk, oters, bobcats, cougars, rattlesnakes, porcupheads and water moccasins. Domestic animals have gone feral in the Thicket—cats, goats, cattle and even a herd of jackasses. "The poachers have just about killed all the deer in the Thicket," states a Thicket Club guide, "but there are probably a few left where those fellows don’t like to go.

This area is only a forty-acre tract along a stream called Beech Creek, bordered with eighty-foot-tall magnolias and beech trees. The area was chronically overlogged. A conservationist everywhere agrees with the slogan of the Lone Star Sierran: “Not blind optimism, but rather a positive move to blind progress,” and under this banner we must join ranks—if we want to save any of the Thicket at all.

Words from our co-fighters:

Mr. Dempsey Henley, as President of the Big Thicket Association: “Texas has never been concerned about conservation. We have only ten percent of our natural environment left. We are ten to fifteen years late, and we are competing claims in the back country. What remains survives in the proximity of the Gulf, there are rarely hard woods, hardwood trees with a defoliant, and in the process, killed an entire rookery containing numerous black gulls, those last of the under fowl. Another lumber company used a hormone spray from helicopters on their 7,000 acres. Not one hardwood tree left—nor any birds.

Other dead hardwood trees disclose a little chiffon of brush and briar, and sprinkled with holly, dogwood, gum, oak, hawthorne, maple, madrona, and soapberry, the trees but not see crows, cardinals, white-eyed vireo, warblers and Carolina wrens. There is the tree, which man has lived in and loved the Big Thicket—it is possible to walk the Witness Tree, a big magnolia, said to be a thousand years old, that marks the corner where Liberty and the former Independence Meet. The tract, hardly more than a cinder, is hemmed in, against which it is overgrown with red oak, sweet gum saplings, and mixed hardwoods, the latter was the real Thicket—and this is what they want to set aside for the monument. The Thicket is a desultory, but not a continuous, brush and briar, and sprinkled with holly, dogwood, gum, oak, hawthorne, maple, madrona, and soapberry, the trees but not see crows, cardinals, white-eyed vireo, warblers and Carolina wrens. There is

Our Big Thicket Today—A Shattered Tragedy

(BY MRS. CHARLES GRIGGS)

Once upon a time (as late as a hundred years ago), the Big Thicket covered a tract of land as large as the thirteen states of New England. It stretched across the state of Louisiana and west across the state of Texas. Its boundaries were as follows:

In the RECORD.

This is a continuing battle, but the necessity for a timely victory becomes more urgent as man’s destructive forces ravage more and more and of this once great, but now in danger, national treasure.

As for the wildlife there are deer, squirrels, turkeys, black bear, puma, panther, red fox, wild pigs...
no sky, no sun, no sense of direction. A mile and a half away there is a grasse clearing where a four-foot-high, grey stump full of woodpecker holes. This stump is the Witness Tree. "They poisoned it 50 years ago," says the guide. "I can show you the holes they bored in the poison. There isn't any mystery to it—they don't care who eats the fruit."

Before it is too late, we must stop and consider what our future will mean: animals—from deer to robin, need food and cover, clean waters and room to roam. And unless space for survival in our life cannot be treeless subdivisions, cannot be factory sites of drained marshland, cannot be thoroughfares for sewage or speeding lanes for powerboats.

All this directly involves our own well-being—as the perennial quest of man is to renew his spirit on sea and sky, on trees and flowers; to recapture a not-so-long ago happier era, when "cloudy blue" didn't mean smog or pollution, but made one think of forget-me-nots, of bluebells and summer distances.

Let's persevere in saving the Big Thicket.

As Hawaii is a mid-Pacific State with a vast area, I chose as my topic "What's Ahead in the Pacific."

WHAT'S AHEAD IN THE ASIA-PACIFIC AREA

Mr. FONG, Mr. President, on Friday, April 3, it was my privilege to be guest speaker for the International Night sponsored by the West Honolulu Rotary Club International, a distinguished company and to take part in the proceedings and major events on this planet.

Hanoi made the decision to occupy Cambodian soil with tens of thousands of troops, eventually precipitating the present crisis in Cambodia.

A few examples from the recent past illustrate that the United States are profoundly affecting the course of events in Asia and the Pacific. Lord Carrington, then London's chief withdrawals to withdraw from their defense outposts in Asia and the Pacific, thereby greatly altering the Free World posture there.

Hanoi made the decision to escalate its military push into Laos, gravely threatening the Laotian government and arouses concern as to how far the North Vietnamese would penetrate.

Moscow and Peking made the decisions to stiffen anti-Communist confrontation along their common border, raising the specter of all-out war, only now held off by diplomacy for fear of decisions and major events on this planet.

It seems highly appropriate to talk about international events and particularly to ask a look at what is ahead in our own Asia-Pacific area.

In a 30 minute talk, I can hardly do justice to the progress made and the progress under way in the many countries of Asia and the Pacific, to all the forces at work making new possibilities that lie ahead. So if I fail to mention a country that deserves mention or an event that is important, I hope it is not for lack of interest; it is for lack of time.

Events of the past decade have brought home to all of us the cold reality that we live in a world not of our choosing and not entirely of our making. For Americans the delusion immediately after World War II that the United States could shape the world has dissipated. Experience has taught us the hard lesson that even the most productive and most affluent nation does not control all the major decisions and major events on this planet.

What's ahead is a real interest to all Americans, I ask unanimous consent that the text of my address be printed in the Record.

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

WHAT'S AHEAD IN THE ASIA-PACIFIC AREA

President Kea, Chairman Au, Founder Dr. Low, all the distinguished Guests of the East-West Center, Ladies and Gentle- men, Friends: It is a real pleasure for me to be here tonight to break bread with such distinguished company and to take part in the proceedings of the West Honolulu Rotary Club Interna- tional Night, which is one of the highlights of your yearly activities.

After receiving your kind invitation to speak, I did a little research on Rotary Clubs. Although I have long known that Rotary is an international organization, I must confess I was amazed to learn there are more than 14,000 clubs and over 660,000 members in some 140 countries or territories. The sun never sets on Rotary International!

That Rotary should win worldwide respect and adherence is the finest tribute that can be paid to the guiding concept of your club. It is a tribute to all Rotarians whose high ethical standards in business and profession and dedication to their community life and world carries out the Rotary ideal year after year, decade after decade, with constant success.

I should like to add my own commendation to Rotary members not only for the tangible and intangible benefits they bring to their neighbors, but also for their magnanimous spirit which transcends barriers of language, culture, and religion. It is a truly international effort to serve your fellow men.

Somehow it seems highly appropriate that the truly active Rotary club should be here in Hawaii, the crossroads of the Pacific, and the multi-racial land of Aloha, of brotherhood, and of several world powers. On the sight of Hawaii, it seems highly appropriate to talk about international events and particularly to ask a look at what is ahead in our own Asia-Pacific area.

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States is not coveting their territory—as the Communists so obviously are.

...on that score are good. After World War II, we granted independence to the Philippines, keeping our word to the brave people of those Islands.

And, instead of occupying Japan indefinitively, the United States granted Japan sovereignty in 1952, following seven years of gradual occupation long enough for Japan to get back on her feet economically and politically. In 1958, we returned the Amami Islands to Japan; and in 1968 the Bonins, including Two Jimsa Islands. Many had questioned whether the United States would return Okinawa, the site of the U.S. Fifth Army headquarters, and many had won in World War II and which is so important strategically to us. Late last year, as the casualty lists show, South Vietnam has been a major source of discontent to the free nations of Asia and the Pacific.

...is only natural that the American people now seek a reduction in foreign aid, so that we can apply more to our own urgent domestic problems.

A recently captured Viet Cong document concedes that the South Vietnamese have made significant strides in gaining control in Laos and Cambodia. But even though the war is disrupting Vietnam’s economic and political life, progress is being made in the Southeast Asian area.

...against which we look at what’s ahead in Asia and the Pacific.

...are an increasingly large component of the war effort, and the organization of the war continues and pacification of additional areas in South Vietnam proceeds.

...to Hanoi and try to influence North Vietnam to negotiate in Paris.

...the countries of the world expect Japan, the only advanced industrial nation in the world, surprised only by the United States and the USSR. During this time, except for its vigorous drive for influence throughout the world, Japan’s role abroad has been very low key.

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...is only natural that the American people now seek a reduction in foreign aid, so that we can apply more to our own urgent domestic problems.

...a major role in the Asia-Pacific area.

...for any legitimate desire to achieve peace in the Far East.

...that Japan must take care not to arouse old fears and suspicions in its relations with the United States and its Asian neighbors. Japan must also recognize that as the superpowers reduce their military expenditures in the Far East, Japan must reduce its defense spending as well.

...that China’s interest in trade negotiations had revived and that business was good. China also agreed to resume the Warsaw talks with the United States, and these got under way in the latter part of 1972.

...in Okinawa, Japan will be able to fend off North Vietnam’s advances?

...by South Vietnam and U.S. forces against the Reds’ privileged sanctuaries in Cambodia.

...be able to stop the Soviet Union if? Will they support Hanoi in broadening the war to Laos and Cambodia and enlarging the area of war? Will they aid and abet Hanoi in widening its sphere of influence in South Vietnam, Laos, and Cambodia?

...of her shell and deal with the rest. But the Communist successors may prove to be less revolutionary, more rigid and more pragmatic and adaptable.

...is no evidence that either Moscow or Peking is interested in peace in Southeast Asia. It looks very much as if the Soviets would continue their intransigent attitudes and continue supporting armed aggression in neighboring lands.

...while the rest of Southeast Asia looks to the west for a major role in the Asia-Pacific area.

...with Communist China. They have seen how both Russia and China signed the 1954 Geneva accords calling for independence for Vietnam, Laos, and Cambodia.

...China viewed by the Soviet Union as a potential rival.

...and in producer and consumer goods which are expanding the people’s social and economic horizons.

...have revved up the propulsive power of China’s own self-interest, her leaders will be less revolution-minded this time, except for its vigorous drive for influence throughout the world, Japan’s role abroad has been very low key.

...outlook in Asia, we see another country converging on the path of economic development as well as economic leadership—Japan.

...the only advanced industrial nation in the world, surprised only by the United States and the USSR. During this time, except for its vigorous drive for influence throughout the world, Japan’s role abroad has been very low key.

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...is Ukraine’s advances?

...under Soviet collective security system under Soviet control.

...is Ukraine’s advances?

...is Ukraine’s advances?

...is Ukraine’s advances?
April 8, 1970

CONGRESSIONAL RECORD—SENATE 10859

between food and population, and boundary disputes.

It is also unclear whether India will move toward regional leadership in Asia or adhere to the Nehru policy of neutrality, non-alignment, and non-involvement. So it is premature to assess the future impact of India in Asia.

Pakistan, too, is preoccupied with internal problems arising from the military remnants of the war. Not only the political situation but also the social situation has been fluid. Pakistan’s economy has been performing well, growing about four per cent a year. In her west wing, Pakistan attained food self-sufficiency last year, but still needs grain imports for her east wing.

In view of Pakistan’s special relations with Communist China, her improved relations with the United States, built on the economic future of the Vietnam war. Tourism in many countries is growing, and it is estimated that the number of tourists to the Pacific region may double by 1980.

A number of other countries in Asia show economic strength. The Republic of Korea, Thailand, Singapore, and Malaysia have doubled their Gross National Product in the last decade. Korea’s annual growth rate of 12 per cent may be the highest in the world! Australia, with the fifth highest per capita income, will probably double her Gross National Product in this time span.

Singapore continues its uninterrupted march toward prosperity, industrializing at about 20 per cent per year and creating urgently needed new jobs. To offset economic losses from Britain’s defense pull-out, Singapore has received new investments from the United States, Japan, and other countries.

Hong Kong’s economy advanced about 15 per cent last year and exports rose about 1 per cent. Foreign investments continue to flow into Hong Kong.

Malaysia had a five per cent increase in GNP in 1969. In Tanzania, GNP per capita is rising by about one per cent a year.

In the Philippines, GNP has been growing by more than six per cent, and the nation registered gains in road construction and schools, in agriculture, mining, and manufacturing.

In Indonesia, the economy staged a remarkable recovery from the chaos of the Suharto era. In 1969, the rupee was stabilized, the cost-of-living rise was slowed, and running schools, in agricultural production, mining, and transportation.

In view of Pakistan’s special relations with Communist China, her improved relations with the United States, built on the economic future of the Vietnam war. Tourism in many countries is growing, and it is estimated that the number of tourists to the Pacific region may double by 1980.

A number of other countries in Asia show economic strength. The Republic of Korea, Thailand, Singapore, and Malaysia have doubled their Gross National Product in the last decade. Korea’s annual growth rate of 12 per cent may be the highest in the world! Australia, with the fifth highest per capita income, will probably double her Gross National Product in this time span.

Singapore continues its uninterrupted march toward prosperity, industrializing at about 20 per cent per year and creating urgently needed new jobs. To offset economic losses from Britain’s defense pull-out, Singapore has received new investments from the United States, Japan, and other countries.

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relations, we shall turn the wheels of progress to advance the cause of peace for all mankind.

Thank you, goodnight, and Aloha.

KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. PERCY. Mr. President, in October, Congress approved the final Federal appropriation for the construction of the Kennedy Center for the Performing Arts. In so doing, we made a wise investment in the continued development of the arts in this country.

Mr. Duscha recently published an article in the Washingtonian analyzing the role of the Kennedy Center in promoting the performing arts and the approaches to the performing arts will be measured in terms of the excellence of its productions in the fall of 1968.

The three thousand words that follow are dedicated to the quite unfashionable proposition that the John F. Kennedy Center for the Performing Arts will succeed. It will become a world-famous center where the best in music, opera, ballet, and the other liberal arts will be presented and where new ideas and new approaches to the performing arts will be tried.

The center, however, will never be self-supporting. No one involved in the construction of the building or in the planning of its programming and other activities has ever expected the center to pay its own way.

And why should it? Municipal auditoriums and baseball and football stadiums have seldom made money; yet they have been lavishly supported by state and local governments.

Success is more just making money. For the Kennedy Center, success, should be measured in its potential to fulfill the center's plan to open in September 1971 with a festival of music and drama to be highlighted by a new work by Leonard Bernstein in a festival of great American orchestras.

It is still true to argue at Georgetown or even Bethesda cocktail parties that (a) the Kennedy Center should never have been built; (b) if it had to be built it was put in the wrong place; (c) there should have been three or four smaller buildings rather than one huge, 630-foot-long structure; (d) the whole thing amounts of official fluff; and (e) who needs it in these days of pop art and free-form entertainment?

However, the arts may sound when mixed well with martinis, they are irrelevant in 1970. The center is almost two-thirds completed. Enough Federal and private money is available to finish construction at an estimated total cost of $66.4 million.

The question that ought to be occupying the self-appointed leaders and guardians of the performing arts in Washington and elsewhere in the country is how best to use the $23 million Edward Durell Stone building on the banks of the Potomac.

The facilities will rank among the best in the world. Only 1000 seats will be a 2,300-seat Opera House designed for productions ranging from opera and ballet to musicals. Above it will be a 2,700-seat Concert Hall is being built, and on the other side the 1,100-seat Eisenhower Theater for drama is taking form.

Above it will be a 500-seat theater primarily for film but also for lectures and chamber music. On this floor the theater will be space for receptions, band concerts, and meetings as well as a room for an art gallery and restaurant facilities.

Each of the three major halls will have the finest in stage equipment, acoustics, and soundproofing. The seating capacity of the Opera House has been halved down so that it will be an optimum size for singers. Behind both the Opera House and the Eisenhower Theater will be rehearsal halls.

A grand foyer—with floor-to-ceiling windows rising six stories and providing a dramatic view of the Potomac, Roosevelt Island, and the Virginia skyline—will connect the three principal auditoriums. They will be separated by a Hall of States and a Hall of Nations leading from the center's entrance plans on the side of the building opposite the river. Between the center is a three-story garage with room for 1,600 cars.

Encased in white marble—a gift from Italy and general director of the New York City Opera, is Mr. Pierre Monteux, and the center will be supervised by the General Services Administration. Of the $66 million cost, $23 million is being met by Federal grants and another $33 million by Federal loans. The loans are being used for the parking garage, which will be available to Federal employees and others who work near the center, and which presumably will earn enough money to pay off the loans.

But no one on Capitol Hill has put on a hard hat and supervised the construction of the center. It is the Federal government's responsibility to see that the Kennedy Center becomes a great national institution.

The legislation which created the center laid down guidelines. The President is the official representative of the Federal government. He is well known in Europe and the United States and is highly respected throughout the musical world.

London is working under Julius Rudel, conductor and general director of the New York City Opera. He is on the Kennedy Center's musical advisory. The forty-nine-year-old Rudel, born in Vienna and now an American citizen, is one of the great conductors and outstanding leaders of the musical world.

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has not shown much interest in the center since its beginnings. Although several years ago she did get involved in the center's pro­gramming plans. For example, she tried to get Leonard Bernstein to take on the job of artistic director for the center.

There also have been disagreements on the board between some of the grand-design oriented members and the more practical di­rectors, such as Stearns and Stecker, who have been immersed in the project since its beginnings. Miss Onassis insisted that the board take one step at a time, concentrating all its energies first on raising money for the build­ing fund, then moving on to the more difficult problems of finding money to pay for programming.

The board, in fact, is just now getting into programming matters, which are likely to be far more controversial than the tough but manageable problem of putting together enough public and private money to con­struct a building. There is general agreement among board members, however, that the center's lackluster fund rais­ing efforts stems from the sociality of bi­tious and overdressed wives.

James E. Allen, Jr., U.S. Commissioner of Education, and unlike the board of trustees of the center's Musical Foundation. Dilton Ruple, II, the director of the Smithsonian Institution and an ex officio member of the board, is also interested in the educational aspects of the center's pro­gramming. Ruple's detractors think he would like to turn the Kennedy Center into a school. But never under­estimate the energies of Dilton Ruple,” one member said in discussing the disagreements over programming that are expected on the board.

Although Mrs. Onassis shows little interest in the center, Ted Kennedy and Jean Smith are interested and do attend Board meetings. Bill Blair makes certain that the Senator and Mrs. Smith are kept informed on all develop­ments. But the center was not built in 1964 as the official memorial to John F. Kennedy in the District of Columbia, it pro­duced a $31 million to $66.4 million. Most of the addi­tional costs when jets were allowed into the center have resulted, however, in a doubling of the original cost estimates. In a decade of­ficials who serve as long as they hold their jobs.

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couples should be included in any new national Ballet and a former manager of the Metropolitan Opera, who asks, "What could be more tragic. I'm not opposed to musicals, nor just grinding out sausages from a machine and thinking that a production is all right as long as no one falls off the stage."

However critical men like Black and Pearlman may be of the center, they and almost everyone in Washington looks forward to the Kennedy Center. But Pearlman believes that both will be heavily booked within five years of the opening of the Kennedy Center. Hayes thinks that the cultural boom of the post-World War II years will continue and that the Kennedy Center will by no means be able to handle all of it. And Niles Hurok and others who bring expensive talents from the United States from abroad, Constitution Hall will still look good with its 3,000 seats compared to the 6,000 seats in the Kennedy Center's Concert Hall or the 2,300 seats in its Opera House.

The Kennedy Center itself also ought to turn a lot more Washingtonians into theatergoers and concertgoers. The newness of the center and the mystique of the Kennedy name will be as attractive to Washingtonians as it will to tourists. Conscious of the large amount of Federal money that has already gone into the center and the need for additional Federal funds to help meet operating deficits, Stevens, Blair, and London seem determined to follow the center's slogan: "The Kennedy Center is for everyone."

Tickets will be made available at low prices to students and others who cannot afford the regular scale. Special programs will be put on for school audiences. The center's three major halls are equipped for live television broadcasting and for filming and taping.

The Kennedy Center will, of course, have its troubles and frustrations. Its deficits will be decried in the halls of Congress. Rival impresarios will accuse the tax-free, subsidized Kennedy Center of unfair competition. And the center will surely be picketed by anti-Americanism-confrontation-prone, pop-culture militants.

There may be plain old structural and logistic problems, too. Some people are still worried over the sufficiency of the center's soundproofing. The self-park garage also could result in jarring traffic jams, but Roger Stevens believes there will be enough entrances onto Rock Creek Parkway, Virginia Avenue, and the Loop to empty the garage in the fifteen minutes the engineers who built it claim it will take. Staggered curtain times will be used so that more than 6,000 people will not be converging on the place at the same hour.

All new buildings and all ambitious new projects have their problems under way, and there will be troubles for the Kennedy Center. But by being in the na-tion's capital, during the economic depression, Federal government deeply involved, the center's chances for success and for continued Federal support are excellent. And that is why it will become one of the world's leading cultural centers.
provided by public agencies in particular, will undoubtedly move to the federal level, thus it is the programs that will very likely remain at the local level. In a prior statement we have pointed out that the local agencies are not actively involved in the provision of services beyond the monthly welfare check" and could become "the advocate of those welfare recipients who believe they are not being properly treated by the system."

To be truly effective, reform of the welfare system must be accompanied by other programs that will provide the poor with the requisite education and training which will open the doors to jobs offering adequate compensation. There is little question that the public school system has failed to serve the disadvantaged family and social ladder, with the result that the disadvantaged cannot command the modicum of education required in the nation's evolving job market. These problems are being studied by a CED Subcommittee on Education for the Urban Disadvantaged.

Insofar as training for specific job skills is concerned, the nation faces a task of very great magnitude. While training opportunities for those public assistance recipients who should be excluded from receiving public assistance will be limited, the low hundreds of thousands, the need numbers in the millions. These and associated concerns will be examined in a forthcoming statement on the problem of urban poverty and jobs now being prepared by the CED OEO Subcommittee.

Federal programs affecting the poor include not only those designed specifically for that purpose, but also such programs as Social Security that serve the broad spectrum of the population. (Figure One shows only that portion of such funds going to those below the poverty level.) Many of these programs provide only temporary assistance to the poor. However, this all assistance to those officially defined as living in poverty will come to an estimated $29.7 billion in fiscal 1970. Cash payments under public assistance programs by the federal government will amount to $38.9 billion, plus a similar amount by state and local governments. Income maintenance and supplementation, coupled with improvements in education and manpower policy, should provide a much needed new mechanism for the improvement of the "welfare" segment of this array of programs. But the elimination of the poverty trap will require coordination and improvement throughout the entire structure of federal programs affecting the poor.

Changes anywhere within the structure of assistance to the poor will increasingly have effects elsewhere. The interrelationship of the public assistance system and the Social Security system, for instance, is demonstrated by the decrease in the number of those technically described as poor brought about by the 15 percent across-the-board increase in old-age insurance benefits. Further improvements in Social Security payments could have a similar effect, reducing the number of those receiving public assistance. Likewise, improvements in Medicare health programs, providing greater coverage that is nonexistent now if insufficient to provide families with any hope of getting out of poverty. In effect, a second system of unemployment compensation. As pointed out by the Commission, income maintenance and supplementation would "greatly [reduce] the danger that poor people who had not been covered by unemployment compensation would be seriously injured by an increase in unemployment, or that other working families would find themselves in difficult straits in periods of temporary unemployment."*  **

AID TO THE POOR IN FEDERAL PROGRAMS  
[[Billions of dollars]]

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<th>Program</th>
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<th>1971</th>
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<td>1.3</td>
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<tr>
<td>Food stamps</td>
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<td>Child nutrition</td>
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<td>.2</td>
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<td>Education assistance</td>
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<tr>
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<tr>
<td>Total</td>
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</table>

1 The poverty threshold used in calculating this table is $3,400 annual income or less for a family of 4.
2 The increase in the level of social security payments.

The table above the poverty threshold, hence the drop from 1970 to 1971 in total payments to the poor.


RECOMMENDATIONS

For all these reasons, this Committee believes that the reform of the welfare system, as proposed in this statement, is only the beginning of long and searching studies that will have as their purpose the development of an integrated approach to the problem of poverty in the United States.

Very little indeed is known about the factors that lead people in and out of poverty, or the determination of the most appropriate and effective mechanisms to provide genuine help to those in deepest poverty.

Little public or private philanthropic money has yet been made available for studies of these questions. Less than one-tenth of 1 per cent of the billions now being spent for welfare programs, for example, is spent for research. Consequently, little is known about such vital information as why the numbers on assistance keep rising. While there are many theories about the reasons for this increase, as noted later in this statement, no data available from responsible public sources can identify the basic causes.

Nor is it known with certainty to what extent such programs as Social Security, unemployment compensation, and work programs have succeed or failed to end the cycles of poverty. There is much need for a program of adequate incentives to work, coupled with positive measures to increase opportunities for private or public employment for those able to work.

The measures needed for accomplishing this will be discussed in the aforementioned statement on poverty and jobs under preparation by a CED Subcommittee on Problems of Urban Poverty.

The question arises whether, in addition to income incentives, a training or work requirement for those who are able to work constitutes a desirable and practicable feature of an income maintenance system. In the light of principle, we believe that those who are able to work should work, and that even though such a requirement, if necessary to apply, the principle should not be abrogated on that account. We recommend the incorporation of a requirement for training or work for the able-to-work as an integral element of any income maintenance system.

In developing a national manpower and training program, we believe that special attention must be given to the problem of how to head households. This involves a consideration of whether the family's and society's longer-range interests are better served by an individual living alone with large families or his income earned through the housewife. For a mother in the home or by additional family income acquired through outside work, we believe that neither training nor work should be made a condition for continuation of public assistance to women head households.

However, in order to facilitate jobholding where this is desirable, we recommend the establishment of a national program of day-care centers that will enable mothers receiving public assistance to engage in gainful employment, and jobs. We also urge the development of

Footnotes at end of article.
a federal program to assist with the construction of day-care centers. Furthermore, we strongly urge that the age of eligibility for inclusion in any such day-care program be extended down to include and two years and that the program should be broad in concept so that instead of being merely custodial in nature, the center will provide an educational experience and enrichment for young children along the lines of Head Start.

Second, the evidence indicates that the number of children is much higher in poor families than among affluent families, so that family planning assistance be made available equally to all regardless of income. We strongly urge that more money be provided, both to government and private agencies, so that family planning programs can be expanded in order to ensure that the need is greatest and readily available to all families.

As we have stated, we believe that a uniform national approach to the problem of welfare is essential to the reform of the system. We view as practical and realistic the concept that the level of federal income maintenance be set to provide a minimum of $2,400 for a family of four at the present time. Such a level, we believe, could consist of $1,600 in cash allotments with the remaining being provided through the Food Stamp Program, which offers promise as a practical means for supplementing the nutrition of the poor. We support the extension of the Food Stamp Program as additional to the welfare cash allotment and believe that it should be extended for the purpose of assisting all who qualify for income supplementation. However, we recommend that it be subject to periodic review and evaluation in order to ascertain whether the efficiency of the program can be improved and also whether cash payments might not better achieve the objectives of the program.

Because the addition of the Food Stamp Program to the cash allotment has the effect of creating an incentive for earnings, some changes would be required to preserve an adequate work incentive. We recommend that in connection with the cash and food subsidies for income maintenance, the incentive element be set so that the recipients retain an adequate percentage of earnings (centered around approximately half of earnings) above a minimum allowance (such as $1,200 a year) up to an adjustable cutoff point.

Inasmuch as a minimum income of $2,400 for a family of four hardly provides a maintenance level of living, we believe that a priority claim against future available federal funds should be invoked to raise total welfare eligibility for all families. We recommend that the minimum income be set to provide a minimum of $2,400 for a family of four at the present time. Such a level, we believe, could consist of $1,600 in cash allotments with the remaining being provided through the Food Stamp Program, which offers promise as a practical means for supplementing the nutrition of the poor. We support the extension of the Food Stamp Program as additional to the welfare cash allotment and believe that it should be extended for the purpose of assisting all who qualify for income supplementation. However, we recommend that it be subject to periodic review and evaluation in order to ascertain whether the efficiency of the program can be improved and also whether cash payments might not better achieve the objectives of the program.

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