SENATE—*Wednesday, January 27, 1971*

(Legislative day of Tuesday, January 26, 1971)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

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

Hear the words of Scripture:

Be still, and know that I am God.—Psalms 46: 10.

Put off thy shoes from off thy feet, for the place whereon thou standest is holy ground.—Exodus 3: 5.

Almighty God, King of Kings, and Lord of Lords, from whom come all power and dominion, we beseech Thee to look with favor upon all Thy servants in the Government of this land—the President, the Vice President, the Governors, the leaders of our diplomatic and military forces, the judiciary, and especially the Members of this Senate. Imbue them with the spirit of goodness, wisdom, and truth. May days of debate and moments of contention bring abiding solutions to perplexing problems. In times of tension and crisis strengthen the spiritual sinews of Thy servants here that they may concert their best efforts for the Nation's welfare and find the way to lasting peace among the nations.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, January 26, 1971, be approved.

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The PRESIDENT pro tempore. The Chair lays before the Senate the pending motion to proceed to the consideration of Senate Resolution 9, which the clerk will report.

The legislative clerk read as follows:

S. Res. 9, amending Rule XXII of the Standing Rules of the Senate with respect to limitation of debate.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion to proceed to the consideration of Senate Resolution 9.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the distinguished Senator from Illinois (Mr. PERCY) for 15 minutes.

The Senator may proceed.

SENATOR PERCY REPORTS ON HIS TRIP TO AFRICA

Mr. PERCY. Mr. President, as my colleagues know, during my trip in November to Europe and Africa, I visited the Federal Republic of Nigeria for a few days. This was my first exposure to this vast and very important nation. I came away assured that all of my colleagues in this Congress who can find time to visit Nigeria will receive as cordial a welcome as I found there. Ambassador Trueheart, an able career diplomat, and the Embassy staff could not have been more gracious or helpful in planning the best use of my much too limited time.

I want to pay special tribute at this time to the Honorable Joe Iyalla, Ambassador of Nigeria in Washington, for his assistance in arranging my visit to his country, particularly since the notice given of my hope to go to Lagos was necessarily short. Ambassador Iyalla, who is so well known to many of us in the Senate, has also won for himself and his country a host of friends during his years of distinguished service in Washington.

This year, 1970, was an especially important year for a visit to Nigeria. It is, in a real sense, a "watershed" year for that country. It is the year in which the tragic civil war came to an end. It is a year for stocktaking, for binding up wounds, for starting in motion the hard work of reconstruction. It is the year for planning and seeking new directions for the future. I am happy to report that all these things are being done well. Nigerians I met are fond of quoting Winston Churchill who stated when he assumed office early in World War II:

This is not the beginning of the end; this is the end of the beginning.

For Nigeria the beginning has ended.

The highlight of my visit to Lagos was an hour and a half of frank and serious discussion with the earnest, dynamic, and personable head of state in whose hands the enormous task of reconstruction is chiefly entrusted, Maj. Gen. Yakubu Gowon. This 36-year-old leader has already guided Nigeria through the greatest test of its existence over the past 4 years. A few weeks before I reached Lagos he announced, on October 1, the 10th anniversary of Nigerian independence, the plans of his government for achievement of a series of national goals culminating in a return to civilian leadership. Each of the major obstacles to be overcome was carefully assessed and the means to attain the national goals explicitly presented to the people of Nigeria.

Special emphasis was laid by General Gowon upon the reintegration into the national fabric of the war-torn areas of the east and southeast of the country. National reconciliation through a policy of magnanimity is the order of the day in Nigeria. People from the disaffected areas and the adjacent regions which felt most severely the scourge of war have been resuming their places in society and in the economy. I urge that my colleagues give heed to the words of peace and the plea for unity and brotherhood which General Gowon addresses to his people. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks his historic speech of October 1, 1970.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, I am certain that my colleagues will endorse his aims of unity, stability, progress, and justice for all Nigerians as they move steadily toward the foundation of a truly Federal and democratic republic.

Neither General Gowon nor any of the many colleagues of his with whom I spoke, a great many of them also very young for such positions of responsibility, have any illusion that the way will be easy. Divisiveness, tribalism, and sectional politics give way to a sense of national purpose. Under Federal leadership the peoples and the governments of the 12 States are pulling together. And there is recognition in Nigeria today of the need for and the capacity of the Nigerians to do most of the job themselves. This is a society where individual initiative and free enterprise are respected and practiced.

It is also recognized that the development of the country has been uneven. In some urban areas we find a commendable 80 to 90 percent of children of primary school age actually attending classes; in others, unfortunately, the percentage drops to 10 percent and even less. In some areas new schools barely manage to keep up with population growth. Per capita income is low, not yet much more than $100 per year. Malnutrition and disease, as in many other parts of the third world, must be attacked and overcome. New industries and modern agricultural enterprises have to be created to provide jobs for tens of thousands more each year. The transportation infrastructure of the country is in a state of disrepair due to the wear and tear of the civil war years and the understandable reluctance of the Federal Government to expend badly needed foreign exchange upon the material and equipment needed to extend or even maintain roads and bridges that remained at least serviceable.

Yet, one of the most impressive achievements I discovered in my talks with those who guided Nigeria's economy through the war years and who are doing the planning for the future was the

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astonishing ability of this hard-pressed country to come through the war without having encumbered itself with heavy external debts. The materiel it needed for the war effort was paid for almost entirely in cash. This meant 3 years of austerity for Nigeria, deprivation for millions of citizens, hard times that only now are beginning to disappear.

A few days before my visit to Lagos the Government published its new 4-year plan for economic development, an impressive document. It is a blueprint for the process of catching up, of reconciliation and reconstruction. It calls for a capital investment of $4.5 billion, partly—about 55 percent—in the public sector and partly—about 45 percent—in the private sector. Its success will depend chiefly upon the efforts of the Nigerians themselves, but will also require input through private foreign investment and through some assistance from friendly nations—among whom I feel certain the United States will continue to be numbered—and through the traditional international agencies. Significantly, Nigeria will look to outside help for loans and grants to cover only 19 percent of the planned investment. I encountered many expressions of hope that the United States could continue to be courted upon, through both public and private channels, to help Nigeria further along the road to recovery.

For the next few years Nigeria will struggle with a shortage of foreign exchange due to the necessity of importing large amounts of capital equipment for its new industries and for the improvement of its agriculture and its transportation network. Happily, the longer term picture is a promising one. Thanks to the phenomenal progress made in the rehabilitation of the country's young but enormous petroleum industry, the revenues which will accrue to both the Federal and state governments should enable Nigeria to move soon to that enviable position of requiring no more concessional aid from abroad. We have here the prospects for one of the greatest success stories of the postcolonial era in Africa.

With a diversified economy and the prospect that early next year it will move into eighth place among the oil-producing countries of the world, there seems no reason why Nigeria should rest long among the have-nots of the world.

It is a source of some regret to me that we have not seen a greater participation by American private capital in Nigeria. Except recently in oil there has been nothing in the private sector to match the input by the U.S. Government since our assistance program was launched before independence, or to match the magnificent work done by our foundations and our missionary societies of whose past and present achievements we have all, as Americans, ample reason to be proud. Many of Nigeria's leaders past and present are the products of American educations, American education in Nigeria and in the United States as well. In fact, there are now more than 1,800 future leaders in the Nigerian professions studying at American colleges and universities. It is also gratifying to know that more Nigerians are studying in the United States than in any other country.

Since a mission was established by American Baptists in 1854 there have developed many formal and informal ties between American and Nigerian institutions of higher learning. It is in the interest of both countries that our cultural and commercial links be maintained and expanded. Language barriers are almost nonexistent and the small American business community in Lagos, with whom I met, is excited and optimistic about the great economic potential of the country.

I met a young man there who deeply impressed me because he is starting small companies and waiting until those small companies become successful and profitable. Then he is offering majority control to Nigerian stockholders and he intends to list those companies on a Nigerian stock exchange.

That is the kind of help that can be immensely helpful in the economic development of Africa. I think it will do a great deal to indicate to other countries of Africa the spirit of enterprise and the nature of the help we hope to extend to these small African countries.

There is an affinity between the United States and Nigeria, between the largest and the second largest black nations in the world; for, next to Nigeria no country in the world numbers a greater black population than our own. With a population which will be scientifically counted in a forthcoming census, most authorities believe that Nigeria will prove to have a population on the order of 60 million, a nation exceeded in size by only eight others in the world, and exceeded by none in Europe—either in size or population—by any State except the Soviet Union. And in Africa, south of the Sahara, mind you, one out of every five persons is a Nigerian.

Nigeria today is ready to stand up and be counted. And it will stand tall. It will stand on its own feet. It will be important in world councils. With the solution to its internal stresses now in sight, Nigeria is giving notice that it is prepared to play its role in Africa, in the Commonwealth and in the world at large. It is also determined to retain its hard-won independence and its Federal and Republican unity. It is threatened by no one and covets no neighbor's territory or wealth. In the few months since the end of the civil war, it has already turned outward to consolidate good relations with all the nations which border it. Over the next critical 4 years Nigeria's aim is an economic growth rate of over 7 percent. While its extremely fast-growing population seems likely to reduce the actual growth somewhat, the prospects are nevertheless impressive.

I cannot conclude these remarks without expressing my personal satisfaction that the mercifully short period which was characterized by somewhat strained relations between Nigeria and the United States has come to an end.

At the same hour I was leaving Lagos, General Gowon was also on his way to the same airport to greet a planeload of children evacuated from the former war zone who were being repatriated from the Ivory Coast. His message of welcome to these youngsters was of the finest sort—in keeping with the noblest principles of his deep Christian faith—this is your country; welcome home; let us help you to grow up to be proud to be Nigerians.

I cannot help recalling that as I entered the modest living quarters of General Gowon, I noticed a bookcase containing a half dozen or so Methodist hymnals. I asked him when I entered the room how it happened that he had a dozen Methodist hymnals in his library. I had known that his father had been a Methodist minister.

He told me that every Sunday they have a Christian service in that room for the people in his compound who wish to come, whether they be adults or children.

I told him of the great institution we have in the Senate where we have the Presidential Prayer Breakfast and the Senatorial Prayer Breakfast every Wednesday morning at which up to 22 Senators meet together to seek guidance in the great responsibilities they have.

I would say that the first 15 minutes of my meeting with General Gowon was one of the most inspirational I have had with any of the great leaders.

It called to my mind that I had just left Haile Selassie and had had a great visit with him and had brought to him a message from the Senator from Mississippi (Mr. STENNIS), the leader of the Senatorial Prayer Breakfast, and had discussed with him the forthcoming imperial prayer breakfast that Haile Selassie intended to hold in Ethiopia.

The principal purpose of my visit to Nigeria was the same as it was in my visits to other European and African capitals: To bring to the attention of key governments the support which President Nixon's Indochina peace proposals of October 7, 1970, have received from the U.S. Senate, the American people, and many leaders and peace-loving citizens throughout the world.

I am gratified to report that the Nigerian leaders with whom I met consider that the eight-point North Vietnamese position and the five-point U.S. proposal appear to offer sufficient similarity to constitute a basis for negotiation. It is understood that the U.S. offer is not put forth on a take-it-or-leave-it basis but is flexible and subject to negotiation. President Nixon's offer for a standstill cease-fire is taken as a positive step and the Nigerian government hopes it will bring forth a positive response. The Nigerian authorities assured me Nigeria will do what it can to bring reason to bear in halting world conflict and would support wholeheartedly any genuine effort to bring about peace.

The best way to resolve the present Indochina conflict, according to General Gowon, would be to have those who are directly concerned, particularly the countries of Asia, meet in an enlarged Asian peace conference on Indochina, for only the leaders of Asia can fully understand and effectively solve the problems of Asia. If the parties to the conflict are

sincere about resolving it, other countries can help with good offices, but the main responsibility rests with the parties directly involved. It is my understanding that the Nigerian government hopes that the earliest topics for discussion would be a standstill cease-fire to stop the killing, and the release of prisoners of war on both sides. We shared the further hope that both sides would abide by the Geneva Conventions on the treatment of prisoners. I believe we agreed that it is in the common interest of all parties to negotiate a realistic political settlement immediately, in lieu of continued military action.

I also took occasion to assure the Nigerian leaders with whom I met that restoration of peace in Southeast Asia, success in the SALT talks, and stability in the Middle East could each and together release more funds for the aid of developing countries from all developed nations.

Our discussions were held in a most cordial atmosphere. General Gowon asked me to extend best wishes to President Nixon—which I have done—and also expressed his thanks to my colleagues in the U.S. Senate for taking this personal means of explaining our views on Indochina.

Following publication of General Gowon's Independence Day address of October 1, 1970, I ask unanimous consent to have printed in the RECORD at the end of my remarks an excellent article written in Lagos by Jim Hoagland of the Washington Post Foreign Service and printed in the Washington Post of December 6, 1970.

(See exhibit 2.)

EXHIBIT 1

UNITY, STABILITY, AND PROGRESS: BROADCAST BY MAJ. GEN. YAKUBU GOWON, ON OCTOBER 1, 1970

My Dear Countrymen and Women: Today, we celebrate the tenth anniversary of our resumption of sovereignty and independence. We celebrate this solemn occasion in unity and peace. For this, we offer a special prayer of gratitude to God.

The memory of our recent agony is fresh. During the ten years of our nationhood, our country has been assailed by many crises, culminating in the thirty-month CIVIL WAR which ended in January. We shall mourn for long the thousands of our youth, who perished in the crisis and the tremendous destruction of the war. But it would be unfair to the history of our efforts and achievements during those ten years to dwell only on the tragic aspects of the crisis.

POSITIVE DEVELOPMENTS

The Crisis also led to a number of far-reaching positive developments: by the reorganisation of the country into twelve states, we corrected the structural imbalance of the Federation and fulfilled an essential condition for the country's political stability.

UNITY CONFIRMED

Our success in the War of Unification confirmed the unity and territorial integrity of the country. It also checked the divisive forces working for the further malkanisation of Africa and its re-colonisation.

We guaranteed the integrity of one of the largest markets in Africa—a pre-requisite for economic progress—and a rising standard of living for the people. The smoothness and speed of brotherly reconciliation, since the end of the war, has been very gratifying. Indeed, our valiant brothers, who made the supreme sacrifice during the war, died for a great and noble cause and we are resolved not to fail them.

SALUTE: THANKS

I salute our Armed Forces for their courage and dedication to duty during the dark days of the Crisis.

I thank, once again, all the citizens of this country for their endurance and resolution and for their unstinted support for the Government. Without such unalloyed loyalty and patriotism, the Military Government would not have succeeded in saving the nation from disintegration and bringing it to the present state of confidence and hope for the future.

TREMENDOUS PROGRESS

We should also rejoice that, despite the many difficulties which we experienced, the country witnessed tremendous educational, economic and social progress during the last ten years. For example, our external trade amounted to £315 million in 1959 and in 1969 it had risen to £626 million.

In 1959 we exported only half a million tons of crude petroleum. In 1969 27 million tons, and this year the figure should exceed 50 million tons.

Industrial production has risen during the decade by over 300 per cent.

Secondary school enrollment doubled between 1959 and 1966.

It is important to observe that we did better in all these fields in 1969 than before the War.

FORWARD TO THE SEVENTIES

We are now at the threshold of what could be a great decade of faster development and modernisation. The Government is very conscious of the needs and aspirations of the ordinary man; for peace and security, a rising standard of living and better opportunities for his children. These are the things which matter; the challenge before every Government, and they deserve priority.

ORDERLY PROGRESS

We are all aware, however, that genuine progress can only take place in a situation, which is stable. This is why the Federal Military Government attaches the greatest priority to its programme for orderly progress towards the restoration of normal constitutional Government, which would pursue generally accepted national objectives and observe enlightened conventions.

RETURN TO CIVILIAN RULE

We all need courage, realism, and patience in tackling the problems involved in returning the country to civilian rule. It must be done in such a manner that the final handover of the Government to elected representatives of the people may usher in a period of lasting peace and political stability. We must, therefore, not rush matters, but should proceed very carefully.

I promised at the end of the War of Unification last January to let the nation know later in the year the Political Programme of the Military Government.

NINE-POINT PROGRAMME

The Supreme Military Council has decided on a Programme of the major tasks which it must accomplish before the government of the country can be handed over with a full sense of responsibility. The Nine-Point Programme, which is to guarantee peace, stability and progress in the country, covers:

(i) the reorganisation of the Armed Forces;

(ii) the implementation of the National Plan and the repair of the damage and neglect of the War;

(iii) the eradication of corruption in our national life;

(iv) the settlement of the question of the creation of more States;

(v) the preparation and adoption of a new Constitution;

(vi) the introduction of a new Revenue Allocation Formula;

(vii) conducting a national population census;

(viii) the organisation of genuinely national political parties;

(ix) the organisation of elections and installation of popular elected governments in the States and in the centre.

I propose to speak in some detail about these major issues confronting the nation. I repeat that they must be handled properly and with great care, remembering very well the mistakes and events, mainly due to the inordinate ambition and the dishonesty of a handful of people, which led to the collapse of the First Republic.

THE NATIONAL DEVELOPMENT PLAN

I shall, first, speak about the National Development Plan. I am glad to announce that the Draft Plan is now ready. It will be launched later this month after final approval by the Supreme Military Council. The details will then be published.

The Plan envisages an investment of £1,595 million in the period 1970–74. The five national objectives on which the Plan is based are to make Nigeria:

(i) a united, strong and self-reliant nation;

(ii) a great and dynamic economy;

(iii) a just and egalitarian society;

(iv) a land of full and equal opportunities for all its citizens; and

(v) a free and democratic society.

The public sector programme will cost about £780 million.

We are determined during the next four years to intensify the process of transforming the structure of the Nigerian economy to make it a modern one, and to bring it nearer to the state, where our own domestic resources of capital and manpower will be adequate to ensure the continued development of the country.

It is, perhaps, much easier to prepare a Plan than to implement it. Implementing the Plan requires national discipline. It requires concentration on our chosen priorities and mobilising the support and energies of the people to attain the ambitious targets which we have set for ourselves. The Plan calls for a higher level of domestic savings than we have achieved in the past.

It is very important to achieve the full revival of the economy of the war-affected areas during the Plan period. It is equally necessary in the national interest to lay the foundations during the next few years for more even development in the country as a whole, both economically and educationally. We must allow the continued existence of sharp contrasts of development and backwardness to threaten the stability of this country.

REORGANISATION OF THE ARMED FORCES

Another major task for the Military Government is the reorganisation of the Armed Forces of the country.

It is a matter of great pride that the Armed Forces of this nation and the Police have loyally and faithfully carried out their sacred duty over the past three agonising years. They succeeded in preserving the territorial integrity and the unity of this country, as they were required to do by the oath of their office.

In the process, the Armed Forces were multiplied many times over. A small colonial Army was transformed, literally overnight, into an impressive powerful Army by any standards.

The Navy and Air Force were also established as effective fighting units.

During the War, our troops were camped in their thousands in the thick forests and in trenches in great discomfort. Our boys suffered these privations patiently and courageously in the great national cause.

We are also mindful of the fact that with the rapid expansion of the Armed Forces, it was not easy to ensure the inculcation in every soldier and servicemen in adequate measure of all the noble traditions of the Nigerian Armed Forces.

It is, therefore, our task now that peace is restored to reorganise and redeploy our Armed Forces in order to increase their efficiency and their ability to maintain internal security, and defend the country against external agression. At the same time, we must ensure minimum standards of comfort in the interest of maintaining the morale of the Armed Forces.

The maintenance of efficient, loyal and happy troops is an essential precondition of stability in this country, as it is in any other country in the world. The task before us in this regard will take time and will involve a great deal of money for barracks and equipment and supporting services. I hope that much of this task will be accomplished during the four-year development plan.

IMPARTIAL AND NON-PARTISAN DEFENDERS

It is our firm resolve to maintain the noble tradition of the Armed Forces as impartial and non-partisan defenders of the country's integrity and unity and its Constitution. There should be no room in future for political interference with the Armed Forces, or their use in furtherance of partisan political ends. Only thus can stability be enhanced.

ERADICATION OF CORRUPTION

I shall now deal with the question of corruption in our national life. This country needs the observance of more stringent moral standards. A new country cannot develop and attain greatness except its people are motivated by high ideals.

We can no longer tolerate a situation in which some people in high positions abuse their office to enrich themselves.

The tone of society must be changed, if there is to be trust and confidence between the leadership and the people. For only, then, will people be happy to make the sacrifices necessary for achieving a faster rate of progress.

This is why the Military Government will intensify the drive against corruption in whatever quarters it may exist—civilian or military.

New measures will be introduced to make those found guilty of corruption to disgorge their ill-gotten gains. Special tribunals will be set up to deal speedily with corruption in all organs of the public services and our society generally. The war against corruption is a continuing process and the Military Government must set a new pattern in combating this evil before the return of civilian rule.

THE CREATION OF MORE STATES

The Federal Military Government is aware of the conflicting attitudes regarding the question of the creation of more states. The Supreme Military Council has given serious thought to this problem. You will remember that in November 1966, when I promised to create states I enunciated certain principles which must be observed in the creation of states. I said then that:

"(i) no one state should be in a position to dominate or control the Central Government;

(ii) each State should form one compact geographical area;

(iii) administrative convenience, the facts of the history, and the wishes of the people concerned must be taken into account;

(iv) each State should be in a position to discharge effectively the functions allocated to Regional Governments;

(v) it is also essential that the new State should be created simultaneously.

All these criteria have to be applied together. No one principle should be applied to the exclusion of the others. To give an illustration of what I have in mind: given the present size and distribution of the population and resources, the country could be divided into not less than eight and not more than fourteen states.

These principles were applied in creating the twelve states in May 1967.

I am satisfied that the twelve states structure has, in fact, produced a basis for political stability in that the structural imbalance of the first republic has been decisively corrected.

However, I am aware also that there are certain grievances which have led to the demand for more states. Some of these grievances relate to the question of rapid development and more even distribution of social services and development projects. Some people also feel that all sections of a state should be fully represented in all the organs of government in the state.

We cannot satisfy these grievances by creating more states, since there will be no limit to the number of states. Honestly, we cannot push the principle of creating more states too far.

We must bear in mind that in the final analysis the ordinary people will judge us not by the number of State Governments and Commissioners which we create but by the rate at which farms are expanded and modernized, factories are built, new schools are established and more money comes into the hands of the ordinary people. For these desirable things to happen we need sustained economic progress. I have already referred to the next four-year Plan. It was prepared on the basis of the existing twelve states. We are now mobilising our domestic resources on the basis of the existing twelve states to implement the Plan. We cannot stand still. There is no time to lose.

I believe, therefore, that the instability and the difficulties involved in embarking upon an exercise of creating more states will not be worth-while in the present circumstances. We want to press on with the task of modernisation, and improving the lot of the ordinary man. I give you my solemn pledge that the Federal Military Government will protect the interest of all citizens in every part of this country.

It is therefore not our intention during the next four years to embark upon any exercise involving changing the present twelve states structure. We need time to settle down after the disruptions of the war and face the immense task of post-war reconstruction.

A DYNAMIC SOCIETY

We live, however, in a dynamic society. The situation will be reviewed at the end of this period. If we are convinced then that it is in the national interest to create more states the Military Government will create them before handing over to an elected government.

IRRESPECTIVE OF ETHNIC ORIGIN

However, I take this opportunity to warn the nation of the dangerous consequences of ethnic and clannish exclusiveness in administering our affairs. Every Nigerian must be free to settle and work wherever he chooses to reside irrespective of his ethnic origin. This is why we fought a long war to preserve the unity of this country. We must remain true to our principles. Moreover, free mobility of persons is necessary for ensuring the even spread of development all over the country in the shortest possible time.

FREE MOBILITY

It will be the policy of the Federal Government, therefore, during the next few years to ensure that the correct policies and practices regarding the free mobility of Nigerians are implemented everywhere. I appeal to the leaders and ordinary people in all parts of the country to show an accommodating attitude to all Nigerians, irrespective of ethnic and state origins.

A NEW CONSTITUTION

Another major task is the preparation of a new Constitution.

I intend to set up a panel soon to prepare the Draft of a new Constitution. When the panel shall have completed its work, a Constituent Assembly will be convened at an appropriate time to decide upon a future Constitution for this country.

There is no doubt in my mind that the experiences we have been through in the past few years will confirm us all in the wisdom of maintaining a Federal Constitution. I have been most cheered in my journies throughout the length and breadth of this country by the spontaneous demonstration of all Nigerians, old and young, of their desire to live in one Nigeria, in peace and harmony with one another, irrespective of a tribe, religion or creed.

They will be demanding a Constitution, which will allow the continued growth of one strong nation founded on justice and equal rights for all its citizens. We must be patient and careful enough to prepare a Constitution, which will further these aspirations and avoid the mistakes of the past.

REVENUE ALLOCATION

Next, a Fiscal Commission will be set up to recommend a new formula for revenue allocation in the national interest. This will, necessarily, be linked up with the final distribution of functions between the Federal and the State Governments. However, further adjustments may be made as necessary to the interim formula now being used.

NATIONAL POPULATION CENSUS

Regarding the census question, you will all remember that the last population census was taken in 1963 amidst a great deal of acrimony. It is usual all over the world to have a census every 10 years, and another census would be due by 1973.

As you all know, the data collected during census are essential for economic planning, the organisation of elections and many other vital purposes. The Military Government will, therefore, conduct a national census before handing over to a civilian government.

POLITICAL PARTIES

Another task concerns the organisation of political parties.

There will be no question of returning to political parties that are merely state, regional or tribal blocs. I hope that during the next few years Nigerians, through working together for a greater nation, will articulate a distinctive national ideology and the objectives and goals of Nigerian society. It is only in the context of such commonly accepted objectives and goals that the development of political parties can be a positive factor in nation-building.

If we were to return to partisan politics before the country consolidates its unity and national purpose, we would be going back to the old days of permanent crisis and mutual blackmail.

I wish now to remind the nation that the old political parties were dissolved by decree in 1966.

BRAND NEW PARTIES

When the time comes brand new parties founded on the widest possible national basis will arise.

FOREIGN POLICY

I shall now talk about our foreign policy.

In African and World Affairs, Nigeria cannot be isolationist, even, if it so desired. The implications of our situation were well illustrated during our recent troubles.

We were much encouraged throughout the Crisis by the overwhelming demonstration of support by African States. The moral support of the Organisation of African Unity was invaluable.

I take this opportunity, once again, to thank the Heads of State and Government of the O.A.U. for their support and encouragement which enabled Nigeria to overcome the maneuvers of the enemies of Nigerian unity. The African States rightly saw in the unity of Nigeria an essential condition for African unity.

Moreover, peoples of African descent throughout the world see in a strong Nigeria a banner of hope, and an instrument for achieving self-respect for the black man, so long degraded everywhere.

Naturally therefore, our first concern must be to contribute effectively towards the stability of Africa. We shall work relentlessly for the total elimination of colonialism and racism from the African Continent, the fostering of African unity and the establishment of regional economic unions in Africa. In pursuing these objectives, we would firmly adhere to our policy of respect for the sovereignty of every country in Africa. We have no territorial ambitions whatsoever.

Outside the African Continent, we shall work more energetically with all developing countries to sustain the independence of small countries, and to remove the obstacles to more rapid development placed before us by the economic domination and the trading practices of the richer countries. We shall also oppose human suffering and degradation anywhere in the world, or the suppression of the freedom and sovereignty of any country.

International relations should be founded on goodwill and peaceful co-operation. We shall, therefore, in the United Nations and other Councils of the world strive for the removal of the causes of conflict and for the promotion of world peace. We recognize that the Big Powers in particular, and other developed nations have a special role to play in promoting world peace and the economic development of the poorer countries. In this context, they should make a special constructive effort in this United Nations Second Development Decade.

Our policy of non-alignment will be given more active expression. Nigeria will not be concerned with ideological conflicts. We shall therefore co-operate with all countries which are willing to work with us in developing our resources to improve the well-being of our people.

FREE AND FAIR ELECTIONS

Lastly, the question of elections; when we shall have reorganised our Armed Forces, prepared a new Constitution, conducted a new census, purged the country of corrupt and unpatriotic elements and fulfilled the other tasks, already mentioned, it will remain the duty of the Military Government to organise free and fair elections in order to hand over the country to properly elected Governments. The elections must be properly arranged and supervised to ensure that the exercise is successful. We intend to do these things properly so that the new civilian governments may be ushered in without recriminations.

A TIME-TABLE FOR FINISHING THE TASKS

My dear countrymen and women, it is not practicable in dealing with human beings to impose rigid predetermined time-tables for achieving such important and delicate tasks. At the beginning of 1967 when we hoped that good reason would prevail the Supreme Military Council adopted a two-year programme which was meant to restore the country to full civilian rule in 1969. Unfortunately, the intransigence of the former rebel leadership and the war of secession which they launched overtook our plans.

We are happy that the worst days are over. But the consequences of the war remain. Farms, factories and towns have been devastated in the war-affected areas; roads and bridges have been damaged; schools and social services neglected. During this period, we concentrated all our resources on maintaining the territorial integrity and unity of this great country.

Now, it is the duty of the Military Government to wipe out the traces of the War. We hope to achieve this during the next four years. We shall also proceed as rapidly as possible during this period to deal with all the nine major issues which I have listed.

In order to carry out this program successfully we shall require all the singleness of purpose, the courage, the hard work and the patriotism which the Armed Forces and the entire nation displayed during the anxious days of the War. The target year for completing our political programme and returning the country to normal constitutional Government is 1976. We shall hasten and try to complete the Programme earlier if possible. It is essential that we all work loyally together. We cannot afford to be distracted from these tasks by the unpatriotic activities of any group of persons. I shall report periodically to the nation on the progress of the Programme.

I am sure that I can count on the loyalty, devotion and dedication of the Armed Forces in the trying years ahead as we refashion the fabric of our society, and emerge into the world as a strong and modern nation, deserving of respect from all the countries of the world. I am also confident that my appeal will be heeded by all the citizens of this country to be prepared to make greater sacrifices, to work hard, to show faith, trust and patience in pursuing the great national goals ahead of us.

We have been guided in our actions and in preparing this Programme by the best interests of the people of this country especially the new generation. I charge the youth of this country to demonstrate the virtues of resolution, dedication, and faith. I call particularly on those who aspire to the future leadership of this country, to be guided always by the highest ideals. You all have a special role to play in making Nigeria a great nation and a happier society. We owe to our posterity and to African people everywhere to triumph in our enterprise in nation building. So help us God.

Long live one united and strong Nigeria.

EXHIBIT 2

LAGOS, NIGERIA.—Only two men command any great respect from the disillusioned Ibo tribesmen who lost Nigeria's civil war. Surprisingly, one is Maj. Gen. Yakubu Gowon, commander of the Nigerian army that smashed the Biafran enclave into submission in January.

The other is Gowon's arch enemy and the former Biafran leader Odumegwu Ojukwu, who fled into exile when his desperate 30-month bid to establish a new African nation collapsed in ruins.

This dichotomous attitude largely reflects the strange middle ground many of the eight million Ibos who survived Africa's first modern war find themselves treading today. They are not yet Nigerians, but neither are they still Biafrans.

"We feel like strangers in Nigeria," says Chinua Achebe, one of Africa's greatest writers and an ardent supporter of Biafra during the war. "We hope it will pass, but right now there is a feeling of unreality."

Achebe and other prominent Ibos acknowledge, however, that the postwar conduct of the federal Nigerian government—once accused of plotting genocide against the Biafrans—has left the way open for a genuine national reconciliation. To an outsider who visited both sides during the bitter war, the Nigerian government seems to have delivered less than it promised but much more than many predicted.

Its failure in some areas causes anxiety to persist among Ibos about their future role in Nigerian society, but its successes have helped ease the shock of defeat. Although there were ugly incidents in the first few weeks after the war, the army's handling of Ibo civilians since then has discredited the genocide predictions.

A VOLATILE DREAM

On the contrary, the government helped organize and finance a generally effective relief food effort for the Ibos. Lagos continues to pump nearly $3 million a month into the slowly recovering area, most of it to pay salaries of people who a year ago were in opposition to the Nigerians.

Retribution and punishment have been meted out selectively. Most Ibos seem to be satisfied that Gowon's pledge of a general amnesty is genuine. They tend to attribute this policy to Gowon personally and fear that some around him still want revenge. This is the key factor in their high regard for the 35-year-old soldier-head of state and in Ibo hopes for reconciliation.

What has happened to their dream of Biafra, a cause for which one million to two million lives were sacrificed and which stirred international concern, outrage and sympathy? Achebe, who helped breathe life into the idea and endured the disasters it generated, replied this way during an interview at the University of Nsukka, where he is a research fellow:

"Biafra is just an idea now. It doesn't exist any more. It ceased to exist at the moment of surrender.

"But the memory of Biafra is a different thing. It can be just nostalgic; the government can make it meaningless if we find that under them we are happier than ever. But if people start to say. 'It might have been better the other way,' then the idea of Biafra would stay alive.

"The burden rests with those who fought for one Nigeria. The man who is defeated is entitled to sulk. Only the victor can afford to be magnanimous."

Achebe and almost all of the more than 100 Ibos I talked to during a 10-day road trip through the war area reject any suggestion that the Ibos have any thoughts of renewing violence. A farmer expressed the prevailing mood when he told a visitor: "Anybody bring war to my house, he can go away. We no want war. We have suffered."

OCCUPATION PROBLEMS

More than 100,000 non-Ibo soldiers continue to occupy Iboland. Their monthly payroll has been a major factor in getting money circulating again in the war-torn area. But their relations with civilians remain mixed.

At Nsukka, in northern Iboland, soldiers pass along basketballs and badminton sets to children. In the east and south, they still beat civilians occasionally.

"On the whole, relations are good with the soldiers," says Sam Ikoku, an Ibo political leader. "But one act of brutality ruins a hundred of friendship."

The weight of this army, which is expected to hold its present size for at least a year, ensures that the once haughty Ibos remain subdued in manner and words. They have devoted most of their considerable industry to clearing the rubble from their cities and planting crops in fields that a year ago were being churned up by artillery shells.

"The Ibos are maimed, but hardly dead," said a foreigner with long experience in eastern Nigeria. "The question is not whether they will come back, but how soon."

Yardsticks for measuring the recovery abound. Although there are still desperate problems—lack of health facilities, a severe shortage of work and housing and a crippling scarcity of money—a visitor who saw Biafra a year ago is stunned by the progress that has been made.

It is most apparent in Enugu, a ghost town during the war but now a bustling city of half a million people and the capital of the state which in effect replaces the Biafran enclave. Freshly painted banks are open again

and have long lines of customers, food is plentiful in markets and stores and two small factories have reopened. Many others and the extensive coal mines in the hills around Enugu are expected to resume operation when electricity is fully restored to the state in March or April.

"I will open here again as soon as I can," said a German businessman who owned a small factory in Enugu before the war. "Most of my staff, which is experienced and works hard, made it through the war, and they are eager to get back to work."

Items hidden away during the war have been retrieved to replace things broken up. A fleet of the black Morris Oxford taxis that plied the streets of Enugu before the war has reappeared. People swear that many of the cars were literally buried to protect them from destruction.

Pretty young Ibo girls, their hair stiffly arranged in spikey braids, wear colorful African print dresses and fancy earrings. At Owerri, the battle-scarred last capital of Biafra, markets are thronged by shouting traders who bargain over mounds of garri, the local staple starch, and piles of yams.

The government put up for sale 541 plots of land for a new housing development on Sept. 1. Owerri residents, each depositing the equivalent of $140, snapped them all up in a few weeks.

The physical scars of the war have been much slower to fade in other towns such as Onitsha, once the proud gateway to Iboland because of its picturesque setting on the east bank of the Niger but now an unhappy city still half in ruins. The twisted steel girders of its famous market dominate the city, looking like a giant wrecked roller coaster at a deserted amusement park. The market cost $1.4 million to build in 1957 and was said to have been the largest in Africa.

Little has been done to restore the seven of every 10 houses badly damaged along the densely populated 20-mile-long stretch of road from Onitsha to a village called Awka, the scene of some of the bloodiest fighting of the war. But even in this area, the wartime hardship has eased considerably.

"You see a lot of people in bars and restaurants," said one survivor of the war as he confronted a steaming plate of chicken and rice at the crowded and noisy Top 21 bar in Onitsha. "We figure we have a lot to make up for."

The war that caused these hardships resulted from the deep tribal animosities here in Africa's most populous country. Nigeria's 60 million people are divided into three large tribes—the Ibos in the east, the Hausas in the north and the Yorubas in the west—and hundreds of small tribes.

Two military coups and a series of political assassinations in 1966 provoked tribal rioting in which perhaps 30,000 Ibos were massacred in the north. The Ibos retreated to the eastern region and declared themselves independent—under the name Biafra—in 1967. The federal government finally crushed the rebellion last January.

Biafra has been divided into three. The Ibos were pushed by the war back into their traditional homeland, which is now called the East Central State, an area of 11,500 square miles. To the south, minority tribes indigenous to the areas have been given two states in the 12-state Nigerian federation.

The federal government has appointed an all-Ibo state government which is trying to erase a Quisling image by getting schools, hospitals and roads open again. There seems to be little open hostility to this government (which is manned at the middle and lower levels by civil servants who supported Biafra), but it does not seem to inspire much confidence, either. "Developments will have to come from the other side, from Lagos," said a student at Nsukka University. "We have no voice. We have to accept what the federal government says. They won the war; let them rule."

The federal government in recent months has stopped its diatribes against Ojukwu for allegedly leading his people to destruction. The former Biafran leader is hardly ever mentioned now by officials or the media. This could ease Ibo resentment, for many of them still refuse to criticize Ojukwu. "He was one of us, that is all, and he is still one of us," said a young civil servant in Enugu. "If he had not been there, someone else would have done the same things. He did well enough."

STILL WANT APOLOGY

This view offers a glimpse of what may be one of the key attitudes of ex-Biafrans today. They are not repentant about their lost struggle. Most of them seem to be still convinced that they had a reason to fight, and many continue even to demand the politically impossible from the federal government—an apology for their tribesmen who were massacred in 1966.

Achebe offers a different perspective: "You cannot say that we were wrong because we shouted about genocide and were not killed. We could answer that we were not killed precisely because we shouted."

Many ex-Biafrans do seem to feel that world opinion, and not the mercy of the federal government, saved them from a dark fate. This is a highly debatable argument, but one which the federal government will have to overcome if it is to make Nigeria one nation again and Biafra a dim memory.

At this point in time, the keys to doing this would appear to be:

Continuation of the amnesty. As far as can be determined, there have been relatively few lengthy detentions of former Biafrans. Most of these cases involve Ibo soldiers whom the federals suspect of having taken part in the 1966 coup or of having prosecuted the war with too much vigor.

A military board has just finished screening all officers who fought for Biafra and officials expect courts-martial to begin soon, but there is nothing at this point to indicate an indiscriminate reprisal. Some civilians are under arrest, such as Pius Okigbo, an international known economist who was a Biafran leader, but his family is reportedly satisfied that he is being well treated. Such arrests appear to be the scattered exception rather than the rule.

Integration of Ibo army officers, policemen and civil servants back into their services, as promised by the federal government. There were only several hundred Ibo officers in the small Nigerian army before the war. But since Nigeria is likely to be ruled by the army for the next five or six years, the Ibos feel that they must have a voice in the army if they are to have any influence in the country.

The screening boards have already cleared a number of the Ibo officers for reappointment, reliable sources say. Those who became officers inside Biafra will not be accepted in the federal army, and indeed, none has been indiscreet enough to apply.

The national police force has already taken back 3,000 Ibo policemen, but another 3,000 have not been taken back despite a grim postwar crime wave in the east that has civilians living in fear of being robbed or murdered. Part of the problem is lack of money to pay them.

This is also the key to the inability of the East Central State to absorb more than 3,000 civil servants who are presently jobless. The state government has begun automatically retiring all civil servants above the age of 50 in an effort to cut costs.

A recent federal decree authorizing the firing of civil servants who seem to have supported Biafra too zealously has caused much anxiety among the Ibos. But the top man in the East Central State government, administrator Anthony Ukpabi Asika, says that the decree will affect very few people. "I'm not ready to sack the 3,800 civil servants I have working for me," Asika said with a wry grin.

Compensation for "Ibo" property being held in other states and a chance to seek jobs in other states. This is perhaps the sorest point at the moment, for the land-poor Ibos have always had to migrate in large numbers to other parts of Nigeria to survive.

Much of the migration was to the south where the Ibos dominated minority tribes and took much of the property and the best jobs. The minorities now control the southern states and, asserting that the Ibos committed atrocities during the war, effectively refuse to let them come back or claim their property. Sam Ikoku, the East Central State's rehabilitation commissioner, is thinking of asking for federal intervention to resolve the bitter dispute.

Elsewhere in Nigeria, returning Ibos have not been subjected to harassment. "It's been much easier than I expected," said an Ibo lawyer who returned to Lagos. Last week, a delegation from northern Nigeria visited Iboland recruiting trained administrative staff.

Finally, the economic and physical recovery of the area. Widespread starvation is likely soon to be a thing of the past and the lively pace of rebuilding in the cities gives reasons for hope. But the East Central State is still desperately short of just about everything. At a specialist hospital in Enugu, more than 1,000 amputee veterans are registered; the hospital has only 10 artificial limbs for them. Only half of the 400 patients have beds, the rest sleeping on the floor. There are almost no drugs. "And remember, this is probably the best equipped hospital in the state," said a nurse.

The only people working are civil servants, who are required to give 25 per cent of their salaries to the state as a development loan. Four out of five men in Iboland have nothing to do and drift between the towns and their villages, where they can get enough food to survive.

THE LOWEST PRIORITY

The countryside is probably the grimmest scene of all, with almost no money in circulation. Villages will receive the lowest priority in the plans to repair the $300 million damage done to Iboland by the war.

Joseph is a 64-year-old man who has had to return to his farming village. His oldest son, killed in the war, owned a gasoline station, which was destroyed. His brother, also killed in the war, owned a bar, also destroyed. Joseph's business in Onitsha was smashed as well.

Twenty women and children, including the families of his dead kinsmen, live in his modest house near the Niger River. He is too old to farm but has to make an attempt. He has almost no money, but has to find some to pay for the school fees of the children in the house. He scrapes along on what a son working in Lagos and another abroad can send him. Three weeks ago, he was attacked and beaten by two soldiers without cause.

"He is one of the lucky ones," said a Nigerian who met Joseph recently. "At least he has two sons left that can send some money."

"Existing is not living," said an Ibo. "We must rise to our feet again."

"It is not just a question of returning to the prewar level," said Anthony Asika. "Ibos have seen the great progress Lagos has made in the past three years and we want to catch up with that. The people are very impatient."

The Ibos' impatience and demands for more help from the federal government sometimes provoke other Nigerians to remind visitors, "Well, they did lose the war, you know." That is a fact that the Ibos seem almost to try to obscure with their bursts of energy and rebuilding. Asika, a sociologist, thinks that many Ibos are still in a state of shock from the defeat.

"The reaction hasn't really come yet. You expect people to go mad or commit suicide

when they've been through something like this. It hasn't happened. Maybe we will know we are heading back toward normality when it does."

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared for delivery by the Senator from Wyoming (Mr. MCGEE).

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

Mr. MCGEE. Mr. President, I must say to my friend, the distinguished senior Senator from Illinois, that I have seldom enjoyed a presentation more than his address on the subject of Nigeria. I say this for a number of personal reasons, as well as for the obvious reason that his remarks are informed, sensible and helpful.

The Senator mentioned that he had seen the relatively young but already wise and capable head of state, Major General Gowon, a few weeks after the 10th Anniversary of Nigerian independence on October 1 of last year. This recalls to me that I had the good fortune ten years ago to be in Lagos just after Nigeria won its independence. I believed then that Nigeria was a country of enormous energy and potential and nothing since that time—even the dreadful experience of a civil war—has changed that belief.

When these words are read in the Record tomorrow I shall be in Lagos on the first stop of a journey through a number of African countries and to the Near East in connection with my responsibilities as Chairman of the Appropriattions Subcommittee on Foreign Assistance. Because of this journey and the need to discover facts before one can form conclusions, I would prefer not responding to specific points which my distinguished colleaguee has made about the economic situation and prospects in Nigeria.

However, in my other capacity as Chairman of the African Affairs Subcommittee of the Foreign Relations Committee I would like to echo and reemphasize the thoughts expressed by the distinguished Senator from Illinois about the progress of reconciliation and reconstruction in Nigeria in the period of almost a year since the civil war ended. There are all too few bright spots in the picture of international relations as seen from Washington. To me, it is nothing less than remarkable that General Gowon and his compatriots have acted so promptly and so intelligently to repair the damage done by the civil war.

Those of us who have had much contact with Nigerians had every expectation that their government would adopt a generous attitude toward those of their people who fought against the federal forces during the war. Even so, the leadership provided by General Gowon reflected by so many of his government colleagues has been unusually generous and far-sighted. I join my colleague in extending the most sincere congratulations to General Gowon, to his government and to all the people of Nigeria.

Finally, I was very pleased that the able Senator from Illinois mentioned and the distinguished service performed for the Nigerian government by Ambassador Iyalla. I believe the Ambassador, even in the most troubled times two years or so ago, knew that the American people and their representatives in the Nation's Capital were basically and profoundly sympathetic to the cause of the Nigerian people.

Mr. President, I wish I had more time to elaborate on the subject but I am in the process of leaving for my journey to Africa. Let me say once more how much I appreciate the contribution to our knowledge about Nigeria which has been made by my distinguished colleague from Illinois. I believe the Senate is in his debt.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the senior Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. Mr. President, would the senior Senator from West Virginia yield to me briefly for a unanimous-consent request?

Mr. RANDOLPH. I am delighted to yield to my colleague.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the following staff members be permitted on the Senate floor during the remarks of the Senator from West Virginia: George Lawless, Robert Harris, and Phil Davis.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that these staff members may be permitted to use the charts in the rear of the Chamber which will be of help in the remarks made by my colleague.

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

ORDER FOR THE TRANSACTION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that in the special orders for today there be a period for the transaction of routine morning business with the statements therein limited to 3 minutes and that the period for the transaction of routine morning business be limited to not to exceed 30 minutes.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time under the special order recognizing my able colleague begin running now.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from West Virginia is recognized.

PROGRESS BEING MADE IN COAL MINE HEALTH AND SAFETY ENFORCEMENT, BUT MORE INTENSIFIED EFFORTS ARE NEEDED TO PREVENT DISASTERS

Mr. RANDOLPH. Mr. President, we know that good legislation passed by the Congress, and implemented with the highest motivation by the executive branch, seldom lives up to fullest expectation. Perhaps this is because laws are essentially negative in nature; they forbid something or require something different. They are subject to resistant forces affected by the changes, and to the administrative inertia that must accept new goals and new methods of operation. But slowly, inevitably, changes do occur and the intent of Congress prevails.

The Federal Coal Mine Health and Safety Act of 1969, a product of more than three decades of effort to stem the shocking toll of lost lives in the mining industry, has completed its first full year as major legislation affecting a vital segment of our economy. During that period, more than 250 coal miners have lost their lives in the production of this vital energy resource. This sad record of death and disaster culminated in the deaths of 38 miners near Hyden in Leslie County, Ky., at year's end.

Predictably, the Hyden disaster unleashed a flurry of criticism to the effect that the new mine safety law is a failure, and that the simple act of rolling heads in the U.S. Bureau of Mines could, somehow, erase the grim statistics of the past year. Weeks before the Kentucky mine disaster, I had called on the U.S. Bureau of Mines for an accounting of its progress during the first year of administering the Federal Coal Mine Health and Safety Act of 1969.

I am a Senator, with my able friend (Mr. BYRD), representing a State that is intimately involved in the production of coal. As Senator BYRD knows, we produce about one-fourth of all the bituminous coal mined in America.

Today, I will discuss what has been accomplished, what problems have arisen, and what steps are being taken by Mines Bureau Director Elburt F. Osburn to correct these problems, insofar as I can ascertain.

But first, let me make it clear that the grim record of 1970 is not satisfactory to those of us in the Senate and Congress who have worked long and hard to bring safety to the mining industry. And let me assure those who feel that there is an "acceptable" level of death and disaster inherent in the mining industry that our efforts will not cease until the fatality figure reaches zero, or as nearly that point is humanly possible.

In reviewing this issue, it should be noted that there are approximately 2,900 underground coal mines and about 1,500 surface mines, or a total of about 4,400 coal mines operating in the United States, with total employment of approximately 140,000 mines workers.

There is also the other category of metal and nonmetal mines in three classifications where there is a total of almost 19,200 mines and about 250,000 workers. So there are 23,600 mines in these two categories with a total of 390,000 mine workers. This is the magnitude of the Bureau of Mines' responsibility.

I wish to say that the Bureau has clearly made a good start toward implementing the landmark Coal Mine Health and Safety Act. Although handicapped by a lack of anything approaching an adequate number of qualified inspectors and forced to shift priorities constantly in order to meet the many tight deadlines imposed by the new law, the Bureau of Mines managed to make more than 1,500 complete inspections of underground coal mines during the year. At the same time, it recruited and started training many new inspectors. During the year, a total of 1,645 "partial but representative" inspections were made, as well as an additional 5,200 "spot" inspections required by the law.

Still, this is not good enough. Coal miners died underground in their places of work. What a nation traumatized by the Farmington disaster of 1968 and a Congress galvanized by its reaction demand is more intensified enforcement efforts by the Interior Department's Bureau of Mines and more safety emphasis by all others concerned including the producing companies and the miners as well.

The problems of the Bureau of Mines are fully understood. Trained inspectors have had to be utilized in other top-priority activities. They have been needed for training of new inspectors, and for such time-consuming but critically important jobs as reviewing plans submitted by mine operators for roof support and mine ventilation. Adequate roof support is especially vital, since falling rock and coal lead all other causes of accidents and coal mine fatalities.

Nevertheless, the tragic deaths of 38 men in the Kentucky mine explosion on December 30 starkly underlines the need for stronger and more effective efforts by the Bureau, by the industry, by management and labor, and by State mine inspection agencies. The Congress intends to look thoroughly into the circumstances surrounding the Hyden disaster, and if our investigation shows a necessity to strengthen the law, that will be done.

According to the Bureau of Mines, it had approximately 250 qualified inspectors and other safety specialists in December of 1969. It now has 421 qualified inspectors, supervisors, and safety technicians, and a new class of fully qualified inspectors bas just been completed and its members are being added to the force. There are 261 inspectors in the field. There were, as of a few days ago, 156 potential inspectors in training, and more than 200 others in the process of being hired. This should increase the inspection force to over 800. By late summer or early fall, the Bureau assures me that it will have enough law-enforcement personnel on hand to make the minimum number of inspections required by the mine safety law.

Since the law took effect last March 31, Bureau inspectors have cited more than 35,000 violations of mandatory provisions. A total of 1,460 orders closing mines or parts of mines for unsafe conditions have been issued.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to my distinguished colleague from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be allotted an additional 6 minutes under the order, without prejudice to the succeeding order.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Now if the Senator would yield me 1 minute, or half a minute——

Mr. RANDOLPH. Yes, I do yield.

Mr. BYRD of West Virginia. It is our desire to enforce the so-called 15 minutes. I wish the Senator on yesterday had asked for 30 minutes or 45 minutes, because it is understandable, after hearing this marvelous presentation and all the work that has gone into the preparation of the charts, that he should have had longer. The Senator asked for 15 minutes, and I am sure he thought he would conclude in that time. I am sure, in view of the gravity of the situation and the marvelous work he has done in the preparation of these charts, he ought to have the 5 minutes, and it would be my hope that he could conclude in those 5 additional minutes.

Mr. RANDOLPH. I thank my colleague. The number of violations cited and the number of closure orders issued show the necessity of further effort and further improvement. The fact that we can still have disastrous explosions such as the one at Hyden, Ky., makes substantial improvement essential.

The Bureau must do more, the mining industry must do more, the States must do more, and the individual miners must do more. The American people need coal, but they must not pay for it with the lives of coal miners. We could eliminate all deaths and all injuries by shutting down all mines, but the impact on America and its people would be incalculably calamitous. Cities would darken, factories would grind to a halt, hundreds of thousands of miners and mine-related workers would walk the streets unemployed. So the best hope of averting economic and social chaos is full and firm enforcement of the Coal and Safety Act.

Little noted in the hasty harangue that followed the Hyden disaster is the fact that the 1969 coal mine law provides for stepped-up research to make coal mining technology safer and more healthful, and for expanded health and safety training of miners. I believe the Bureau has made impressive progress on both fronts.

With funds appropriated by the Congress, the Bureau has underway more than 100 research and development projects in its own laboratories on problems ranging from control of respirable coal dust to safer methods for cutting coal and better controlling mine roof support practices. More than 30 other projects are being conducted by universities and by industries under contracts with the Bureau.

Included are the University of Pittsburgh, Syracuse University, the University of Minnesota, the University of Missouri, the University of Kentucky, Virginia Polytechnic Institute, the University of Colorado, its School of Mining, West Virginia University, Duquesne University, and many others.

One of the most ambitious of these is a system of rescuing miners who may be trapped underground as the result of an accident. Earlier this month the Westinghouse Corp., including space age technology in sonar communications, conducted its first field test near Gary, in McDowell County, W. Va. Results of this test are now being evaluated, and if the techniques used are judged successful the day will come when practically no miner trapped underground need lose hope of survival.

Training in all phases of safety is the key to safer coal production. Just yesterday the Department of Interior announced that it has selected a site near Beckley, W. Va., for the proposed Bureau of Mines Health and Safety Academy.

The Academy will be located on a 250-acre tract adjacent to the Raleigh County Airport, donated all or in part by the airport authority at no cost to the Federal Government.

When completed, the Health and Safety Academy will accommodate approximately 800 students, or about 400 in each class of a 2-year program leading to an associate of arts degree. Mine inspector candidates are expected to make up about half of the student body, but the academy also would train employees of private industry to perform as "certified" and "qualified"—terms applied to miners with special skills who are the only persons authorized by Federal regulations to perform certain tasks in a mine.

Selection of the Beckley site is a particularly good one, because the academy will be located in the heart of America's most productive coal mining area. Its people are well acquainted with the hazards of mining, many of its citizens are actively engaged in the mining industry, and an academy dedicated to mine health and safety training has the wholehearted support of the community.

At this point, I commend my distinguished colleague (Mr. BYRD of West Virginia) for his very active role on behalf of the academy, both in the Senate Appropriations Subcommittee and in working directly with the Bureau of Mines in the matter of selecting a proper site for the installation, and in developing the program. He has exercised true foresight in this endeavor.

The Bureau also is devising streamlined methods of training miners in safe working practices and teaching them how to use safety equipment. Here are a few of the instructional materials devised to keep safety directors of the Bureau and its training classes, as well as those of producing companies and their men apprised of the latest techniques applicable in mine safety and rescue.

There is, I am pleased to report, a cooperative pilot effort with the Department of Labor and the Department of Health, Education, and Welfare which will help assure that men entering the mining industry will receive thorough training in safety fundamentals before they begin working regularly in the mines.

In addition to its efforts in law enforcement, reseach, and training, the Bureau is rapidly developing and publishing for industry's guidance many of the standards called for in the Coal Mine Health and Safety Act. Regulations recently have been set forth on safety and health practices in underground and surface mines, on the reporting of mine accidents, field testing of electrical equipment, noise control, underground lighting, and several other areas covered by the act.

Mr. President, it would be immensely gratifying to me to report to the Members of Congress that all has gone well, that the concerns of the Members have been abated, and that the new law that Congress produced has fully and completely accomplished its goals of making the mining industry a truly safe one.

Any realistic appraisal of the situation would have to conclude that this is not the case. However, the Federal Coal Mine Health and Safety Act, which was so vigorously supported, has made its mark. And while we weep for the victims of man's inability to control his fate, for whatever reason, we can take solace in the probability, if not the absolute assurance, that our efforts will save thousands of lives and crippling injuries in the future.

The accomplishments of the Bureau of Mines thus far under the act are substantial, but not enough. Neither the Congress nor the American people will be satisfied until the number of coal mine accidents and deaths are reduced dramatically and permanently.

I have several interesting and informative charts and certain equipment in the Chamber. Mr. George Lawless of the Labor and Public Welfare Committee staff will remain with the charts to answer any questions of Senators, if that is agreeable with the leadership. The charts are in part detailed and there is not sufficient time to develop them in my presentation.

Again I thank the Members of the Senate for their attention to the critical issue of coal mine health and safety. Senators know of the commitment we have already made and must renew. There must be a close inspection, by the Congress of what is being done by the U.S. Bureau of Mines itself; of the efforts of the coal industry; and of the training, in part, of the miner himself, that he may guard against deleterious health and safety problems which are constantly with him as he brings forth from the hills precious coal which fuels America and constantly strengthens our economy.

Mr. President, I ask unanimous consent that a more detailed report of the U.S. Bureau of Mines' health and safety activities over the past year be placed in the RECORD, together with a news release on the establishment of the Federal Mine Health and Safety Academy at Beckley, W. Va.

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

REPORT ON U.S. BUREAU OF MINES ACTIVITIES IN ENFORCING FEDERAL COAL MINE HEALTH AND SAFETY ACT SHOWS PROGRESS TOWARD MAKING MINES HEALTHFUL AND SAFE

In order to appreciate fully what the Bureau is doing, it is necessary to consider what is being done for noncoal as well as coal mines. Within the past year, the Bureau has not only begun to enforce the Federal Coal Mine Health and Safety Act of 1969, it has also begun for the first time to enforce Federal health and safety standards on metal and nonmetal mines, pits, and quarries under the Federal Metal and Nonmetallic Mine Safety Act.

Consider the magnitude of the Bureau's job. It is responsible for the health and safety of 140,000 workers in about 4,400 coal mines, and another 250,000 workers in 19,200 metal and nonmetal mines, pits, and quarries, including sand and gravel operations. This means that the Bureau of Mines must now get around and inspect about 23,600 mining operations throughout the United States. A year ago, the Bureau was inspecting only about 4,000 coal mines on a regular basis.

Further, the Federal Coal Mine Health and Safety Act of 1969 more than quadrupled the workload of the Bureau with respect to coal mines alone. Under the new law, the Bureau is required to make about 40,000 coal mine inspections a year as compared to about 10,000 previously. Moreover we now enforce 206 mandatory standards in each inspection compared to 37 under the old Act.

The objective of all of this increased activity is to reduce fatalities and worker disabilities in the mines—a very formidable task because historically, mining—and underground mining in particular—has been and is the most hazardous major industry in the United States. In the past 25 years, 15,816 mine workers have been killed, another 840,000 have suffered disabling injuries, and an unknown number have died from pneumoconiosis, silicosis, radiation-induced cancer, and other occupational diseases. There were 382 fatalities in the mines in 1969 and 392 in 1970.

A year and a half ago, the Bureau had *no* Federal health and safety standards to enforce in noncoal mines and *no* inspection and enforcement organization in the field for such mines.

Today, the Bureau has such a field organization enforcing more than 1,735 standards in metal and nonmetal mines across the country. The Bureau has also entered into two State plan agreements—with Arizona and Colorado—and is working with some other States to share the mine inspection and enforcement responsibility with them as provided in the Federal Metal and Nonmetallic Mine Safety Act.

While developing and promulgating standards and building an enforcement organization for noncoal mines, the Bureau worked closely with the Congress in writing the legislation which, on December 30, 1969, became the Federal Coal Mine Health and Safety Act of 1969. And, on March 30, 1970, only three months after the law was enacted, the Bureau began to make inspections under the new law.

In order to inform the industry of its interpretations of the law and its plans for enforcement, the Bureau developed a comprehensive set of interpretative regulations which were published in the Federal Register on March 28, 1970, without affording interested parties to comment on them. The Bureau also held open and public meetings in the various coal-producing areas of our country to explain to coal operators the requirements of both the law and the regulations.

Almost immediately the Bureau was criticized for not publishing its regulations as proposed rulemaking, and on April 23, 1970, in a Federal Court at Abingdon, Virginia, the Bureau was enjoined from enforcing the regulations. Whether or not the Bureau should have published the regulations as proposed rulemaking is now a moot point, because the Bureau subsequently did so and the regulations are now in effect. It is important, however, that the Bureau in its first publication of the regulations was trying to implement the law as soon and as fully as possible—and if an error was made, it was made on the side of prompt and effective enforcement.

The Bureau spent a good bit of its time during the year writing regulations—for health as well as safety; for surface mines as well as underground mines; for metal mines as well as coal mines; to establish procedures as well as to prescribe standards. They are the result of many thousands of man-hours by the Bureau's technical and legal experts—and again they represent a substantial effort by the Bureau to implement the mine health and safety laws promptly and effectively.

Writing these regulations is not as easy as it might seem, because they must be strong enough and specific enough to get the job done while allowing some flexibility in their application in the many diverse mines and mine operations. It is simply not possible in most instances to write a single standard which is fully applicable to every mine in the United States.

On March 30, 1970, when the safety standards in the coal law first became effective, the Bureau had a force of 331 inspectors, supervisors and other enforcement personnel. It needed 1,000.

Obviously, the Bureau could not immediately begin to make all of the inspections required by the law; and so the Bureau made a hard decision—to make the first round of inspections under the law what it called "PBR", or partial but representative inspections. In these inspections, the Bureau inspectors inspected only so much of a mine as was representative of the entire mine and then moved on to do the same in another mine. The mine workers, seeing the Bureau inspectors in the mines for such a short time, understandably viewed these inspections as a weaker rather than a stronger enforcement effort by the Bureau. They did not understand—and the Bureau did not take the time to explain—that the PBR inspections were made because they put the operators on notice faster and in the best possible way with regard to the applicability of the new law to their operations. If the Bureau had made complete, rather than PBR inspections, the workers would have seen no inspector at all in some of the mines for many months.

Following a round of PBR inspections, the Bureau began to make the spot inspections required by the law in mines which are excessively gassy or where fires and explosions have recently occurred. The Bureau also began to make complete inspections of all coal mines as fast as possible with its limited personnel. These spot and complete inspections are continuing to be made.

On June 30, 1970, the respirable dust provisions of the law became effective, and the Bureau was ready with a dust-weighing laboratory in Pittsburgh tied into a computer in Denver to handle up to 4,000 dust samples a day. The building of this laboratory and the computerized data transmission and reporting system was, by itself, a major accomplishment. When the design of this system was started, the samplers used in the mines to take the samples had not even been fully designed and standardized. Needless to say, they were also not available to either the Bureau or the industry in the quantities required to implement the law. So, the design of the laboratory and the design and production of the samplers had to be undertaken simultaneously.

The samplers for taking the dust samples have only recently become available in adequate supply, and so some mines, especially the smaller mines, have only recently begun to take samples—almost six months after the dust provisions in the law were supposed to be enforced. Has the Bureau been delinquent in not enforcing these provisions earlier? I do not think so. Under the circumstances, the Bureau has done well to get as far as it has toward the reduction of the dust levels in the mines which cause "black lung" or pneumoconiosis. About 70 percent of the coal miners have been covered by a sampling program.

The law requires every mine to have a roof control plan and a ventilation plan approved by the Bureau of Mines. In December, the Bureau decided that these plans must all be approved no later than the middle of Febru-

ary even if it meant a temporary curtailment of some inspections. They should have been reviewed and approved sooner; but this only points up the Bureau's dilemma. Because it could not do everything at once, the Bureau had to be selective; and whenever it decided to do one thing required by the law, it was necessary to delay another.

Someone will say that the Bureau should have expanded its work force faster. There is no pool of unemployed coal mine inspectors and specialists in the United States, and the number of experienced coal miners and supervisors who can be trained to become inspectors and specialists is limited. Further, these people are needed by the industry as well as the Bureau of Mines, to operate the mines and to make the improvments needed to bring the mines into compliance with the law.

Previously, it took about nine months to complete the employment of an inspector-recruit after he passed a Civil Service examination. Working with the Civil Service Commission, the Bureau has reduced this time to about 4½ months. There was no training program for inspector-recruits, so the Bureau developed one. At Beckley, West Virginia, the Bureau can provide classroom training for about 100 inspector-recruits at a time. This training takes about three months and it is supplemented with from one to three months on-the-job training, depending upon the ability of the individual recruits, before the recruits are qualified to make inspections.

Someone may say that the training should be done faster, but the Bureau is concerned that it may be too fast now. It is a good compromise between the training that is needed and the training that can be afforded.

When Assistant Secretary Dole appeared before the Senate Labor and Public Welfare Committee on August 7 and 14, 1970, he said that the Bureau would have about 620 inspectors by June 30 and 750 soon thereafter. The Bureau estimates that it can do the job with 750 inspectors and 250 supervisors, specialists, and other supporting personnel. There is a very good prospect that the Bureau will achieve its goal. At the present time, the Bureau has about 261 inspectors with another 152 inspectors-in-training, and 196 inspector-recruits in process of being employed. Additional inspector-recruits will be selected for employment in a few weeks as soon as they have been rated and found to be eligible for employment. The Bureau also has 168 inspector supervisors, specialists, and technicians—making a total of 777 enforcement personnel either on board or in process of being employed. This is 2⅓ times the enforcement personnel in the Bureau on March 30, 1970.

Assistant Secretary Dole also said that the Bureau would attempt to make 30,000 inspections in this fiscal year. This would not amount to ¾ of the required inspection job because some of the inspections would not be as complete as the law requires. The Bureau is presently behind its planned level of inspections at this point in time, and it looks like about 25,000 inspections will be made—not as much as I would like, but a commendable first-year effort nevertheless.

The important thing is that the Bureau's effort is moving toward the required level and it is accelerating. It is clear that the Bureau can and will get the job of enforcing the law done. Much of what has been accomplished to date has been an extension of past inspection practices and procedures, but the Bureau has not neglected to seek improvements in these techniques. A management consulting firm was employed to recommend improvements to utilize automatic data processing in the scheduling and reporting of inspections, and these recommendations are now being implemented in both the coal and noncoal activities of the Bureau. This will not only result in better inspections but also it will reduce to a minimum the time spent by inspectors in report writing.

The Bureau is also expanding and revitalizing its efforts in education and training and in research and development. In education and training, the Bureau is putting much more emphasis on health and safety motivation to supplement its training on health and safety practices and procedures. For the first time, an effort is being made to utilize teachers, as well as employees with mining experience, to teach mine health and safety. For the first time, some of these teachers will be women. TV spots in coal-producing areas are being used to persuade miners to be, as well as to think, safe. The Bureau is developing packaged training courses that can be given by mine operators as well as by Bureau of Mines personnel I have one of these courses with me. It covers first aid training that is also described in a new Bureau of Mines First Aid Manual that will soon become available from the Government Printing Office.

In cooperation with the Departments of Labor and Health, Education, and Welfare, the Bureau is initiating a new program for training young people in mining areas of our country to go to work in the mines. A heavy emphasis will be on health and safety in this training which will initially be given at Butte, Montana, Leadville, Colorado, and Richlands, Virginia.

And at Beckley, West Virginia, the Bureau will build a Federal Mine Health and Safety Academy to provide a two-year curriculum in mine inspection and other mine health and safety specialties. Plans for this Academy are well underway, and it is expected that construction will begin this fall. The Academy will increase the professionalism of the Bureau's inspection force and also provide a needed center for health and safety training for the States and for industry on a reimbursable basis. There is simply not enough mine health and safety expertise anywhere in the United States, and the Academy will overcome this deficiency. It will not take the place of our country's mining schools, but it will be a place where even mining engineers can go to learn about mine health and safety.

With funds provided by the Congress, the Bureau's health and safety research and development efforts have been increased ninefold since 1969. The fund increases have enabled the Bureau to expand its work beyond the laboratory and into the development of new and safer mining systems. In FY–1971, the Bureau will spend $20.3 million on coal mine health and safety research alone—seeking not only a way to utilize existing technology safely but also to develop new technology to make mining inherently safe.

These funds will be apportioned approximately as follows: Health, $5.7 million; Fire and Explosion Prevention, $5.8 million; Roof control, $4.7 million; Safer mining systems, $2.4 million; Rescue and survival, $1.7 million.

Within the past few weeks, a rescue and recovery system developed under contract with the Bureau was demonstrated at a coal mine in West Virginia. This system includes equipment for finding and communicating with trapped miners and for drilling a hole quickly to recover them. Hopefully, it will never be needed; but if needed, it will be available from the Bureau of Mines. It could have been made available, but it was not needed at the recent disaster in the Finley mine at Hyden, Kentucky.

This unfortunate disaster, occurring on the anniversary date of the enactment of the Federal Coal Mine Health and Safety Act of 1969, emphasizes that much remains to be done before the loss in human lives and suffering associated with coal mining is eliminated. It should not, however, obscure the great effort that is being made in that regard. Rather, it should reinforce our determination to get the job done as quickly as possible.

Summarizing some of the work that has been done by the Bureau of Mines in coal mine health and safety since the Federal Coal Mine Health and Safety Act of 1969 became effective,

It has:

1. Drafted and published in the Federal Register 135 pages of regulations.
2. Conducted 9,200 inspections and cited 38,000 violations of health and safety standards.
3. Issued 4,600 orders withdrawing workers from mines until unsafe conditions were corrected.
4. Investigated 256 fatalities.
5. Established a respirable dust weighing laboratory and automatic data processing system to handle dust samples submitted by mine operators. More than 100,000 samples have been processed in this system to date.
6. Approved 1,260 roof control plans and 390 ventilation plans.
7. Employed 201 inspector-recruits and 50 engineers and technicians.
8. Established training program for new inspectors which cuts training time approximately in half. Completed classroom training for approximately 238 inspector-trainees.
9. Employed 14 education and training recruits and initiated a training program now in progress for them.
10. Initiated a new program for training mine entry workers with a heavy emphasis on health and safety—in cooperation with the Departments of Labor and Health, Education, and Welfare.
11. Developed in a contract with the University of West Virginia a proposed curriculum for a new Federal Mine Health and Safety Academy in Beckley, West Virginia. Initiated architectural plans for the Academy.
12. Obtained communication and drilling equipment to be used in the rescue and recovery of miners who may be trapped in a mine.
13. Expanded its research and development activities ninefold.
14. Published a new procedure for assessing penalties to serve as a deterrent to noncompliance by operators when inspectors are not at the mines. Initiated the assessment of the backlog of penalties for approximately 38,000 violations.
15. Initiated the implementation of new management procedures to increase both the quantity and quality of mine inspection as recommended in a study made for the Bureau by a private management consulting company.

This is not a complete list, but it is enough to indicate that the Bureau has not been timid nor unimaginative in its efforts to make the mines safe—and despite the current statistics which may suggest otherwise, the mines are safer and more healthful now than they have ever been before.

I believe the Congress was right in establishing the very short deadlines in the law for actions to be taken by the Bureau even though those deadlines could not be met, because in so doing, the Congress demanded the greatest possible effort by the Bureau; but I do not believe the Bureau should be unreasonably criticized for not achieving all of the schedules prescribed in the law. The Bureau is making good progress in all areas and the attainment of all of the Bureau's responsibilities under the law is in sight.

What I have said about the Bureau is also applicable to the industry generally. Most operators are working to get into compliance with the law as soon as possible. The industry must realize, however, that merely complying with the law may not be enough. The law deals with conditions in the mines; but, without adequate on-the-job supervision, workers may continue to take risks that

they should not be allowed to take. This is a matter which deserves serious consideration at the very highest levels of mine management. The public will not tolerate a continuation of the presently high rate of mine working fatalities and disabilities, but neither will the public allow the mines to be closed permanently because our country needs the benefits derived from our natural minerals and fuels resources. Consequently, the mines must be made safe one way or another. The alternative to needed action by mine management to improve the level of health and safety supervisors in the mines is more Federal intervention. I can only hope that the mining industry will understand and react promptly and effectively to make additional Federal regulation unnecessary.

For the reasons I have cited above, mine health and safety is not a local problem of concern only to the affected miners; it is a matter of national concern which affects our national welfare and security.

Gentlemen, I am sure that you will join with me in pushing the Bureau of Mines and the industry hard to devote no less than their best efforts to stop the killing and maiming of mine workers and thus to remove any possibility of a curtailment in the production and utilization of our country's natural minerals and fuels resources because of an intolerable level of mine health and safety. I also urge you, however, to be a little tolerant in giving the Bureau and the industry a little more time to do the job.

CHART—SHOWS THE HUMAN TOLL IMPOSED DURING 1970 BY EACH OF THE MAJOR SAFETY HAZARDS TO COAL WORKERS

	Men killed	Percent of total
Underground mines:		
Falls of face, rib, or roof	84	39
Gas or dust explosions [1]	41	19
Haulage accidents	40	19
Machinery accidents	29	13
Electricity	15	7
All other	7	3
Total	216	100
Surface mines:		
Machinery	14	36
Falls of highwall	9	23
Haulage	7	18
Electricity	2	5
Handling materials	2	5
All other	5	13
Total	39	100

[1] Includes 38 killed at Hyden.

Note: The tabulation and charts are in terms of physical causes. Common to most of the accidents including Hyden is the failure of 1 or more levels of mine supervision.

Coal Mine Health and Safety Research Expenditures

Appropriations made for research since passage of the 1969 Coal Act are:

Fiscal Year 1970, $10.2 million.

Fiscal Year 1971, $20.3 million.

These compare with a level of $2.2 million spent in FY–1969 for health and safety research in coal mining.

Distribution between major project areas in the two years is:

[Dollars in millions]

	Fiscal year 1970		Fiscal year 1971	
	Amount	Percent	Amount	Percent
Health	$1.7	17	$5.7	28
Roof control	2.7	26	4.7	23
Fire and explosion prevention	1.5	15	5.8	29
Power and machinery safety	.7	7	2.4	12
Rescue and survival	3.6	35	1.7	8
Total	10.2	300	20.3	100

Some of the projects and expected results in each area are:

HEALTH

Respirable dust

Fundamental studies of coal dusts, their generation and their *chemical, physical,* and *electrical properties* will provide a basis for dust measurement and control. The data also will be used by HEW in their studies of black lung occurrence.

A variety of instrumentation to measure and *monitor respirable dust concentrations* is under development. Improvements in the personal gravimetric samplers are being sought.

The Bureau's research emphasis is on control and *suppression of dust* at the face. There is evidence that cutter and bit modifications can reduce dust without sacrificing production. Surface active chemicals—wetting and foaming agents—can cut dust production.

Another promising approach is to collect all dust—both float and respirable sizes—at the face. *Dust collectors* are to be tested this year.

Noise

A crash program is underway to develop permissible *personal noise dosimeters* to measure overall exposures to intermittent noise. Design studies to muffle drill and machine noises started a few months ago.

SAFETY

Roof control

Longwall mining is inherently safer than conventional or continuous mining. *Roof and floor bearing capacity* must be accurately known to design and use longwall systems. The Bureau developed a practical and rapid technique for testing roof and floor.

A very sensitive direct-viewing *infrared scanner* was developed by the Night Vision Laboratory of the Army. They have cooperated with the Bureau in successfully using the instrument to detect loose rock in noncoal mines. The Army is helping the Bureau acquire similar, but permissible, instruments to test in coal mines for roof fault detection.

New roof support methods for face areas being developed under contract include inflatable props, self-advancing hydraulic jacks, concrete supports, and the use of shotcrete. Chemical means of stabilizing mine roof and new structural plastics are being explored.

FIRE AND EXPLOSION PREVENTION

About half of this program effort is on *methane control.* Draining methane from gassy coals before they are mined is being attacked through:

Developing means of drilling long—over 500 feet—horizontal holes into panels of solid coal.

Finding methods to establish high drainage rates through surface boreholes.

Better control of *methane in gob* areas is being approached by evaluating both bleeder holes drilled from the surface and sealing off with flyash or sodium silicate foams.

Work is being done to extend the application of *water infusion* in American mines as a means of reducing both dust and methane production during mining.

More sophisticated *computer models* are now being programed to aid Bureau and industry engineers solve mine ventilation problems more effectively. Improved ventilation is our present key to methane and respirable dust control.

Contracts will be let for practical prototypes of the Bureau-developed device to *suppress methane ignitions* occurring at the face before they develop harmful effects. We hope to see these devices perfected by the end of this year.

Similarly, improved *sensing and quenching systems for fires* occurring anywhere in a mine are being sought. New developments in *fire resistant materials* are continuously screened in the search for greater fire safety underground.

POWER AND MACHINERY SAFETY

Haulage, machinery, and electricity accidents caused 40 percent of 1970 fatalities. The Bureau is contracting with universities and private research organizations to recommend *safer power distribution* systems, to identify and *minimize machinery hazards,* to *design illumination systems* for working areas. The Bureau is looking at the feasibility of substituting *pneumatic or hydraulic pipelining of coal* from the face to the surface for the more hazardous rail and belt systems now in use. *Hydraulic mining* experiments may point a way to safer and less dusty coal cutting.

Other power sources are under study. Criteria for safe *use of diesels underground* will come from current research as will alarm and engine cut-off instruments to protect workers from accidental exposure to toxic exhaust emissions.

Safer coal mining demonstrations

Plans are underway for a major project to design and construct prototypes for the safest continuous mining and face haulage equipment that can be devised with present technology. The aim will be to provide complete protection to the face workers from roof, rib, or face falls. Field tests and demonstrations of the completed system should be possible in 1972.

Mine monitoring and communications demonstrations

The Bureau's Bruceton mine will be equipped later this year with an underground to surface *communication and surveillance system* which will monitor and record in a surface control room information on ventilation rates, methane, carbon monoxide, smoke and temperature of the atmosphere throughout the mine.

Continuous and *reliable voice communication* between surface and all workers underground is being worked on by both the Bureau and the coal industry.

RESCUE AND SURVIVAL

A major contract was let last July to provide the interim Coal Mine Rescue and Survival System recommended to the Bureau by the National Academy of Engineering. Objectives were:

Design and furnish prototypes of a self-contained breathing apparatus which could be carried by individual miners and used for escape. It must provide a one-hour oxygen supply.

Design and furnish a prototype portable survival chamber to provide life support for face crews—up to 15 men—for two weeks. Design is to be furnished for a large central survival chamber to provide two-week life support to all workers in the mine.

Develop and furnish prototype electromagnetic (radio) portable in-mine beacon and surface transmitter and receiver capable of voice communication from the surface to the miner at the beacon and of coded transmission from the miner to the surface.

Develop and furnish seismic equipment capable of precisely locating a miner trapped underground and hammering on the mine floor, roof, or rib.

Furnish two drilling rigs—one for rapidly drilling a 6- or 8-inch probe hole to locate trapped miners and the second capable of drilling a 28-inch hole to rescue the trapped men.

The contractor also is to develop a plan for the deployment and use of the communications and drilling equipment in event of an emergency where men may be trapped underground. A demonstration exercise to test the plan and equipment is underway at a mine site near Gary, West Virginia.

Research with the communications systems will continue. The best signaling technique for seismic locations must be learned and taught to all miners as soon as possible.

There will be continuing work to improve all aspects of this present survival and rescue system.

PERSONAL SAMPLER

The personal sampler consists of a pump assembly, tubing and cyclone, and cassette assembly. With the pump operating at the proper flow rate during the active work shift, dust laden mine air is drawn into the cyclone. The cyclone aerodynamically separates the dust in the mine air into respirable and nonrespirable fractions. The nonrespirable fraction drops to the bottom of the cyclone and the respirable fraction passes through the cyclone into the cassette, where it is collected on a filter. The filter and holder have been preweighed and after subtracting the preweight from the weight after sampling, the weigth of the respirable dust collected is determined.

The concentration of respirable dust expressed in milligrams per cubic meter of air is determined by dividing the weight of dust in milligrams collected on the filter by the volume of air in cubic meters passing through the filter. The concentration of respirable dust is then multiplied by a constant factor of 1.6 to determine the equivalent concentration of respirable dust as would be measured with the MRE instrument.

MINE HEALTH AND SAFETY ACADEMY SET FOR BECKLEY, W. VA.

The Department of the Interior today announced that a site just outside Beckley, W. Va., has been selected for the proposed new Bureau of Mines Health and Safety Academy.

The Academy would be located on a 250-acre tract, identified as Industrial Site #3, adjacent to the airport. The Raleigh County Airport Authority has offered all, or any part of the tract to the Bureau without cost.

The completed Health and Safety Academy would accommodate approximately 800 students, about 400 in each class of a two-year program leading to an Associate of Arts degree. The course of study would stress techniques and information aimed at minimizing hazards to health and safety in mining, especially coal mining, which is the Nation's most hazardous occupation today.

Mine inspector candidates for the Federal Bureau of Mines are expected to make up about half of the student body. The other 200 openings for new class members each year would be available, on a reimbursable basis, to industry employees and to State mine inspection personnel for general instruction in mine health and safety.

The Academy would also train employees of private industry to perform as "certified" and "qualified"—terms applied to miners with special skills who are the only persons authorized by Federal regulations to perform certain tasks in a mine, including testing for methane and respirable dust. Short courses, seminars, and other abbreviated sessions on subjects related to mine health and safety would be offered as needs arise. Accommodations for about 50 short-term students would be available, the Bureau said.

Preliminary plans call for building the Academy as a self-contained unit complete with classrooms, offices, dormitories, cafeteria, library, laboratories, shops, and recreation facilities. An unmined coal seam near the Academy site would be developed into a "classroom mine" for realistic training in all phases of mine health and safety, including electrical systems, roof control methods, ventilation, explosives, and dust control.

Selection of an appropriate site was considered an important factor for the type of facility planned by the Bureau, the Department said. Beckley is in the heart of America's most productive coal mining area. Its people are well acquainted with the hazards of mining, and an academy dedicated to mine health and safety training has the wholehearted support of the community, it added.

Title to that portion of the industrial tract required by the Bureau will be transferred from the Airport Authority to the United States Government when the exact acreage requirements have been defined in design studies which are presently under way.

Mr. BYRD of West Virginia. Mr. President, I compliment my senior colleague from West Virginia on the splendid presentation he has made today, based, certainly, on a very thorough preparation. I hope he will return to the Senate floor on another occasion and go into this subject more deeply, and that he will have ample time, in that instance, to make his presentation.

I ask unanimous consent that the Senator's staff member, Mr. George Lawless, may be permitted the use of the Senate floor today in order that he may explain to Senators the significance of these charts in the rear of the Chamber.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, the senior Senator from Georgia (Mr. TALMADGE) is recognized for 10 minutes.

THE FUNERAL OF THE LATE SENATOR RICHARD RUSSELL

Mr. TALMADGE. Mr. President, the largest delegation of Senators ever assembled for the funeral of a departed Member of the U.S. Senate left Washington Sunday morning to attend and take part in the last rites for our late beloved colleague, Richard Brevard Russell at Winder, Ga.

The official funeral party, led by the distinguished Vice President in Air Force 2, was carried by two other Boeing 707 jetliners. Plans were for the group to land at Dobbins Air Force Base in Marietta and then to be transported to Russell Memorial Park at Winder. The official funeral party included the Vice President, 53 Members of the U.S. Senate, 17 Members of the House of Representatives, Secretary of the Treasury-designate, John Connally, staff and friends of the late Senator Russell.

Adverse weather conditions at Dobbins and in the Atlanta area prevented our group from landing, and threatened to delay the funeral and to otherwise destroy plans that had been made for our attendance. A number of us, the Vice President, the distinguished majority leader, the distinguished Senator from Mississippi, Congressman PHIL LANDRUM, dean of the Georgia delegation, the Reverend Edward L. R. Elson, Chaplain of the Senate, and myself, were scheduled to deliver eulogies to the late Senator Russell at the graveside. There was painful disappointment aboard all three aircraft, and among the Russell family at Winder, when it appeared that we would not be able to fulfill our mission.

However, I am pleased to report to the Senate that the official party did participate in the funeral and complete our assignment of paying our last respects to Dick Russell, in behalf of the Congress, the people of Georgia, and the Nation, even though we could not be at Winder in person.

This was made possible through the marvels of modern communication and television broadcasting in the public interest.

When it became virtually obvious that we were not going to get on the ground at Dobbins Air Force Base, after flying in a holding pattern for some time, the Vice President directed the three aircraft to fly to Charleston Air Force Base. Alternate plans were discussed. Secretary-designate Connally suggested that a memorial service for Senator Russell be held in the rotunda of the U.S. Capitol when the group returned to Washington. By telephone from Air Force 2, I was able to contact at Winder, Bill Jordan, spokesman for the family in the funeral arrangements, to apprise him of the situation.

When the party landed at Charleston, about 12:30 p.m., I, still aboard Air Force 2, talked by telephone to J. Leonard Reinsch, president of Cox Broadcasting, Inc., which owns WSB-Television in Atlanta. Mr. Reinsch was coordinator of radio, television, and photographic coverage of Senator Russell's funeral.

Drawing on his vast experience as principal coordinator of television coverage of Democratic national conventions, as well as the funerals of the late President Kennedy and Senator Kennedy, Leonard Reinsch devised and put into motion an alternate plan that made our participation in the Russell funeral possible.

He contacted John Rivers, owner of WCSC–TV in Charleston and ascertained that the station could provide a direct television feed to Atlanta, which then could be transmitted by WSB–TV to the graveside at Winder. Mr. Rivers had just gotten home from church, and he summoned television crews and went to the WCSC–TV studio.

In Winder, Jasper Dorsey, vice president of Southern Bell Telephone Co., arranged for telephone circuits to bring in the audio and video from Charleston, and for live communications to be relayed back and forth.

A motorcade was assembled and principal members of the funeral party, those of us who were scheduled to deliver eulogies, were hurried to the station. Our eulogies were delivered by live television to receivers at the graveside, and also transmitted simultaneously over every television station in the State of Georgia. The program also was made available to radio stations all over Georgia. Thus, we were able to participate in the funeral in this way, and I have been informed that the live color television transmission was carried out without any technical difficulties.

All of us, of course, deeply regretted that it was not possible for our party to be with the family at Winder. We were there in spirit, and I am gratified that

we were able to deliver our eulogies in this way to honor the life and memory of the great U.S. Senator, Richard Brevard Russell.

We owe high commendation and appreciation to the television facilities of WCSC, WSB, and Southern Bell Telephone & Telegraph Co., and we are especially grateful to J. Leonard Reinsch, John Rivers, and Jasper Dorsey, for the efforts they put forth to make this project a success. It was carried out in the finest traditions of the broadcast industry, and it was another splendid example of how the commercial broadcast industry combined with a public utility stand ready and willing to serve the public interest when called upon to do so.

At the conclusion of my remarks, I ask unanimous consent that there be printed in the RECORD articles from Monday's edition of the Atlanta Constitution that recounts the experiences of the funeral party Sunday.

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

[From the Atlanta Constitution, Jan. 25, 1971]

FOG RESTRAINS AGNEW PARTY

(By Bob Hurt)

CHARLESTON, S.C.—Though diverted from the funeral of Richard B. Russell because of bad weather, the official delegation of the U.S. Senate made its presence felt through a near-miraculous last-minute change of plans.

The story unfolded when three Boeing 707 jetliners carrying the official funeral party from Washington were unable to land at Dobbins Air Force Base on their intended journey to the Russell gravesite at Winder.

One plane, Air Force 2, carried Vice President Spiro T. Agnew and his wife, along with U.S. Sen. Herman E. Talmadge and Ninth District Rep. Phil Landrum and their wives, and Senate leaders.

Another carried the remainder of the 53 senators in the mourning delegation and the third carried 57 Russell staff members and Washington friends.

Talmadge said the Senate group was the largest funeral delegation he had seen in his 14 years in Washington.

But as Agnew's aircraft made its approach at Dobbins, the pilot dropped to within 150 feet of the runway and then flew on because he was unable to see the ground.

The plane made a second unsuccessful try, and returned to a holding pattern. The staff plane also made two landing attempts and also was unsuccessful because of the rain and fog.

All three planes pulled into a holding pattern over Atlanta in an attempt to wait for a break in the poor visibility.

Talmadge said radio checks with Atlanta Airport and alternate airports in Gainesville, Winder, Athens and Greenville, S.C., showed they too had unacceptable weather for landings. The planes turned toward Charleston about noon.

Eastern and Delta airlines reported flight delays at Atlanta Airport, but said operations there generally continued as usual despite bad visibility.

Delta reported one flight was diverted to another airport.

Talmadge said the conditions were declared unsafe and at the direction of Vice President Agnew the planes flew on to Charleston Air Force Base, S.C., the nearest open military field.

En route to Charleston, Treasury Secretary-designate John Connally, a member of the vice president's party, suggested as an alternative that the groups return to Washington and hold a memorial service in the rotunda of the U.S. Capitol.

Utilizing the elaborate communications equipment of Air Force 2, Talmadge placed a call to members of the Russell family in Winder to suggest the alternative ceremony.

Shortly after the plane's touchdown at Charleston at 12:28 p.m., Talmadge had heard from J. Leonard Reinch, president of Cox Broadcasting, Inc., who handled television coverage of the funeral services.

Reinch had learned that a Charleston television station, WCSC–TV, was capable of direct television feed to Atlanta and could thus transmit to Winder a program of planned eulogies by the Washington officials.

At 1:15 p.m. Talmadge, Agnew, Majority Leader Mike Mansfield of Montana, Minority Leader Hugh Scott of Pennsylvania, Landrum, Sen. John Stennis of Mississippi, and the U.S. Senate chaplain were sped away on a 12-mile drive to the Charleston television station.

Television crews were waiting for the group and began a live transmission at 2:35 p.m.

The remaining Senate planes left immediately for the return flight to Andrews Air Force Base near Washington.

The unexpected landing at Charleston threw the base into a brief period of confusion, while Air Force Col. William Dufault, base commander, wandered through the throng of senators and other dignitaries and personally assisted in the arrangements.

Dufault, summoned to the base moments before and still wearing civilians sports clothes, called in a team of Air Force security men, sealed off traffic intersections along scattered points at the base, and arranged for Highway Patrol escort.

Secret Service agents thronged nervously about Agnew as he paced back and forth on the pavement beside the parked Air Force 2.

A total of 53 senators and 17 House members, most of them members of the Georgia House delegation, were on the flights.

[From the Atlanta Constitution, Jan. 25, 1971]

TV PREVENTS FUNERAL DELAY

WINDER, GA.—In a less modern day, Sen. Richard Russell's funeral might have been postponed for a day or more because many of the principal participants in the ceremony were unable to come.

Thanks to television and the telephone company, the funeral was delayed only one hour.

Thirty minutes before the ceremony was scheduled to begin, J. Leonard Reinsch, who had been asked by the Russell family to handle media coverage of the funeral, was notified that a plane bearing 53 senators and Vice President Spiro Agnew had to land at Charleston, 250 miles from Winder, because Atlanta-area airports were socked in.

Reinsch, president of Cox Broadcasting Corp., huddled with Southern Bell Telephone Co. vice president Jasper Dorsey, and came up with the answer: Part of the ceremony would be televised from Charleston, S.C.

"This will be a first—if it works," said Reinsch, who had arranged television coverage of the funerals of both President John F. Kennedy and Sen. Robert Kennedy, as well as the Democratic National Convention.

It worked all right. Dorsey arranged for the telephone circuits to bring in the audio and video portions of the ceremony from Charleston television station WCSC.

Sen. Herman Talmadge, who was among the grounded delegation in Charleston, was used as the go-between in arranging the South Carolina end of the rites.

Two color television sets, draped in waterproof plastic, were placed on either side of the funeral tent.

And the ceremony was carried out right on cue, although some of the family complained about electronic aspects of the otherwise simple, rural service.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. BYRD of West Virginia. Before the Senator yields the floor, I wish to join in expressing our gratitude to those individuals who have been named by the distinguished Senator in his remarks. I was on the plane with Senator TALMADGE, and I wish to state that in my opinion, the crew of that plane did everything that it possibly could to safely deliver us to our destination in Georgia.

Mr. TALMADGE. Will the Senator yield at that point?

Mr. BYRD of West Virginia. I yield.

Mr. TALMADGE. I was informed by the distinguished majority leader that Air Force 2 came within 90 feet of the ground without being able to see it.

Mr. BYRD of West Virginia. Yes. Mr. President, I was greatly impressed by the remarkable ingenuity which was displayed on the part of Mr. Reinsch, Mr. Rivers, and others who so quickly and so resourcefully put together the television crew at WCSC–TV in Charleston, S.C., and made the further arrangements required for the televised broadcast. They did a magnificent job, and I cannot compliment them too highly. Moreover, the police in the Charleston, S.C., area are to be commended for their assistance and cooperation.

Each of us also appreciated the courtesy of the Vice President. I thank the distinguished Senator from Georgia (Mr. TALMADGE) for taking the floor to express our appreciation for the efforts of the station in South Carolina and the people at WSB–TV in Georgia, to make it possible for the eulogies to be delivered at the graveside of our late revered and highly beloved friend, who was with us for many years and who is now departed from us—Richard Brevard Russell.

Mr. TALMADGE. I thank my friend.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, the Senate will proceed to the consideration of routine morning business, with statements therein limited to 3 minutes.

Mr. BYRD of West Virginia. Mr. President, I ask that the Senator from Oklahoma (Mr. HARRIS) be recognized.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BYRD of West Virginia. Now I ask unanimous consent that I be permitted to suggest the absence of a quorum, without prejudice to the Senator from Oklahoma.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION TO AMEND THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961 TO PROVIDE INSURED OPERATING LOANS

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farmers Home Administration Act of 1961 to provide for insured operating loans, and for other purposes (with an accompanying paper); to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION TO PROVIDE ADDITIONAL SOURCE OF FINANCING FOR RURAL TELEPHONE PROGRAMS

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes (with an accompanying paper); to the Committee on Agriculture and Forestry.

REPORT ON FOOD STAMP PROGRAM

A letter from the Under Secretary of Agriculture, transmitting, pursuant to law, a report on the operations under the Food Stamp Act of 1964 (with an accompanying report); to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION AUTHORIZING THE DISPOSAL OF CERTAIN MATERIALS FROM THE NATIONAL STOCKPILE

Sixteen letters from the Assistant Administrator, General Services Administration, transmitting proposed legislation (with accompanying papers), which were referred to the Committee on Armed Services, as follows:

A bill to authorize the disposal of kyanite-mullite from the national stockpile;

A bill to authorize the disposal of sisal from the national stockpile;

A bill to authorize the disposal of abacca from the national stockpile;

A bill to authorize the disposal of magnesium from the national stockpile;

A bill to authorize the disposal of vanadium from the national stockpile;

A bill to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of celesite from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of industrial diamond crushing bort from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of selenium from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of colubium from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of industrial diamond stones from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of chemical grade chromite from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of rare-earth materials from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of zinc from the national stockpile and the supplemental stockpile;

A bill to authorize the disposal of antimony from the national stockpile and the supplemental stockpile; and

A bill to authorize the disposal of lead from the national stockpile and the supplemental stockpile.

PROPOSED LEGISLATION TO AUTHORIZE FURTHER ADJUSTMENTS IN THE AMOUNT OF SILVER CERTIFICATES OUTSTANDING

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION TO AMEND THE DEFENSE PRODUCTION ACT

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Defense Production Act of 1950, as amended (with an accompanying paper); to the Committee on Banking, Housing, and Urban Affairs.

PROPOSED LEGISLATION TO REQUIRE A RADIOTELEPHONE ON CERTAIN VESSELS WHILE NAVIGATING UNDER SPECIFIED WATERS OF THE UNITED STATES

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to require a radiotelephone on certain vessels while navigating upon specified waters of the United States (with an accompanying paper); to the Committee on Commerce.

PROPOSED LEGISLATION TO PROMOTE SAFETY OF PORTS, HARBORS, WATERFRONT AREAS, AND NAVIGABLE WATERS OF THE UNITED STATES

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States (with an accompanying paper); to the Committee on Commerce.

PROPOSED WHOLESOME FISH AND FISHERY PRODUCTS ACT OF 1971

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to regulate interstate commerce by strengthening and improving consumer protection under the Federal Food, Drug, and Cosmetic Act with respect to fish and fishery products, including provision for assistance to and cooperation with the States in the administration of their related programs and assistance by them in the carrying out of the Federal program, and for other purposes (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION TO AMEND THE NATURAL GAS ACT

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to amend section 14 of the Natural Gas Act (with accompanying papers); to the Committee on Commerce.

PROPOSED DISTRICT OF COLUMBIA CAPITAL PROGRAM FINANCING ACT OF 1971

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

PROPOSED LEGISLATION TO INCREASE TAXES ON TRANSPORTATION OF PERSONS BY AIR

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to increase the taxes on the transportation of persons by air, and for other purposes (with accompanying papers); to the Committee on Finance.

PROPOSED HIGHWAY USER ACT OF 1971

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to provide additional revenues for the Highway Trust Fund and for other purposes (with accompanying papers); to the Committee on Finance.

PROPOSED WAGERING TAX AMENDMENTS OF 1971

A letter from the Attorney General of the United States, submitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes (with accompanying papers); to the Committee on Finance.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on review of the administration of the Meroliner and Turbo-Train projects by the Federal Railroad Administration, Department of Transportation (with an accompanying report); to the Committee on Government Operations.

PROPOSED GRANT CONSOLIDATION ACT OF 1971

A letter from the Director, Office of Management and Budget, Executive Office of the President, submitting a draft of proposed legislation to amend title 5, United States Code, to authorize consolidation of Federal assistance programs, and for other purposes (with accompanying papers); to the Committee on Government Operations.

PROPOSED JOINT FUNDING SIMPLIFICATION ACT OF 1971

A letter from the Director, Office of Management and Budget, Executive Office of the President, submitting a draft of proposed legislation to provide temporary authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for the operation of those projects, and for other purposes (with accompanying papers); to the Committee on Government Operations.

PROPOSED LEGISLATION REGARDING GSA PROTECTION OF GOVERNMENT PROPERTY UNDER ITS CHARGE AND CONTROL

A letter from the Assistant Administrator, General Services Administration, submitting a draft of proposed legislation to amend the act of June 1, 1948, to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government (with accompanying papers); to the Committee on Government Operations.

PROPOSED LEGISLATION TO AUTHORIZE COURTS TO ISSUE ORDERS REQUIRING APPEARANCE OF CERTAIN PERSONS FOR THE PURPOSE OF HAVING THESE PERSONS PARTICIPATE IN NONTESTIMONIAL IDENTIFICATION PROCEDURES

A letter from the Attorney General of the United States, submitting a draft of proposed legislation to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO PROHIBIT THE USE OF INTERSTATE FACILITIES, INCLUDING THE MAILS, FOR THE TRANSPORTATION OF SALACIOUS ADVERTISING

A letter from Attorney General of the United States, submitting a draft of proposed legislation to prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising (with accompanying papers); to the Committee on the Judiciary.

PROPOSED IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1971

A letter from the Assistant Secretary for Congressional Relations, submitting a draft of proposed legislation to amend the Immigration and Nationality Act, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

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:

By Mr. ELLENDER:

S. 308. A bill for the relief of Ante Lepetic;

S. 309. A bill for the relief of Mate Gudelj;

S. 310. A bill for the relief of Frano Gudelj;

S. 311. A bill for the relief of Zdravko Franicevic;

S. 312. A bill for the relief of Luka Cibilic;

S. 313. A bill for the relief of Blaho Frankovic; and

S. 314. A bill for the relief of Maro Hihar; to the Committee on the Judiciary.

By Mr. McGEE:

S. 315. A bill relating to the fixing of prevailing rates for wage board employees of the Government of the United States; to the Committee on Post Office and Civil Service.

By Mr. RIBICOFF:

S. 316. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income; to the Committee on Finance.

(The remarks of Mr. RIBICOFF when he introduced the bill appear below under the appropriate heading.)

By Mr. RIBICOFF (for himself and Mr. MATHIAS):

S. 317. A bill to regulate and foster commerce among the States by providing a system for the taxation of interstate commerce; to the Committee on Finance.

(The remarks of Mr. RIBICOFF when he introduced the bill appear below under the appropriate heading.)

By Mr. RIBICOFF:

S. 318. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 319. A bill for the relief of Mr. Giuseppe Giarratana, Mrs. Vincenza Giarratana, Mr. Giovanni Giarratana, and Miss Maria Giarratana;

S. 320. A bill for the relief of Luc Avril and Marie Telicia Avril; and

S. 321. A bill for the relief of Mrs. Theodosia E. Daley; to the Committee on the Judiciary.

(The remarks of Mr. RIBICOFF when he introduced S. 318 appear below under the appropriate heading.)

By Mr. MOSS:

S. 322. A bill to terminate all price support programs for tobacco beginning with the 1972 crop of tobacco; to the Committee on Agriculture and Forestry.

(The remarks of Mr. Moss when he introduced S. 322 appear below under the appropriate heading.)

By Mr. DOLE (for himself, Mr. DOMINICK, Mr. TOWER, and Mr. BAKER):

S. 323. A bill to amend section 4491 of the Internal Revenue Code of 1954 to provide that the weight portion of the excise tax on the use of civil aircraft shall apply to piston-engined aircraft only if they have a maximum certificated takeoff weight of more than 6,000 pounds; to the Committee on Finance.

(The remarks of Mr. DOLE when he introduced the bill appear below under the appropriate heading.)

By Mr. YOUNG:

S. 324. A bill to extend the provisions of section 403(b) of the Internal Revenue Code of 1954 to employees of public hospitals; to the Committee on Finance.

By Mr. BEALL (for himself and Mr. TOWER):

S. 325. A bill to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan; to the Committee on Armed Services.

(The remarks of Mr. BEALL when he introduced the bill appear below under the appropriate heading.)

By Mr. BEALL:

S. 326. A bill for the relief of Miss Belen Bunag;

S. 327. A bill for the relief of Claro R. Francisco; and

S. 328. A bill for the relief of Amalia Delfina DeLaRoca; to the Committee on the Judiciary.

By Mr. FONG:

S. 329. A bill to amend title II of the Social Security Act to provide a minimum monthly benefit of $100, to provide a 10-percent increase in other monthly benefits, and to provide for automatic adjustment in benefits, the wage base, and the social security tax rates to reflect future increases in the cost-of-living; to the Committee on Finance.

S. 330. A bill for the relief of Antonio Ballesteros;

S. 331. A bill for the relief of Sofia M. Valdez;

S. 332. A bill for the relief of Janet Christine Newman;

S. 333. A bill for the relief of Talo Huahulu;

S. 334. A bill for the relief of Pedro Dela Cruz Aqui;

S. 335. A bill for the relief of Adelaide Vinoya Albano;

S. 336. A bill for the relief of Rosa C. Guiang; and

S. 337. A bill for the relief of Shina Kotani; to the Committee on the Judiciary.

By Mr. FONG (for himself and Mr. INOUYE):

S. 338. A bill to extend the coverage of the Public Works and Economic Development Act of 1965 to the Trust Territory of the Pacific Islands; to the Committee on Public Works.

By Mr. PACKWOOD:

S. 339. A bill for the relief of Michael Amamchuku Ojukwu; and

S. 340. A bill for the relief of Mrs. Alzier Northover; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 341. A bill for the relief of Arline Loader and Maurice Loader; to the Committee on the Judiciary.

By Mr. BIBLE:

S. 342. A bill for the relief of Jafar Shoja; to the Committee on the Judiciary.

By Mr. CASE (for himself, Mr. HART, Mr. JAVITS, Mr. Moss, Mr. PROXMIRE, Mr. SPONG, Mr. CHURCH, Mr. MANSFIELD, Mr. MONDALE, Mr. SCOTT, Mr. PERCY, Mr. MATHIAS, and Mr. HARRIS):

S. 343. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States; to the Committee on Rules and Administration.

(The remarks of Mr. CASE when he introduced the bill appear below under the appropriate heading.)

By Mr. SPONG (for himself and Mr. CASE):

S. 344. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States; to the Committee on Rules and Administration.

(The remarks of Mr. SPONG when he introduced the bill appear below under the appropriate heading.)

By Mr. CHURCH (for himself and Mr. JORDAN of Idaho):

S. 345. A bill to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEARSON (for himself, Mr. HARRIS, Mr. AIKEN, Mr. ALLEN, Mr. BEALL, Mr. BENNETT, Mr. BENTSEN, Mr. BIBLE, Mr. CANNON, Mr. CHURCH, Mr. COOPER, Mr. CURTIS, Mr. DOLE, Mr. DOMINICK, Mr. EAGLETON, Mr. GRAVEL, Mr. GURNEY, Mr. HANSEN, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUMPHREY, Mr. INOUYE, Mr. MANSFIELD, Mr. McGEE, Mr. McGOVERN, Mr. MILLER, Mr. MONDALE, Mr. MONTOYA, Mr. Moss, Mr. NELSON, Mr. PACKWOOD, Mr. PERCY, Mr. PROUTY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPONG, Mr. STEVENS, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, and Mr. YOUNG):

S. 346. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Finance.

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

By Mr. HARRIS:

S. 347. A bill for the relief of Sima Jatala;

S. 348. A bill for the relief of Adelaida M. Alinsagay; and

S. 349. A bill to provide for a Robert S. Kerr National Water Resources Library at Ada, Oklahoma; to the Committee on Labor and Public Welfare.

(The remarks of Mr. HARRIS when he introduced S. 349 appear below under the appropriate heading.)

By Mr. HATFIELD:

S. 350. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to institute programs designed to reforest and restore the quality of public and private forestlands; to enhance and expand recreational opportunity on such lands; to provide financial incentives to improve management of State and private forestlands; to establish a Federal Forestlands Management Fund; to facilitate public participation in Federal resource management; and to enhance the quality of the environment and the resources of the public lands; to the Committee on Interior and Insular Affairs, by unanimous consent.

(The remarks of Mr. HATFIELD when he introduced the bill appear below under the appropriate heading.)

By Mr. CURTIS (for himself and Mr. HRUSKA):

S. 351. A bill to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebr., and for other purposes;

S. 352. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the North Loup division, Missouri River Basin project, Nebr., and for other purposes; and

S. 353. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the O'Neill unit, Missouri River Basin project, Nebr., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COTTON:

S. 354. A bill for the relief of Maria Isabel Amorim;

S. 355. A bill for the relief of Thersea de Jesus Martins;

S. 356. A bill for the relief of Konstantinos G. Parlitsis;

S. 357. A bill for the relief of Vera Lucia Carvalho, Marcia Maria Carvalho, and Marcos Vinecius Carvalho;

S. 358. A bill for the relief of Niki Vomvolaki; and

S. 359. A bill for the relief of Vani Angelica DosSantos; to the Committee on the Judiciary.

By Mr. PASTORE:

S. 360. A bill for the relief of Constanzia Fantani, Pauline Fantani, and Lydia Fantani;

S. 361. A bill for the relief of Maria de Lourdes Moitoso Mota; and

S. 362. A bill for the relief of Giovanni Metteo; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 363. A bill for the relief of Antonio del Valle Jerez; to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. INOUYE, Mr. MAGNUSON, and Mr. PEARSON):

S. 364. A bill to strengthen enforcement of the Flammable Fabrics Act and to authorize appropriations for fiscal years 1971, 1972 and succeeding fiscal years in order to carry out the purposes of the Act; to the Committee on Commerce.

(The remarks of Mr. Moss when he introduced the bill appear below under the appropriate heading.)

By Mr. GURNEY (for himself and Mr. CHILES):

S. 365. A bill to authorize the establishment of the Florida Frontier Rivers National Cultural Park, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. GURNEY when he introduced the bill appear below under the appropriate heading.)

By Mr. STEVENS:

S. 366. A bill providing for minimum grades for U.S. deputy marshals under chapter 51 of title 5, United States Code; and

S. 367. A bill relating to the appointment of U.S. marshals; to the Committee on the Judiciary; and

S. 368. A bill to exempt certain State-owned passenger vessels from the requirement of paying for overtime services of customs officers and employees; to the Committee on Finance.

S. 369. A bill to amend the Internal Revenue Code of 1954 to require notice and hearing prior to levy upon the salary or wages of an individual; to the Committee on Finance.

S. 370. A bill to establish the President's Award for Distinguished Law Enforcement Service; to the Committee on the Judiciary.

S. 371. A bill to provide for the awarding of a Medal of Honor for firemen; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. STEVENS when he introduced the bills appear below under the appropriate headings.)

By Mr. CRANSTON (for himself, Mr. EAGLETON, Mr. WILLIAMS, Mr. KENNEDY, Mr. HUGHES, Mr. JAVITS, and Mr. NELSON):

S. 372. A bill to amend title VII of the Public Health Service Act to meet the need for additional personnel in the health professions by encouraging and assisting disadvantaged individuals to pursue training designed to prepare them to engage in the practice of such professions, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 373. A bill to provide for a Federal ecological preserve in a portion of the Outer Continental Shelf in the Santa Barbara Channel and to provide for a moratorium on drilling operations pending the ability to control and prevent pollution by oil discharges and to improve the state of the art with respect to oil production from the submerged lands; to the Committee on Interior and Insular Affairs.

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

By Mr. McGOVERN:

S. 374. A bill to amend title I of the Vocational Education Act of 1963 in order to authorize the construction under the provisions of such title of student union rooms or buildings for area vocational schools; to the Committee on Labor and Public Welfare.

S. 375. A bill for the relief of Lorna I. Newport, to the Committee on Post Office and Civil Service.

By Mr. McGOVERN (for himself and Mr. HATFIELD, Mr. CRANSTON, Mr. HUGHES, Mr. BAYH, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HARRIS, Mr. HARTKE, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MONDALE, Mr. MOSS, Mr. NELSON, Mr. PROXMIRE, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WILLIAMS):

S. 376. A bill to amend the Foreign Assistance Act of 1961, as amended, to the Committee on Foreign Relations.

(The remarks of Mr. McGOVERN when he introduced the bill appear below under the appropriate heading.)

By Mr. TOWER:

S. 377. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services.

S. 378. A bill to authorize the establishment of the Big Thicket National Park in the State of Texas as a natural area, and to provide for recreational areas for public benefit adjacent to man-made reservoirs; Sam Rayburn, Toledo Bend, and Lake Livingston, in the State of Texas; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. TOWER when he introduced S. 378 appear below under the appropriate heading.)

By Mr. SCHWEIKER:

S. 379. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act so as to permit exclusion from social security coverage and refund of social security tax to members of certain religious groups who are opposed to insurance; and

S. 380. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes; to the Committee on Finance.

S. 381. A bill for the relief of Fritz Bernt Johannesen and Grethe Johannesen; to the Committee on the Judiciary.

(The remarks of Mr. Schweiker when he introduced S. 379 and S. 380 appear below under appropriate headings.)

By Mr. TAFT:

S. J. Res. 18. Joint resolution to define the principles which shall govern the deployment of the Armed Forces of the United States by the President, to express U.S. foreign policy objectives in Southeast Asia, to the Committee on Foreign Relations.

(The remarks of Mr. TAFT when he introduced the bill appear below under the appropriate heading.)

S. 316—INTRODUCTION OF A BILL TO INCREASE THE CREDIT AGAINST TAX FOR RETIREMENT INCOME

Mr. RIBICOFF. Mr. President, I am introducing a bill that will benefit many of our older citizens by making our income tax system more equitable in the treatment of their retirement income.

This measure, which I introduced in the last Congress was accepted by the Finance Committee and added to H.R. 17550, the Social Security Amendments of 1970. No final action was taken on this amendment.

My bill would narrow the excessive gap between the rising level of Social Security benefits and the base for the retirement income credit. This would benefit those people who receive retirement income from sources other than social security and railroad retirement.

Millions of public employees in a number of States throughout the country are not covered by social security, belonging instead to their own local or State public employee retirement systems. These retirement plans may be perfectly adequate to meet the needs of these citizens in their later years. But, because benefit payments under these retirement systems are taxable, these public employees are placed in a weaker economic position than regular social security beneficiaries.

Present law provides a retirement income credit to taxpayers age 65 or older or who retired under a public retirement system. The credit is 15 percent of eligible retirement income up to $1,524 for single persons and up to $2,286 for married taxpayers, both of whom are age 65 or over for a maximum credit of $228.60 and $342.90, respectively. The maximum base for the credit is reduced by the amount of social security, railroad retirement, and other tax exempt benefits. In addition, the maximum base of the credit for persons between age 62 and 72 is reduced by earned income in excess of $1,200—a reduction of 50 cents for each dollar of earnings between $1,200 and $1,700, and on the basis of a dollar for each dollar of earnings above $1,700.

When the retirement income credit was enacted into law in 1954, the maximum amount of retirement income which could then qualify for the credit—$1,200—was equal to the annual maximum amount which could be received in social security benefits. Although social security benefits were subsequently increased, the maximum amount of retirement income available for the credit was not changed until 1962. In 1962, the maximum limit of the credit for an individual was increased to $1,524 to cor-

respond with the maximum social security benefits enacted in 1958. In 1964, a corresponding increase in the maximum limit of the credit to $2,286 was provided for married couples. Since then the maximum and average social security benefits have been raised substantially, increasing the difference between social security benefits and the maximum base for the retirement income credit.

The bill which I have introduced today increases the maximum base for the retirement income credit from $1,524 to $1,872 for a single individual and from $2,286 to $2,808 for qualifying married couples. This increases the maximum credit from $228.60 to $280.80 for a single person and from $342.90 to $421.20 for qualifying married couples. The amount that can be earned without reduction in the base for the credit is raised from $1,200 to $1,680. Similarly, the earnings which may be received in the range where the credit base is reduced 50 cents for each dollar of earnings is increased from the previous $1,200 to $1,700 range to a range of $1,680 to $2,880. This also means that the level of earnings which reduce the credit base dollar for dollar is raised from $1,700 to $2,880.

Mr. President, over half a million older Americans depend on the retirement income tax credit. This is almost one of every eight people over 65 who pay an income tax. Included among these taxpayers are thousands of teachers, policemen, and firemen who for a combination of reasons draw little or no social security benefits but receive retirement income from various public and private pension plans. By updating the retirement income credit, we can restore equivalency of treatment for these people with the over 20 million people who regularly draw social security benefits.

I urge my colleagues to support this needed legislation.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 316) to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income, introduced by Mr. RIBICOFF, was received, read twice by its title and referred to the Committee on Finance.

S. 317—INTRODUCTION OF THE INTERSTATE TAXATION ACT

Mr. RIBICOFF. Mr. President, I am once again introducing the Interstate Taxation Act, a measure designed to bring order into the present chaotic system of taxing interstate commerce. It seems almost anachronistic that in the year 1971, we still have impediments to the free flow of commerce between the 50 States. But with the present diversity and proliferation of individual State taxation programs, there is just too much redtape involved for those seeking to conduct interstate business. The difficulties are far more serious when the businesses concerned are too small to absorb the added costs of trying to conform to the multiplicity of tax regulations and requirements.

When the Founding Fathers granted the power to the Congress to regulate interstate commerce, they recognized that in order for this Nation to prosper, manufacturers, wholesalers and retailers from all parts of the country must have free access to each and every State. But with the increasing demands placed on State and local governments for public services, new sources of revenues have had to be created. The increased burdens of providing schools, roads, sewage systems, and fire and police protection have led to the imposition of a variety of local taxes on commerce to meet these needs.

As a result of the creative imagination of the tax collecting bodies, the burden of taxation has become overwhelming. When a business today seeks to sell a number of States it is faced with a formidable array of rules, regulations, and procedures which serve to inhibit smaller businesses from expanding into new areas.

The expense engendered by a small business in seeking to comply with each State's regulation can often mean its ruin. One business in my home State of Connecticut has reported having to spend several hundred dollars in order to meet a tax bill only a small fraction of this amount.

Aside from frustration the differing apportionment procedures in individual States also spawn disrespect for compliance with the law. When confronted with the voluminous, complicated tax requirements, some businesses begin to justify evasion as the only practical course of action.

This bill is similar to H.R. 7906 which was passed in the 91st Congress by the House, and except for minor changes, is identical to the bill I introduced in the Senate in the past Congress.

This bill would establish uniform jurisdictional rules for State and local taxes of all types. For income tax purposes, companies would be subject to tax only in those States in which they own or lease property, or have one or more employees, or regularly maintain a stock of goods for sale in the ordinary course of business. It would also continue the jurisdictional protection of Public Law 86–272, which provides that mere sales solicitation is not a sufficient factor to give the State or locality jurisdiction to tax.

My bill also provides guidelines for State sales and use taxes. No State or local government could require collection of sales or use taxes unless the seller has a business location in that State, or regularly makes household deliveries in the State.

In any event, the seller would be relieved from collecting sales and use taxes on sales to business purchasers who are already registered with the State to collect sales and use taxes themselves.

A gross receipts tax could be levied only on those sellers having a business in the State.

Out-of-State audit charges would be prohibited and there would be an amnesty of unassessed back liability where no business location was maintained in the State.

Further, the bill would provide for a continuing evaluation by the Congress of the progress made by the States in resolving any remaining difficulties.

My bill eliminates the distinction between large and small corporations in the income tax area and treats them with the same jurisdictional rules. But it also provides substantial relief for smaller businesses, those whose average annual income is $1 million or less, by providing the option of using a standard two-factor formula based on property and payroll for apportioning their income among the States in which they are subject to tax.

The bill would also do away with the unitary business concept of applying State income taxes. This concept which is embraced by only a small number of States, is open to serious economic and constitutional questions. By requiring multicorporate enterprises to file combined or consolidated returns, this practice attributes income to a State even though the affiliate which earns the income is not taxable in that State. In addition, the unitary practice often comes in direct conflict with our international trade policies and tax treaties.

Mr. President, the problems of dealing with the wide and increasing variety of State and local taxes are reaching critical proportions. This bill answers a desperate need to bring order out of chaos. Each State and locality will be able to legitimately tax those interstate businesses within their borders, but only under reasonable and commonsense rules which will drastically reduce the formidable and nonsensical paperwork presently required.

This bill will increase taxpayer compliance, and reduce the cost of such compliance.

Public expenses have risen rapidly in recent years and so necessarily has the tax burden. But in addition to the financial levy of the various tax programs, there has developed an unnecessary and highly inefficient barrier of administrative detail coupled with the payment of the many taxes. Congress can perform a great public service by acting quickly to eliminate this additional and unnecessary burden on the economy.

This legislation has long had the support of many major national business organizations.

I am delighted that the senior Senator from Maryland is joining me this year in introducing this legislation. Senator MATHIAS worked diligently on this measure as a Member of Congress and I welcome his support.

I urge my colleagues to approve this needed legislation as soon as possible.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 317) to regulate and foster commerce among the States by providing a system for the taxation of interstate commerce introduced by Mr. RIBICOFF, for himself and Mr. MATHIAS, was received, read twice by its title, and referred to the Committee on Finance.

Mr. MATHIAS. Mr. President, I am pleased to join with the distinguished senior Senator from Connecticut (Mr. RIBICOFF) in putting forward the Interstate Taxation Act, a bill to relieve American business from the chaos of State and local taxation of interstate commerce.

This sorely needed legislation is so long overdue that I believe we would be remiss in our obligations to our Nation's commercial life if we do not move expeditiously toward its enactment.

Early in the previous Congress the House of Representatives passed an interstate taxation bill, H.R. 7906, which is similar to the amendment that I am proposing. This measure passed the House by a vote of 311 to 87. As is shown by the debate in the other body, the House bill has widespread support, both from the business community and from substantial segments of labor, including such diverse groups as the National Association of Manufacturers, the International Ladies' Garment Workers' Union, the National Small Business Association, the National Association of Wholesalers, the U.S. Chamber of Commerce, the National Food Brokers Association, the Magazine Publishers Association, the Printing Industries of America, the American Association of Nurserymen, the Advertising Federation of America, and literally hundreds of other associations. However, despite the crying need for this legislation, the Interstate Taxation Act has regretfully reposed in the Senate Committee on Finance.

Almost 3 years ago in the 90th Congress the House also sent us an interstate taxation act, H.R. 2158, which likewise had overwhelming support both from business and from labor and which passed that body on May 22, 1968, by a vote of 284 to 89. H.R. 2158 also languished in the Senate Finance Committee and was not considered by this body.

I am pleased to say, however, that during the final days of the last Congress, the chairman of the Senate Finance Committee, the distinguished junior Senator from Louisiana (Mr. LONG) assured me that this bill will be given hearings during 1971.

Mr. President, it is imperative that we move rapidly to enact interstate tax legislation. More than 10 years have passed since Congress enacted Public Law 86–272, which gave us a mandate to remove the chaos and confusion from the system of taxing interstate commerce. Here in the Senate that statute was originally sponsored and championed by the late Senator Harry Byrd when he was chairman of the Senate Committee on Finance. Under the terms of Public Law 86–272, the Committee on the Judiciary of the House of Representatives and the Committee on Finance of the U.S. Senate were called upon to make complete studies of all matters pertaining to the taxation of interstate commerce and to make appropriate recommendations to their respective Houses. Although the House of Representatives has been diligent in carrying out its obligations under Public Law 86–272, the Senate has not yet acted.

For a number of years during the course of my service in the House of Representatives, I was privileged to serve as a member of the Special Subcommittee on State Taxation of Interstate Commerce of the House Committee on the Judiciary. As a result, I was one of the authors of the original legislation that first passed the House. I believe that the studies and investigations conducted by our subcommittee were among the most thorough of any conducted in the entire history of the Congress. The reports and hearings of the subcommittee occupy a total of eight full volumes. These publications by now have become the definitive work in this field.

When we conducted our study, the number of jurisdictions taxing interstate commerce was already staggering. There were in effect on a State level, 38 different sets of corporate income tax laws, 39 sales and use tax systems, 37 capital stock tax laws, and eight different sets of State gross receipts tax laws. The local tax picture was even more staggering—with more than 2,300 cities, counties, parishes, towns, and villages imposing sales and use taxes on interstate commerce, more than 1,000 local governments imposing gross receipts taxes, and more than 100 local governments imposing full-fledged corporate income taxes. Today, the number of States, cities, counties, and other jurisdictions imposing each of these forms of taxes is even greater and the taxes themselves have grown even more complex and more burdensome.

Mr. President, it is appalling that while we continue to allow our economy to become Balkanized, Europe is making historic strides toward an enlarged common market. During the 10-year period that we have delayed in carrying out the mandates of Public Law 86–262, commercial horizons in the United States have become more and more restricted by State taxation. Yet during this same period Europe has made every effort to catch up and to close the technological gap between the European economy and our economy by pooling the resources of European business and industry.

The ingenuity of each State's taxing officials in seeking not only what is Caesar's, but also what can be grabbed for Caesar across State lines, is building barriers at interstate borders which bar business from the full benefits of our great continental markets. There is no doubt that the State statutes, regulations, and tax rules now in force or in contemplation in every one of the 50 States are seriously burdening American business—particularly small business—without any significant increase in the net revenue of the several States.

This is not the first time in American history that this has occurred. Things got so bad in the years just after the Revolution that Baltimore merchants had to pay Virginia taxes for the privilege of sailing through the Virginia Capes at the mouth of Chesapeake Bay. The tax rivalry became so general that an informal meeting of State representatives at Mount Vernon was adjourned to the State House in Annapolis and finally became the immortal Constitutional Convention on 1787.

The writing of the Constitution and the forging of the Union put an end to the ambitions of the States to erect customs houses at interstate boundaries, and established the principle of free trade among the States which shaped and promoted the growth of the "American common market" for 150 years.

Today, however, the press for costly State services and the resultant search for State moneys, coupled with the spectacular growth of interstate business, have tempted the States to try to reach activities and transactions to which they have only a shadowy claim at best. As a consequence, the files or the wastebaskets of thousands of businessmen, especially in smaller businesses, are filled with tax notices, tax forms, tax questionnaires, and other redtape. They constitute a mountain of paperwork if they are all filled out, computed, signed, and returned whether or not a tax liability is generated. They are a time bomb in the file if they are ignored, neglected, or carelessly executed.

To illustrate the nature of this problem, let us consider some potential tax burdens that can now face a small company in my own State of Maryland, which ships goods across State lines. Even though the Maryland company has all of its property in Maryland, and even though all of its employees are residents of Maryland, the company can become liable for taxes imposed by thousands of jurisdictions beyond Maryland's borders.

To begin with, we might first consider some of the liabilities that the Maryland company could encounter in Alabama—simply choosing that State because it is first on the alphabetical list.

Suppose, for example, that the Maryland company has potential customers in Alabama but no assets and no employees there. Instead, the only contact that the Maryland company has with Alabama comes from the fact that it is represented there by a completely independent contractor—a broker, commission agent, or some other type of representative who is self-employed and who represents more than one principal. If the Maryland company's Alabama representative is effective in selling to customers in Alabama, the tax effects on the Maryland company can be simply enormous. In this one State alone, the Maryland company can be called on to file more than 175 separate sales- and use-tax returns in order to comply with the individual laws of cities, counties, and police jurisdictions.

Many businessmen ask whether companies can afford the facilities necessary to comply with these kinds of requirements. The special subcommittee was especially interested in this question, and we went to great lengths to ascertain the extent to which compliance is both possible and practical. We studied the actual practices of thousands of companies. Our findings documented the fact that as a practical matter most companies simply cannot and do not comply with the tax laws of jurisdictions in which they do not actually maintain premises for the conduct of their business.

Likewise, the State and local tax collectors do not effectively enforce tax laws

in an evenhanded manner against out-of-State companies which do not maintain business locations in that State. Our extensive study indicates that in the sales tax area interstate companies are not complying with State requirements in some 96 percent of the cases in which they are liable for a tax, but do not have a business location in the taxing State. In the income tax area there is noncompliance in some 98 percent of such cases.

Now, this matter of nonenforcement and noncompliance with State tax laws has broad ramifications. In order to understand how great is the need for Federal legislation in this area, one must first realize the disastrous effects which nonenforcement and noncompliance have on our economy.

First, such widespread noncompliance has serious moral and ethical implications. It is clear to all of us that the reason why the business community is not complying with the present requirements is essentially because the requirements are so complex as to be unworkable. Nevertheless, the very fact that the system is unworkable makes of it a breeding ground for inequities and fosters an unwholesome disrespect for law in general. Obviously, all of society suffers from tax laws which can neither be enforced by the tax collector nor complied with by the taxpayer.

Second, the widespread noncompliance with interstate tax requirements has a profound economic significance of which many of the operators of small business are unaware. That is why I said that this problem has become a kind of time bomb which can explode in any future day, month or year on the countless number of companies which are presently not complying.

It is important to recognize that the great majority of State and local tax laws do not contain any statutes of limitation with respect to persons who have not filed tax returns. Instead, back liabilities simply accumulate and never die.

For example, in the celebrated Northwestern case, which gave rise to the enactment of Public Law 86–272, the unfortunate taxpayer found himself liable for back taxes over a period of 16 years in a situation in which the business community had complacently assumed that no liability in fact existed. Thus, if a company has customers in a number of States but did not file tax returns last year, or in preceding years, it will have not one, but a number of swords of Damocles hanging continuously over its head. At any point in the future, it can indeed be confronted by an army of tax auditors, each asserting deficiency assessments, interest, penalties, and, in some cases, criminal sanctions for the entire period in which the company has been in noncompliance.

The liabilities of those companies that are singled out as special targets for enforcement by the tax collectors in the future may be so staggering as to drive such companies out of business. This is a result, I believe, which we in Congress have a special obligation to avoid. For that reason I am strongly urging that we in the Senate enact the Interstate Taxation Act as quickly as possible.

The bill which I am submitting today would both remedy the present system, as well as remove the threat of back liabilities. It reaffirms the basic principles of our American common market by providing standards which are both reasonable and practical—standards which can be complied with by the taxpayer and enforced by the tax administrator.

Let me review in brief some of the major provisions of the proposed Interstate Taxation Act.

First, title I of the act would establish firm jurisdictional standards applicable to four types of taxes: corporate income taxes, capital stock taxes, sales taxes, and gross receipts taxes. Under these standards, a company would generally not be liable unless it maintains what the bill refers to as a "business location" within the taxing jurisdiction. As defined by the act, the term "business location" includes the ownership or leasing of real estate, the maintenance of an inventory, or the maintenance of a full-time local employee whose duties consist of more than the mere solicitation of orders.

In my original bill, S. 611, as well as in H.R. 7906, as passed by the House, corporations which earn more than $1 million annually were excepted from this jurisdictional protection. In the bill which I am introducing today, this exception has been removed.

Thus, under title I, for example, a company which has all of its property, all of its inventory, and all of its employees in one State would not be liable for tax in other States.

Under title II of my proposal, a company which does have a business location in more than one State, but which earns less than $1 million of net income annually, is given the option of using a Federal formula to determine what portion of its income is to be taxed by each State. Under the optional formula, liability is determined on the basis of the percentage of tangible property owned in each State, and the percentage of wages paid to employees in each State. As a practical matter, the Federal formula would tend to attribute the company's income to the company's home State. At the same time, since the formula is optional, the taxpayer can choose the State formula if the State formula results in a lower tax.

Title III establishes uniform standards in the sales and use tax area. It makes it clear that a particular sale cannot be taxed by more than one State. It excludes interstate freight charges from the measure of the tax and provides an exemption for the household goods—including automobiles—of persons who change their State of residence. In addition, it would relieve an interstate seller of all liability for any interstate sale made to a purchaser who is registered with the taxing State. Thus, as a practical matter, the seller would generally not have to collect a sales or use tax on sales made to business firms which have establishments within the taxing State.

Title IV recognizes the existence of a number of interstate tax problems which would not be resolved by the other titles. It provides for continued congressional scrutiny in these problem areas, and calls upon congressional committees to make specific recommendations if the States do not resolve these problems on their own initiative.

Finally, title V of the bill contains definitional and miscellaneous provisions, one of which is especially significant in the matter of liabilities for past years which I discussed previously. Under section 525 of title V, there is a total forgiveness for all unassessed taxes for all back years in which the taxpayer did not have a business location in the State. This section will, in effect, defuse the time-bomb which is currently in danger of exploding at any time for interstate companies all over the United States.

Although title V embodied in my bill today is substantially the same as in H.R. 7906, and the corresponding title of my bill, S. 611, it contains an additional significant provision relating to the income taxation of affiliated corporations. Under this provision which appears in section 512(d), a State may not require a corporation with a business location within its border to combine or consolidate its income for income tax purposes with any other corporation which does not have a business location within the taxing State. This provision was originally proposed by our colleague, Senator RIBICOFF, the distinguished junior Senator from Connecticut. I have included it in my bill because it corrects an inequity in the present system that arises in States attempt to use the consolidation device as a means of taxing income that would otherwise be beyond their jurisdictional reach.

I am strongly convinced that in its entirety my bill will restore an atmosphere of free trade within the United States of the type originally envisioned by our Founding Fathers. The results will be beneficial for the economies of all of the States and for the Nation as a whole. In an immediate sense no State will stand to gain or lose a significant amount of revenue under this proposal. Yet, in the long run, since the proposal will stimulate our national economy, the results will be reflected in increased revenues to all of the States. Under the circumstances, I wholeheartedly urge all of my colleagues in this body to support this bill.

S. 318—INTRODUCTION OF A BILL TO CREATE A THREE-UNIT CONNECTICUT HISTORIC RIVERWAY

Mr. RIBICOFF. Mr. President, I am introducing, for appropriate reference, a bill to create a three-unit Connecticut Historic Riverway.

Earlier this week, I introduced S. 36, which would immediately establish the Connecticut portion of these units, the Lower Connecticut Historic Riverway. In October 1969, the Senate Interior Committee and the full Senate approved the Connecticut unit. I hope that this Congress can take prompt action on S. 36,

for when it is enacted it will be the first step toward protecting one of America's most beautiful riverways against any future desecration.

Preserving the river in its southernmost stretches will, however, not be enough. We must ultimately provide protection in the two other units—the Coos Scenic Riverway near the river's source and the Mount Holyoke Riverway in central Massachusetts. My bill in early 1969 originally included these two units as well, and I am reintroducing this three-unit bill today to give the Senate Interior Committee the opportunity to study the entire Connecticut River. Establishment of all three units is a goal all concerned citizens and governments should work toward.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 318) to preserve and promote the resources of the Connecticut River Valley, and for other purposes, introduced by Mr. Moss, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 322—INTRODUCTION OF A BILL TO TERMINATE PRICE SUPPORTS ON TOBACCO

Mr. MOSS. Mr. President, I introduce, for appropriate reference, a bill to terminate all price-support and assistance programs for tobacco beginning with all crops of tobacco to be harvested in 1972. The bill would also terminate direct or indirect Federal subsidies for export of tobaccos to any foreign country after December 31, 1972.

I introduced this same bill in the 91st Congress—on May 12, 1970. Then on July 8—2 months later—I offered a relatively simple amendment to end price supports to the Department of Agriculture and related agencies appropriations for fiscal 1971. Neither the bill nor the amendment was successful but they produced some enlightening dialog.

One soon becomes aware that the tobacco business is very big business. Perhaps that is to be expected, with a total crop in 1970 of 1,905,751,000 pounds. However, the acreage is comparatively small, with only 899,000 acres harvested in 1970—less than one three-hundredths of total crop acreage harvested in the United States last year. There are a few large companies in the storage and manufacturing aspects of the tobacco business.

The argument is offered that many growers, and most of them small growers localized in two States, would be irreparably injured if the Federal Government does not continue to supply assistance and supports of existing types at current levels. But then we hear—and sometimes from the same person—that present Government programs for tobacco are costing our public nearly nothing. In truth, it has proven to be difficult to find out what the programs do cost. This information gap appears to be partly the result of the long storage between harvesting the crop and finally processing it into the end products. But it should be possible to arrive at some interesting and significant data if only the problem were to receive adequate attention.

Mr. President, I think we should give this problem this attention. I am aware that there are many problems—that alternate crops would have to be found for the small farmer and the processor now dependent upon the production of tobacco and the manufacturing of cigarettes for their livelihood. And there are the many people who have jobs in tobacco processing plants to be considered.

But it seems quite clear to me that our Government cannot long continue in the indefensible position of aiding and abetting production and export of this product. On the one hand, month by month, we become increasingly aware of its dangers to health. Since early this month there has been an official ban on radio and television cigarette commercials. Yet, officially, we continue with price-support and other assistance programs for tobacco here and we continue our attempts to build overseas markets.

What I am proposing today is that my bill be appropriately referred and that hearings be held promptly in 1971. Our Government dilemma in this respect is becoming acute. The matter is deserving of full hearings and a vigorous search for a way out of our present untenable position.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 322) to terminate all price support programs for tobacco beginning with the 1972 crop of tobacco, introduced by Mr. Moss, was received, read twice by its title and referred to the Committee on Agriculture and Forestry.

S. 324—INTRODUCTION OF A BILL TO PROVIDE FAIRER TAXATION FOR PRIVATE AIRCRAFT USERS

Mr. DOLE. Mr. President, the Airport and Airways Development Act of 1970, signed into law on May 27, imposed an aircraft use tax on all piston-engine civil aircraft. This tax requires a yearly payment of $25 for each of these aircraft, plus 2 cents per pound for the total gross weight of each aircraft weighing over 2,500 pounds.

Subsequently, Public Law 91-614, signed into law December 31, 1970, and to become effective July 1, 1971, establishes that a 2-cents use tax is required only on total pounds above 2,500.

But, Mr. President, the May 27 law, as modified, still places an inordinate financial burden on the owners of small private aircraft. Therefore, in an effort to provide a fairer tax for them, I am today introducing a bill to increase the exemption based on certificated gross weight for piston-engine civil aircraft from 2,500 to 6,000 pounds. I have chosen the 6,000-pound weight, because generally those aircraft below this figure are used for private business and pleasure purposes, while those above are used for commercial purposes. This legislation would exempt approximately 115,000 of the 125,000 general aviation aircraft. The present law exempts 80,000 to 90,000.

The provisions of this bill which would become effective July 1, 1971, would not change the $25 use tax required for each aircraft. And the bill would not modify the disregarding of the first 2,500 pounds by planes above 6,000 pounds.

Mr. President, the following are several compelling reasons why this legislation should receive early enactment:

First. The 2-cent gross use tax is unfair on these aircraft below 6,000 pounds because the bulk of these revenues are not used for the improvement of aviation facilities and services for the benefit of these aircraft, but for larger commercial planes. For example, the private aircraft under 6,000 pounds generally operate under visual flight rules and impose little or no load upon the air traffic control system. And when the weather makes the use of such systems imperative, these small planes normally stay on the ground, as only about 10 percent are even equipped to fly by instruments. Furthermore, these aircraft fly in and out of 10,000 of the Nation's airports, but only 2,400 of these airports have received any Federal investment. And less than 700 have received aid in amounts equaling $1 million.

Second. The 2,500-pound starting point of the use tax is burdensome in light of the fact that small aircraft owners are presently being hit with increased taxes and fees from several directions simultaneously. As evidence of these compounding charges, the Federal Government increased the effective gasoline tax on private aircraft by 350 percent on July 1, 1970. And as a result of the enactment of the airport and airways bill of 1970, many State and local governments are beginning to scrutinize private aircraft taxes and fees as one means of raising local funds to match the increased Federal revenue.

Teterboro, N.J., has just raised landing fees by more than 30 percent effective January 1, 1971. Effective the same date, Erie, Pa., has established new airport usage fees ranging annually from $40 to $100 for locally owned aircraft. And, the State of Texas is currently considering a proposal to impose flat fees for each aircraft, weight taxes, and excise taxes on the sale of new and used aircraft, spare parts, accessories, and fuels.

Third. The present use tax structure will generate a loss of sales of small aircraft, thus complicating the current problems of the aviation industry, and increasing the unemployment level. The reverse of such a trend is extremely important to thousands in Kansas, and especially in the vicinity of Wichita. As a direct result of the layoffs in the aviation industry, the unemployment rate in this area is one of the highest in the Nation. Early this month, Cessna in nearby Winfield employing 150 was forced to shut down. Similarly, a principal competitor in Pennsylvania ceased to function for almost 4 months last year.

Fourth. The bill will help to insure that the small aircraft are able to help bind together the economies of small communities and rural areas, which cannot support or enjoy scheduled air-

line service, with the large metropolitan cities which can.

Mr. President, it is time to curb excessive taxation on these aircraft. In a conversation with an FAA official, he estimated my bill will save $900,000 for private aircraft operations in fiscal year 1972, but will still require over $60 million from general aviation in overall aviation use taxes. In the light of these figures, my bill is reasonable, and I urge its speedy enactment.

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

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 323) to amend section 4491 of the Internal Revenue Code of 1954 to provide that the weight portion of the excise tax on the use of civil aircraft shall apply to piston-engined aircraft only if they have a maximum certificated takeoff weight of more than 6,000 pounds, introduced by Mr. DOLE, for himself and other Senators, was received, read twice by its title, referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4491 (a) (2) (A) of the Internal Revenue Code of 1954 (relating to tax on use of civil aircraft) is amended by striking out clause (A) and inserting in lieu thereof "(A) in the case of an aircraft (other than a turbine-engine-powered aircraft) having a maximum certificated takeoff weight of more than 6,000 pounds, 2 cents a pound for each pound of the maximum certificated takeoff weight in excess of 2,500 pounds, or".

SEC. 2. (a) The amendment made by the first section of this Act shall take effect on July 1, 1971.

(b) Section 305 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 is repealed.

S. 325—INTRODUCTION OF A BILL ESTABLISHING A SURVIVOR BENEFIT PLAN

Mr. BEALL. Mr. President, on behalf of Senator TOWER and myself I introduce an important bill which would establish a survivor's benefit program for our career military personnel. This measure would enable the career military man to provide for his surviving loved ones in the event of his death. It would do this by establishing a new survivor's annuity program under which the military retiree could assure his surviving dependents of up to 55 percent of his retired pay.

Most Americans would be surprised, as were many Members of Congress, to learn that the widow of a retired military man does not automatically receive part of the earned retirement pension her husband was receiving at the time of his death. Thus, for example, should a military retiree pass away a day after his retirement, the surviving dependents would not be entitled to a penny of his retirement pension. The surprise of the American public and the Congress to learn of this situation is minor compared to the shock of the widow of these cases, many of whom according to the Department of Defense's testimony do not realize that the retired pay stops immediately upon the death of the military retiree.

In such a situation, the only benefit that the military retiree's widow would have, assuming that the death was not service connected, that the widow was not eligible for social security, and that her husband was among the 85 percent of Armed Forces personnel who do not participate in the retired serviceman's protection plan—RSFTT—are those paid by the Veterans' Administration. To qualify for the Veterans' Administration program, the widow must meet a "needs test," and, if eligible she then would receive only a meager pension varying from $17 to $74 per month. This pension is not a special provision for career servicemen's dependents but is available to dependents of any veteran whether he served 3 months or 30 years.

The lack of basic survivor protection for retired career personnel is a serious shortcoming in the benefits available for those who elect to make serving their country their career. Basic survivor protection is usually a standard feature in employee fringe benefits. The Federal civil service employees, for example, can assure his surviving spouse 55 percent of his Federal retired pay. This survivors' benefit is automatic unless the employee in writing elects not to participate in the survivor annuity plan. This lack of survivor benefits is a particular serious problem because of the relatively early retirement of career military personnel.

A military retiree, if he lives the normal life expectancy, may spend in retirement one and one-half times the number of years he served on active duty. Congress has not been blind to the need of the career military man to provide a portion of his pension for his survivors. In 1953, Congress enacted the retired serviceman's family protection plan—RSFPP—an optional, self-supporting, actuarially sound, survivor annuity program. The program has not worked. The most telling indictment of the RSFPP program is that during the 18 years it has been part of our national laws, and despite the adoption of seven amendments, only 15 percent of those eligible have elected to participate. The participation rate of enlisted retirees, who may need it the most, is only 10 percent. Thus, the widow of 85 percent of military retirees have no claim to a portion of their husband's retired pay.

The primary reason for this low participation rate is that the RSFPP program is prohibitively expensive for the serviceman. Unlike the survivors' annuity program available to the Federal civil service employees, the Federal Government does not contribute to the RSFPP. As a result, the military retirees have to pay between 2.5 and 5 times for equivalent survivor benefits as the civil service retiree. I ask unanimous consent that tables depicting this disparity be printed at this point in the RECORD.

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

TABLE I.—COMPARISON OF COSTS OF RETIRED PERSONNEL SURVIVOR ANNUITY PLANS—MILITARY VS. CIVIL SERVICE

Grade	Years of service	Age at retirement	Survivors annuity payable (monthly)	Military deductions (options 1 and 4 at ½)	Civil service deduction for the same annuity
Staff sergeant	20	40	$86.42	$12.71	$3.93
Technical sergeant	24	44	120.75	20.94	5.49
Master sergeant	30	50	201.88	43.77	14.21
Do	30	60	195.15	57.24	12.98
Do	30	65	191.46	64.62	12.31
Major	24	46	256.96	48.23	24.22
Lieutenant colonel	26	48	330.65	66.84	37.62
Colonel	30	52	461.42	107.00	61.40
Do	30	60	449.06	131.72	69.15
Do	30	65	440.56	148.71	57.60
Major general	30	54	600.09	148.03	86.61
General	30	56	749.23	196.25	113.72
Do	30	60	738.98	216.75	112.86

TABLE II.—COMPARATIVE COSTS OF CENTS PER DOLLAR OF COVERAGE

Annual annuity	Dollars cost per year		Cents per dollars of coverage	
	RSFPP	Civil service	RSFPP	Civil service
Man 55, wife 53:				
10,000	3,764	1,548	37.6	15.5
8,000	2,521	1,185	37.6	14.8
6,000	1,890	821	37.6	13.7
4,000	1,260	457	37.6	11.4
2,000	630	94	37.6	4.7
1,000	315	45	37.6	4.5
Man 60, wife 58:				
10,000	3,764	1,548	37.6	15.5
8,000	3,011	1,185	37.6	14.8
6,000	2,258	821	37.6	13.7
4,000	1,505	457	37.6	11.4
2,000	753	94	37.6	4.7
1,000	376	45	37.6	4.5

In addition to the fact that the retired serviceman's family protection plan is too expensive, the complexities of the program have also deterred greater participation. RSFPP then by any yardstick must be judged a failure. It was clear that a new plan was needed.

The Fleet Reserve Association, after years of research and study, completed an excellent study entitled "Widows Equity" which not only helped to spotlight the inadequacies and inequities of survivor benefits for the family of the career military man, but also resulted in the introduction of legislation implementing the study's recommendation in both Houses of the Congress. In all, over 25 Members of the Senate cosponsored this proposal.

This legislative interest and the support of military and veterans organizations, as well as the many moving letters received by Members of Congress, resulted in a naming by the late Chairman of the House Armed Services Committee,

L. Mendel Rivers, of a Special Subcommittee on Survivors Benefits under the capable leadership of Congressman OTIS G. PIKE. The special subcommittee's mandate was spelled out in Chairman Rivers' letter which established the committee. The subcommittee was directed to initiate its review and hearings at the earliest practicable date for the purpose of determining the adequacy of existing survivor benefits programs for active and retired military personnel, and to make such recommendations, legislative or otherwise, to the full Committee on Armed Services as are necessary.

I was pleased to have been named to this special subcommittee, and I am very proud of the subcommittee's work which included 7 days of open hearings and 5 days of executive sessions. I believe that examination of the report issued by the committee entitled "Inquiry to Survivor Benefits" will demonstrate the thoroughness with which the subcommittee examined the subject. Our subcommittee concluded that the benefits available to survivors of retired personnel are woefully inadequate, and I am pleased to introduce today on the Senate side legislation incorporating the recommendations of the subcommittee. I also cosponsored similar legislation that was introduced in the last Congress. I have high hopes that this legislation will be enacted by this Congress. Enactment of this legislation would be welcomed news for wives and widows of career servicemen who also have served their country through the many sacrifices they make and the support they give their husbands.

Mr. President, the Nation is aware of the great sacrifices made by the Nation's career military man and the great debt we owe to them. Their daily duty is the defense and security of this Nation. The country is probably not as aware of the sacrifices and demands on the military wife.

The old saying that "behind every successful man is a successful woman" has a special truth for military wives. Long separations and months of loneliness and frequent changes in duty stations and the necessary family uprooting that often follows, are among the many problems with which the career serviceman's wife must cope. Added to this is the fear in the mind of military wives that their husbands may not return at all. After standing alongside their husbands throughout their military careers, these brave and special breed of women are not presently assured of a single cent of the retired pay of their husbands.

There is a great deal of interest in the all-volunteer army. The Gates Commission has recommended its adoption, and the concept has the support of President Nixon. I personally am inclined to support the concept although I believe that hearings should be held so that all of its implications will be examined. I also have supported the various pay increases and other fringe benefits which are probably necessary preconditions to attract and retain sufficient manpower for national defense requirements. The career military man shares, I am certain, what must be a universal desire of man to provide for his surviving loved ones after his death. The lack of such survivor benefits is a glaring weakness in the benefits presently available to the professional soldier. The adoption of a survivors' benefit program has to make the military more attractive as a career, and thus help move the country toward the goal of an all-volunteer Armed Forces.

In summary, the equities cogently call for the remedying of the plight of the military retiree's widow. The facts clearly argue for the enactment of legislation which I am introducing, and which will make it possible for retired military personnel to leave a portion of their pension at a reasonable cost to their loved ones so that they might better enjoy the freedom and prosperity of this great Nation for which their husbands in no small part are responsible.

Mr. President, I ask unanimous consent that the subcommittee's summary of the bill's provisions and its estimated cost, as well as the complete text of the bill, be printed in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection the bill and summary will be printed in the RECORD.

The bill (S. 325) to amend chapter 73 of title 10, U.S. Code, to establish a Survivor Benefit Plan, introduced by Mr. BEALL, for himself and Mr. TOWER, was received, read twice by its title, referred to the Committee on Armed Services and ordered to be printed in the RECORD, as follows:

S. 325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 73 of title 10, United States Code, is amended to read as follows:

"Chapter 73.—SURVIVOR BENEFIT PLAN

"Sec.
"1447. Definitions.
"1448. Application of plan.
"1449. Payment of annuity: beneficiaries.
"1450. Amount of annuity.
"1451. Reduction in retired or retainer pay.
"1452. Regulations.

"§ 1447. Definitions

"In sections 1447–1452 of this title:

"(1) 'Base amount' means (A) the amount of monthly retired or retainer pay to which a person was entitled when he became eligible for that pay or (B) such lesser amount designated by him on or before the first day for which he became eligible for that pay. The base amount is increased, at the same time retired or retainer pay is increased under section 1401a(b) of this title, by the same total per centum that pay is increased.

"(2) 'Dependent child' means a person who is—

"(A) unmarried;

"(B) under eighteen years of age; at least eighteen, but under twenty-two years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution; or incapable of supporting himself because of a mental or physical incapacity existing before his eighteenth birthday or incurred after that birthday, but before his twenty-second birthday, while pursuing such a full-time course of study or training; and

"(C) the child of a person to whom the Survivor Benefit Plan applies, including (i) an adopted child and (ii) a stepchild or recognized natural child who lived with that person in a regular parent-child relationship and who on the date of the death of that person was living in the United States, Puerto Rico, or a possession of the United States.

"(3) 'Spouse' of a person entitled to retired or retainer pay means the widow or, if dependent on that person for more than one-half of his support at the time of that person's death, as determined under regulations prescribed under section 1452 of this title, the widower of that person.

"§ 1448. Application of plan

"(a) Except as provided in subsection (c), the Survivor Benefit Plan applies to every person when he becomes entitled to retired or retainer pay unless, under regulations prescribed under section 1452 of this title, he elects not to participate in the plan before the first day for which he is eligible for that pay. An election not to participate in the plan by a person who is married requires that his wife be made aware of his decision as prescribed in regulations under section 1452 of this title. Such an election is irrevocable if not revoked before the date on which he first becomes entitled to retired or retainer pay. If a person elects not to participate and he was not married on the first day for which he became eligible for that pay, but thereafter marries, he may participate in the plan by paying the total of the amounts by which his retired or retainer pay would have been reduced under the first sentence of section 1451 of this title if the plan had applied to him continuously since that day, plus interest thereon at the rate of 3 per centum a year, compounded annually. Except as provided in the next sentence, a person may not withdraw from the plan after it becomes applicable to him. If a person whose name is on the temporary disabled retired list of an armed force, and who has elected an annuity under this chapter, has his name removed from that list for any reason other than retirement or grant of retired pay, the plan ceases to apply to him at that time.

"(b) If a member of an armed force, who upon application to the Secretary concerned could have been eligible for retired or retainer pay, dies on active duty and his survivors are eligible for dependency and indemnity compensation under subchapter II of chapter 13 of title 38 and the amount of that compensation is less than the annuity the survivors would have received under sections 1447–1452 of this title if this section had applied to the member when he died, the Secretary concerned shall pay to the survivors an annuity equal to the difference between that amount of compensation and the maximum percent of the retired or retainer pay to which the otherwise eligible survivor described in section 1449(a) (1) and (2) of this title would have been entitled if the member had been entitled to that pay based upon his years of active service at the time he died.

"(c) This section does not apply to—

"(1) members whose names are on a retired list other than a list maintained under section 1376(a) of this title;

"(2) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

"(3) midshipmen.

"§ 1449. Payment of annuity: beneficiaries

"(a) Effective as of the first day of the month in which a person to whom section 1448(a) of this title applies dies, a monthly annuity under section 1450 of this title shall be paid to—

"(1) his spouse;

"(2) if his spouse is dead, or ineligible under this section, his surviving dependent children in equal shares; or

"(3) if there are no eligible dependents under clauses (1) and (2), the natural person who has an insurable interest in him and who was designated by him at the date of retirement under regulations prescribed under section 1452 of this title.

An annuity for a spouse shall be paid to the spouse while the spouse is living or, if the spouse remarries before reaching age sixty, until the spouse remarries. If the spouse remarries before reaching age sixty and that marriage is terminated by death, annulment, or divorce, payment of the annuity will be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the spouse is also entitled to an annuity under this section based upon the marriage so terminated, the spouse may not receive both annuities but must elect which to receive. If upon a persons death, his spouse or dependent child is also entitled to compensation under subchapter II of chapter 13 of title 38 and the spouse or child elects to receive that compensation, the spouse or child may not be paid an annuity under this section and any amounts deducted from the retired or retainer pay of the deceased under section 1451 of this title shall be refunded to the spouse or child. An unmarried person who elects to provide an annuity to a person designated by him under clause (3), but who later marries, may change that election and provide an annuity to his spouse or dependent children. If a marriage existing at retirement or later is terminated for any reason, the member will have the option of designating a beneficiary from among his former wives or children or his present wife or children. Except as otherwise provided in this subsection, an election under this subsection may not be changed or revoked.

"(b) Except as provided in section 1451(a) of this title, an annuity under this section is in addition to any other payment to which a person is entitled under any other provision of law and may not be considered as income under any law administered by the Veterans' Administration except section 415(g) and chapter 15 of title 38.

"(c) An annuity under this section is not assignable or subject to execution, levy, attachment, garnishment or other legal process.

"§ 1450. Amount of annuity

"If the spouse is under age sixty-two or there is a dependent child, the monthly annuity payable to the spouse under section 1449 of this title shall be equal to 55 per centum of the base amount. When the spouse reaches age sixty-two, or there is no longer a dependent child. whichever occurs last, the monthly annuity shall be reduced as determined under regulations prescribed under section 1452 of this title, by the amount of the survivor benefit, if any, to which the spouse is entitled under subchapter II of chapter 7 of title 42, but only to the extent that benefit is based upon service described in section 410(1) (1) of title 42. The monthly annuity payable to a person under section 1449(a)(3) of this title shall be as set forth in regulations prescribed under section 1452 of this title. Whenever retired or retainer pay is increased under section 1401a(b) of this title, each annuity that is payable under this section on the day before the effective date of that increase shall be increased at the same time by the same total per centum.

"§ 1451. Reduction in retired or retainer pay

"(a) The retired or retainer pay of a person to whom section 1448 of this title applies, and who has not elected to provide an annuity to a person designated by him under section 1449(a)(3) of this title, or who has elected to provide such an annuity to such a person but has changed his election in favor of his sjouse or dependent children under section 1449(a) of this title, shall be reduced each month by an amount equal to 2½ per centum of the first $300 of the base amount plus 10 per centum of the remainder of the base amount. The retired or retainer pay of a person who has elected to provide an annuity to a person designated by him under section 1449(a)(3) of this title shall be reduced in accordance with regulations prescribed under section 1452 of this title. If, for any period, a person who had been awarded retired or retainer pay is not entitled to that pay, he must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period. However, if a person waives his retired or retainer pay to increase the benefits to which his survivors may become entitled under subchapter III of chapter 83 of title 5, his survivors may not receive an annuity under sections 1447–1452 of this title.

"(b) Except as provided in section 1449 (a) of this title, a person is not entitled to any refunds of amounts deducted from his retired or retainer pay under this section unless the amounts were deducted through administrative error.

"§ 1452. Regulations

"The President shall prescribe regulations to carry out sections 1447–1452 of this title. Those regulations shall, so far as practicable, be uniform."

SEC. 2. The chapter analysis of subtitle A and the analysis of part II of subtitle A of title 10, United States Code, are each amended by amending the item relating to chapter 73 to read as follows:

"73. Survivor Benefit Plan.....1447".

SEC. 3. Chapter 71 of title 10, United States Code, is amended as follows:

(1) By inserting the following item in the analysis:

"1407. Attachment of retired or retainer pay."

(2) By adding the following section:

"1407. Attachment of retired or retainer pay

"Notwithstanding any other provision of law, the retired or retainer pay of a member of an armed force shall be subject to attachment to comply with the order of a court of competent jurisdiction in favor of his wife, former wife, or children."

SEC. 4. (a) The first section of this Act applies to any person who initially becomes entitled to retired or retainer pay on or after the date of enactment of this Act. An election heretofore made by such a person under section 1431 of title 10, United States Code, is cancelled. Any other person who is entitled to retired or retainer pay on that date may elect to participate in the Survivor Benefit Plan established by the first section of this Act before he first anniversary of that date. However, such a person who is receiving retired or retainer pay reduced under section 1436(a) of title 10, or who is depositing amounts under section 1438 of title 10, may elect before that date—

(1) so to participate in the plan and to continue his participation under chapter 73 of title 10 as in effect on the day before that date, provided the total of the annuities elected does not exceed 100 per centum of his retired or retainer pay; or

(2) so to participate in the plan and notwithstanding the provisions of former subsection 1436(b) of title 10, to terminate his participation under chapter 73 of title 10 as in effect on the day before that date.

A person who elects under clause (2) to participate in the plan and to terminate his participation under chapter 73 of title 10 is not entitled to any refunds of amounts deducted from his retired or retainer pay under chapter 73 or to any payments thereunder on his behalf.

(b) Notwithstanding the first section of this Act, and except as otherwise provided in this section, the provisions of chapter 73 of title 10, United States Code (other than the last two sentences of section 1436(a), section 1443, and section 1444(b) as in effect on the day before the date of enactment of this Act, shall continue to apply in the case of persons, and their beneficiaries, who have elected annuities under former section 1431 or 1432 of title 10 and who have not elected under subsection (a)(2) of this section to participate in the Survivor Benefit Plan established by the first section of this Act.

SEC. 5. (a) A person who, on the date of enactment of this Act, is a widow of a person who was entitled to retired or retainer pay when he died and who is eligible for a pension under subchapter III of chapter 15 of title 38, United States Code, shall be paid an annuity by the Secretary concerned if she is at least sixty-two years of age or is permanently and totally disabled, as determined by the rules set down by the Veterans' Administration.

(b) Annuity under subsection (a) shall be equal to the minimum dependency and indemnity compensation payment under subchapter II of chapter 13 of title 38, United States Code, less the amount of the compensation or pension to which the widow is eligible on her own behalf under section 415 and subchapter III of chapter 15 of title 38 and, if she is eligible for a benefit under subchapter II of chapter 7 of title 42, the minimum benefit payable under that subchapter. Such an annuity may not be considered as income under any law administered by the Veterans' Administration.

The material furnished by Mr. BEALL is as follows:

BILL'S SUMMARY

The program would: enhance the social security benefits for widows at age 62 to assure a percentage of the serviceman's retired pay which represents a fair income replacement; provide a percentage of the husband's retired pay during the gap years when the widow is under 62 and receiving no social security; and provide the survivor a percentage of retired pay on top of social security benefits for widows still raising a family.

The essential elements of the program are as follows:

(*a*) Military retirees could leave their survivors an annuity of up to 55 percent of retired or retainer pay.

(*b*) Retirees would share in the cost of the annuity by deductions from their retired pay equal to 2½ percent of the first $3,600 of the base amount and 10 percent of any portion above $3,600 up to the maximum of the member's full retired pay.

(*c*) At age 62 or after her youngest child is no longer eligible for social security benefits, whichever occurs later, the annuity the widow receives as a result of her husband's military retired pay would be reduced by an amount equivalent to the payment she receives under social security *attributable to her husband's military service*. In other words, the program assures the widow of an annuity of up to 55 percent of her husband's retired pay throughout her life.

(*d*) All those on retired roles on the date of enactment of the legislation would have 1 year from the date of enactment in which to elect to participate in the new program. Such retirees would not have to pay any additional amount beyond the deductions from retired pay for all other participants.

(*e*) The present inadequate self-financing program, the Retired Serviceman's Family Protection Plan, would be phased out and no new entrants allowed following the date of passage of the bill. Those retirees participating in RSFPP on the date of enactment of the bill may:

(1) Continue in RSFPP; or

(2) Drop RSFPP but join the new program; or

(3) Continue in RSFPP and join the new program, subject to a limitation on total annuity of 100 percent of the member's retired pay.

(*f*) For personnel who die on active duty

while eligible for retirement (based on length of service) where the potential retired survivor annuity would be more than the dependency and indemnity compensation paid to survivors of active duty personnel of like grade, a supplemental annuity payment sufficient to make up the difference would be paid to the survivor by the Department of Defense. The subcommittee has included this provision because it believes that in no case should the annuities for survivors of active duty personnel eligible for retirement based on length of service be below those of retirees of equal rank.

(*g*) All active duty personnel would be automatically included in the new program on the date of retirement for the maximum survivor coverage (55 percent) unless they elect not to participate or elect a reduced base on which to provide an annuity. When a future retiree who is married elects not to participate, the program requires that his spouse be made aware of his decision. It is the intention of the subcommittee that in carrying out this provision of the program counseling shall be provided in such cases for the retiree and his spouse with responsibility clearly placed on administrative officers to see that both the retiree and the spouse fully understand the implications of the decision. The subcommittee is concerned that in a small percentage of cases survivors may unknowingly face undue hardships where retirees have failed to provide adequately because of misunderstanding or neglect.

(*h*) Survivor benefit annuities would be given a cost-of-living increase any time military retired pay is given such an increase.

(*i*) The eligibility for the survivor annuity would extend to a widow; or surviving children; or a widower if dependent on the retiree for more than one-half of his support; or, for an unmarried retiree, to a person who has an insurable interest in him, with retired pay deductions which take into account the relative age of the retiree and the beneficiary. A survivor eligible for dependency and indemnity compensation (because the retiree died of service-connected causes) and an annuity under the proposed program can elect which of the two annuities to take, subject to a refund of the retired pay deductions if DIC is elected. A retiree who waives a portion of his retired pay to receive VA compensation would be eligible for a survivor annuity of up to 55 percent of full retired pay with the standard amount of retired pay deductions for that annuity. A retiree eligible for both military and civil service annuity programs could elect to take one or the other, but not both if he had waived his military retired pay to increase his civil service benefits.

(*j*) Retired reservists would be eligible to participate in the program at the time they commence to receive Reserve retired pay.

3. Many current widows of career military retirees, including widows of senior officers and senior enlisted men of long and outstanding service, are living in conditions of great economic deprivation because of the lack of adequate survivor benefits coverage in the past, and often they are forced to exist on grossly inadequate income. The subcommittee has, therefore, provided a program of minimum income guarantee for such widows at age 62 or if permanently and totally disabled. If such a widow meets the means test presently established for VA death pensions and is age 62 or over, the program would provide her payments sufficient to bring her income up to $167 a month. VA death pensions range from $17 to $74 a month depending on income; the program would pay the widow the difference between that pension and $167 a month.

4. Survivors of active duty personnel receive survivor benefits payments through the dependency and indemnity compensation (DIC) program administered by the Veterans' Administration. Through the diligence of the Veterans' Affairs Committee, DIC rates have been increased throughout the years to recognize increases in the cost of living. For the majority of people on active duty in the armed services, DIC benefits are generous in relation to pay and grade. However, the program is weighted in terms of low ranked and short-term personnel; and, for those in the most senior officer and enlisted grades with longer years of service, the relative level of benefits falls off sharply in terms of its value as income replacement. The subcommittees believes that attention should be given to increasing the survivor benefit levels for survivors of longer service active duty personnel. Since the Veterans' Affairs Committee has prerogatives in this area, the subcommittee recommends that the chairman of the Armed Services Committee initiate discussions with the chairman of the Committee on Veterans' Affairs to determine the most appropriate vehicle for further consideration of additions along the lines here proposed.

5. There will be no immediate increase in budgetary requirements for the permanent survivor benefits program for retired personnel proposed by the subcommittee. In addition, the best estimate of cost indicates that retired pay deductions will exceed the level of benefit payments for approximately the first 20 years of the program. However, the program involves taking on obligations which exceed programed retired pay deductions and by the year 2000 the requirements for annual appropriations will be approximately $310 million. The program of minimum income guarantee for present widows will cost an estimated $30 to $50 million the first year, with the program eventually disappearing as the last widow dies sometime after the year 2000. Even with the cost of the minimum income guarantee program for present widows and the DIC supplement program included, there will be no net increase in the Department of Defense budget for the total legislative package recommended by the subcommittee until the year 1987 at the earliest according to the best present estimates.

6. The subcommittee's legislative proposal includes a provision which permits the attachment of retired and retainer pay to comply with the order of a court of competent jurisdiction in favor of his wife, former wife, or children.

7. The subcommittee recommends approval by the Armed Services Committee of H.R. 15436, introduced by the Honorable Charles E. Bennett of Florida, which would amend chapter 73, title 10, United States Code, to permit revocation of a withdrawal request from the retired serviceman's family protection plan at any time prior to its effective date. The subcommittee recommends that the bill be amended to make it retroactive to the passage of the law permitting withdrawal from RSFPP.

COST ESTIMATES

There will be no increase in budgetary obligation in the initial fiscal year in which the program goes into effect or, under best present estimates, in the first 20 years of the program.

The following table provides an estimate of the cost of the program through the year 2000, assuming an 85 percent participation rate. This is similar to the participation in the civil service program, and the committee believes in view of the outstanding features of the program that the expectation of 85 percent is entirely reasonable. The table shows the annual retired pay deductions, the benefits paid to survivors, and the annual net disbursements.

ANNUAL COSTS ASSOCIATED WITH PROVIDING SURVIVOR BENEFITS ASSUMING THE IMPLEMENTATION OF THE PLAN PROPOSED BY THE SUBCOMMITTEE—PARTICIPATION RATES 85 PERCENT

[Dollars in millions]

Fiscal year	Reduction in member's retired pay			Survivor benefits				
	Amount of reduction from—		Total annual amount of reduction	Benefits paid to survivors of—			Total annual benefits paid	Annual net disbursements
	Present retirees	Future retirees		Past participants	Present participants	Future participants		
1971	$152.49	$8.22	$160.71	$10.92	$9.31	$0.21	$20.44	—$140.27
1972	154.36	26.02	180.38	10.66	28.48	1.17	40.31	—140.07
1973	156.09	47.26	203.35	10.40	48.48	3.33	62.21	—141.14
1974	157.67	72.65	230.32	10.11	69.38	7.01	86.50	—143.82
1975	159.05	100.00	259.55	9.83	91.02	12.50	113.35	—146.20
1976	160.23	129.37	289.60	9.50	113.31	19.90	142.71	—146.89
1977	161.30	160.19	321.49	9.18	136.32	29.28	174.78	—146.70
1978	162.20	192.84	355.04	8.83	159.96	40.73	209.52	—145.52
1979	162.91	227.32	390.23	8.49	184.43	54.46	247.38	—142.85
1980	163.39	263.83	427.22	8.12	209.69	71.08	288.89	—138.38
1981	163.57	300.89	464.46	7.79	235.32	90.38	333.49	—130.97
1982	163.58	339.55	503.13	7.44	261.11	111.99	380.54	—122.59
1983	163.30	381.49	544.79	7.10	288.04	136.00	431.14	—113.68
1984	162.91	425.55	588.46	6.76	315.74	162.59	485.09	—103.37
1985	162.37	470.90	633.27	6.44	343.97	193.11	543.52	—89.75
1986	161.45	519.65	681.10	6.11	372.29	227.46	605.86	—75.24
1987	160.14	571.31	731.45	5.78	400.19	266.00	671.97	—59.48
1988	158.46	624.22	782.68	5.47	428.04	309.27	742.78	—39.90
1989	156.50	678.70	835.20	5.16	455.51	357.40	818.07	—17.13
1990	154.25	735.83	890.08	4.85	482.37	410.57	897.79	7.71
1991	151.57	797.39	948.96	4.56	508.00	469.32	984.88	32.92
1992	148.47	863.22	1,011.69	4.27	532.45	534.30	1,071.19	59.33
1993	144.94	932.55	1,077.49	3.98	555.89	605.69	1,165.56	88.07
1994	141.00	1,005.37	1,146.37	3.71	578.47	682.99	1,265.17	118.80
1995	136.88	1,083.04	1,219.92	3.45	600.78	766.02	1,370.25	150.33
1996	132.40	1,165.76	1,298.16	3.19	620.66	856.97	1,480.82	182.66
1997	127.52	1,252.94	1,380.46	2.94	637.66	954.44	1,595.04	244.58
1998	122.28	1,344.45	1,466.73	2.70	651.37	1,059.29	1,713.36	246.63
1999	116.70	1,440.49	1,557.19	2.48	661.35	1,172.44	1,836.27	279.08
2000	110.82	1,542.39	1,653.21	2.26	667.20	1,293.90	1,963.36	310.15
Total	4,528.80	17,703.89	22,232.69	192.48	10,646.79	10,899.80	21,739.07	—493.62

Mr. TOWER. Mr. President, I am pleased to join with my colleague, the distinguished junior Senator from Maryland (Mr. BEALL) in sponsoring legislation which would provide, for the first time, an effective program under which a military retiree could assure his surviving dependents of up to 55 percent of his retired pay. There has been much talk lately of gradually moving from the

draft to an all-volunteer army; much of this talk has been centered around new programs that we would need to have in order to move in an orderly manner toward this desirable concept. Certainly in moving toward the all-volunteer army, we must have an effective system of retirement pay for our Armed Forces personnel. However, the need is much greater than simply a program to move us toward another objective. The overriding reason behind the approval of this retirement program is elementary fairness.

Mr. President, in time of national and international crises, this Nation calls upon its military personnel to defend and preserve the Republic. Great hazards are often faced by these men and women who so valiantly serve; yet, we do not see fit to provide for the survivors of those who retire from the service. In the civil service there is a comprehensive program of survivors benefits which are automatically included for those who are covered by the retirement program. The Government bears a great part of the cost of these benefits and administers the funds. In the Armed Forces, there are no comparable benefits offered, and the few that are offered are of such high cost that they are unobtainable by those who need them most—the lower pay-scale personnel. The inequities in this situation are readily apparent; we have the means to correct this glaring oversight in our military program.

As I have stated, Mr. President, even though this program would be an absolute necessity in moving toward an all-volunteer Armed Forces, this, to me, is not the primary consideration. We need this program so that our military personnel can be provided for in a comparable way with what we have long provided for our civilian personnel. Viewed in this light, the legislation becomes critical. I hope that the Senate will be able to act quickly so that this injustice may be corrected.

S. 343—INTRODUCTION OF A BILL TO PROMOTE PUBLIC CONFIDENCE IN THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES OF THE GOVERNMENT

Mr. CASE. Mr. President, on behalf of Mr. HART, Mr. CHURCH, Mr. HARRIS, Mr. JAVITS, Mr. MANSFIELD, Mr. MATHIAS, Mr. MONDALE, Mr. MOSS, Mr. PERCY, Mr. PROXMIRE, Mr. SPONG, and myself, I introduce a bill to require full public disclosure of the personal financial interests, all sources and amounts of income, assets and liabilities, gifts and transactions in real and personal property by first, each Member of the Congress, candidates for Congress, congressional officials and staff receiving $18,000 or more; second, top officers and officials in the executive branch at the $18,000 level and above; and third, members of the Federal judiciary and top court officials at the $18,000 level.

The arguments for a full disclosure requirement have appeared over many years in the pages of the CONGRESSIONAL RECORD and I only summarize them here.

First, it is preventive. The knowledge that one's financial activities and interests will become known is the best possible "stop and think" signal—the surest way to sharpen awareness of any possible conflict of public and private interests.

Second, it is automatic in operation. When the facts are on the table, the press and the public can make their own judgment.

Third, disclosure will strengthen the people's right to elect whom they wish by giving them full knowledge of the personal financial interests of those who present themselves as candidates for election or reelection.

For years congressional committees have required top executive officials to disclose specific financial interests at the time of their confirmation. It is high time that Congress applies the same principle to itself and does away with the double standard so long followed.

Disclosure does involve intrusion into privacy but those of us who have done it regularly believe it is a small price to pay for the privilege of public service. And the cost becomes insignificant, compared to the great public good which would be served.

It is my hope that now that the limited reporting requirements have become operative, the demand for wider public disclosure will mount and Congress will take the necessary action to provide it.

It is not so many years ago that the mention of public disclosure was treated almost as a dirty word or a cause for ridicule. But a few years ago in connection with the Election Reform bill it came within four votes of adoption by the Senate. And in 1968 when we were debating the new rules, it again failed by only four votes.

In the last session the Rules Committee gave assurances that hearings on our bill will be held as soon as possible. All of us who are sponsoring the bill stand ready to be of any help we can to the committee in its consideration of the measure. It is our earnest hope that 1971 will be the year that our bill is finally passed.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 343) to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States, introduced by Mr. CASE, for himself and other Senators, was received, read twice by its title and referred to the Committee on Rules and Administration.

Mr. HART. Mr. President, in seeking support for their proposals, politicians are fond of saying that there is nothing so powerful as an idea whose time has come.

This phrase is particularly useful if not effective in arguing the merits of a bill which has been around the track several times but without crossing the finish line.

Such is the case of the full disclosure bill, which the able Senator from New Jersey (Mr. CASE) introduced today.

Frankly, I am not prepared to predict that in the Senate the time for this particular bill has come, but as one who has cosponsored this legislation in the past and do so again today, I believe that the time for this proposal ought to have come by now.

While I do not contend the fate of the Republic rests on enactment of the bill, I do believe full and public financial disclosure by Government officials can help alleviate one of the Republic's more pressing problems.

That problem—in brief—is the widespread deterioration of the public's confidence in Government and in the men who serve in elected or appointed offices.

The Senate did nothing to restore that confidence when it established a financial reporting requirement which provided that the information be filed in safely sealed envelopes.

We can do something to restore that confidence by passing a bill which makes such information available to the public.

The proposal, then, is important, not as a device to detect and prosecute wrongdoing, but as a statement recognizing the public's right to know.

And in recognizing that right, we can take a step toward restoring people's confidence in their Government, confidence without which no democratic form of government will survive.

In brief, the bill as it has in the past requires full public disclosure of personal financial interests, all sources and amounts of income, assets and liabilities, gifts and transactions in real and personal property by Members of Congress and by employees of the legislative, executive and judicial branches of Government who earn $18,000 a year or more.

Mr. President, certainly few in this body will deny that the time has come to reverse the deterioration of confidence in our Government. I suggest that, as one way to help reverse that trend, the time has come to require full and public disclosure by top elected and appointed Government officials.

S. 344—INTRODUCTION OF A BILL TO PROMOTE PUBLIC CONFIDENCE IN THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES OF THE GOVERNMENT

Mr. SPONG. Mr. President, I am introducing today a bill to require full public disclosure of the personal financial interests and income of Members of the Congress and their top aides, Federal judges, certain officials of the executive branch and national political parties and candidates for congressional office.

Public trust in the integrity of those who make and administer the laws is an indispensible element of our system of government but that trust has been in serious decline in recent years. It is unfortunate because I believe that the overwhelming number of those in Government today are honorable, hard-working, and dedicated public servants.

Nevertheless, there have been a few—a well publicized few—who have used their positions to further their own private interests. These have been rare and isolated cases. But, because the public

has no basis for judging otherwise, they have engendered widespread doubts and suspicions about the motives of all those in Government.

The corrective I propose is a simple and traditional one: Let the public know the facts and judge a man on his record. Financial disclosure is nothing more than that. It does not attempt to define the rights and wrongs of any situation, it imposes no sanctions or penalties on anyone. But, in making these matters a part of the record we will give the public a basis on which to make a reasoned and, I am confident, a fair judgment. It will also sharpen the moral judgments of those who know that their acts can be challenged.

Mr. President, not long ago the Senate rejected the nomination of Judge Clement Haynsworth to be Supreme Court Justice principally because he had not disclosed certain financial interests which had a bearing on cases before his court. I disagreed with the Senate's actions but it was taken nevertheless.

I would hope that there will not be many more instances of deliberation by this body in which it sits in judgment upon others, but fails to apply the same standards to itself by adopting the principle of full, public financial disclosure.

There are many who will oppose a requirement of this kind, not from any sinister motives, but because they feel strongly that it invades their right to privacy. I do not dismiss that argument, but I believe there is a larger principle at issue. Those who hold a public trust owe an accountability to the people they serve and no part of that record of stewardship is legitimately a private matter.

I believe that most government officials and office holders will find that financial disclosure is a benefit to them for it will relieve them of the burden of ill-founded suspicion which today so often attaches to public acts. Only where such an official doubts that he can justify a particular item of income or investment to the public would financial disclosure become an interference in his affairs. And that, I suggest, would be a proper interference.

Specifically, the bill I have introduced, would require all Members and candidates for Congress, congressional, judicial, and executive branch employees receiving $18,000 a year or more, Federal judges, and certain officers and employees of the major national political parties to annually disclose the sources and amounts of their income, their assets and liabilities, gifts and honorariums received by them, and all transactions in securities and real and personal property.

Frankly, I believe the committee should give serious thought to extending the requirement to other nongovernment groups which have a regular and direct impact on the course of the public's business; for example, registered lobbyists.

I would not exclude from that consideration those representatives of the public press who, on an accredited basis, report and interpret the activities of the various branches of the Federal Government and, perhaps more than any other group, mold public attitudes on issues. They too have a part in administering the public trust and I do not believe they should be immune from the standards they urge upon others. I would concede, however, that there are special problems here which may make legislation inappropriate. But I do not believe the press should ignore the matter.

Mr. President, this Congress will face no task more urgent than restoring public confidence in government and I believe financial disclosure is a vital step in that direction.

Disclosure of a public servant's personal financial interests not only will discourage wrong-doing and conflicts of interest, but will allow the people to act with knowledge in choosing those who would represent them in Congress of the United States. Such disclosure would eliminate doubt and suspicion about the activities of those who run our government and would restore the faith of the people in the honest operation of the laws.

During my campaign for the Senate, I promised that I would support legislation that would require the disclosure of the income and assets of Members of Congress and would make a voluntary accounting of my personal finances in the event that such legislation was not enacted.

I have sponsored my own disclosure bill and cosponsored others in the last 4 years, and in the absence of congressional action, I have at the beginning of each year voluntarily made available to the public through the CONGRESSIONAL RECORD, a statement of my personal finances.

Two years ago, the Senate did adopt a rule that each Member of the Senate and their top staff aides submit to the Comptroller General in a sealed envelope a copy of their income tax return and a statement of their assets and liabilities. This envelope can be opened only by order of the Senate Committee on Standards and Conduct in the event of an investigation for alleged violation of the rules. In addition, a report of all contributions and the amount and sources of all honorariums of $300 or more will be made public.

The House also passed legislation that would require limited disclosure of the financial interests and activities of its Members.

I do not believe that these half measures are enough. To regain the public's confidence in government, full public disclosure is required.

In the last Congress I was prepared to offer a financial disclosure bill as a rider to another measure but withheld that amendment on the understanding that early hearings would be held this year. Nothing is more essential, in my judgment than that Congress come to grips with this problem and come to grips with it soon.

I ask unanimous consent to have the bill printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 344) to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States, introduced by Mr. SPONG, for himself and Mr. CASE, was received, read twice by its title, referred to the Committee on Rules and Administration and ordered to be printed in the RECORD, as follows:

S. 344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) each Member of the Senate and House of Representatives (including Delegate and Resident Commissioner), each officer and employee of the United States or any department or agency thereof (including each officer and enlisted person in the armed forces) who (A) receives a salary at a rate of $18,000 or more per annum or (B) holds a position of grade GS–14 or above (or of equivalent rank), each judge or justice of a court of the United States, and each member, chairman, or other officer of the national committee of a major political party shall file annually with the Comptroller General a report in accordance with the provisions of paragraph (3) of this subsection.

(2) Each individual who is a candidate of a political party in a general election for the office of Senator or Representative, or Delegate or Resident Commissioner in the House of Representatives but who, at the time he becomes a candidate, does not occupy any such office, shall file within one month after he becomes a candidate for such office, with the Comptroller General a report in accordance with the provisions of paragraph (3) of this subsection.

(3) Reports required to be filed under this subsection shall contain a full and complete statement of—

(A) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any relative or his spouse) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount or value; including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind;

(B) the value of each asset held by him, or by him and his spouse jointly, and the amount of each liability owed by him, or by him and his spouse jointly, as of the close of the preceding calendar year;

(C) all dealings in securities or commodities by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year; and

(D) all purchases and sales of real property or any interest therein by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year.

(b) Except as hereinbefore provided, reports required by this section (other than reports so required by candidates of political parties) shall be filed not later than April 30 of each year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Comptroller General may prescribe.

(c) Reports required by this section shall be in such form and detail as the Comptroller

General may prescribe. The Comptroller General may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

(d) Each report required by this section shall be made under penalty for perjury. Any person who willfully fails to file a report required by this section, or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

(e) All reports filed under this section shall be maintained by the Comptroller General as public records which, under such reasonable regulations as he shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been a Member of the Senate or House of Representatives, a Delegate or Resident Commissioner, or an officer or employee of the legislative, executive, or judicial branch of the Government of the United States or any department or agency thereof, during any calendar year if he served in any such position for more than six months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2).

(4) The term "dealings in securities or commodities" means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity.

(5) The term "court of the United States" means each court so defined by section 451, title 28, United States Code, and each of the following courts: the District Court of the Virgin Islands, the District Court of Guam, the Tax Court of the United States, and the Court of Military Appeals.

(6) The term "major political party" means any political party whose candidate for the office of President of the United States received more than 15 percent of the total popular votes cast for all candidates for such office in the most recent presidential election. For the purposes of this paragraph, each vote cast for the election of a presidential elector shall be considered to be a popular vote cast for the candidate supported by the elector for whom the vote was cast.

SEC. 2. Section 554 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f) Communications to agency.—All written communications and memorandums stating the circumstances, source, and substance of all oral communications made to the agency, or any officer or employee thereof, with respect to such case by any person who is not an officer or employee of the agency shall be made a part of the public record of such case. This subsection shall not apply to communications to any officer, employee, or agent of the agency engaged in the performance of investigative or prosecuting functions for the agency with respect to such case."

Mr. SPONG. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the Secretary of the Senate dated January 26, 1971, wherein I certified as true a complete statement of the financial assets of my wife and myself. I have done this each year since my service in the Senate began.

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

U.S. SENATE,
Washington, D.C., January 26, 1971.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing this is to again report to you a statement of the financial status, holdings, and liabilities for my wife and myself. This statement is as of Janaury 1, 1971.

ASSETS

Cash in checking and savings accounts (after provision for federal income tax for 1970 and other obligations) approximately	$2,500.00
Life insurance policies with the following insurers (currently providing for death benefits totaling $129,500): Minnesota Mutual Life Insurance Co.; National Service Life Insurance Co.; Aetna Life Insurance Co.; Southwestern Life Insurance Co.; Jefferson Standard Insurance Co.; Continental Assurance Co.; Federal Employees Group Life Insurance: cash surrender value and accumulated dividends	17,220.01
Stocks as listed on schedule A	54,582.00
Note of Cherdel Corp. secured by deed of trust on 200 acres of unimproved property at Great Bridge, Chesapeake, Va.	35,000.00
Real Estate: consisting of residence at 316 North St., Portsmouth, Va.; one-half interest in service station at Gosport Rd., Portsmouth, Va.	35,000.00
Tangible personal property in Portsmouth home and rented home in Alexandria, Va., estimated	11,000.00
1968 Ford station wagon, Country Squire	1,000.00
Notes receivable and accounts receivable, estimate	5,500.00

LIABILITIES

Note at First National Bank of Norfolk, Norfolk, Va.	19,600.00
Note at American National Bank, Portsmouth, Va.	4,000.00
Mortgage on home in Portsmouth, Va., at Norfolk Federal Savings & Loan Association	8,102,00

These figures disclose a net worth of approximately $130,100.01.

The foregoing, Mr. Secretary, I attest as being a true and accurate statement of the financial holdings and liabilities of my wife and myself.

Yours very truly,

WILLIAM B. SPONG, Jr.

Enclosure.

SCHEDULE A

Stocks:	*Number of Shares*
Fidelity American Bankshares, Inc.	2,220
Old Town Corporation	15
Cedar Point Club	1

S. 349—INTRODUCTION OF A BILL PROVIDING FOR THE ROBERT S. KERR NATIONAL WATER RESOURCES LIBRARY

Mr. HARRIS. Mr. President, over the past several years, water resources experts and conservationists in Oklahoma and elsewhere have helped me in bringing this bill from the stage of an idea to the level of a positive proposal. It is with a particular sense of purpose which I propose this project, for it will not only aid in conserving one of our great natural gifts, but will also be a working memorial to the man who did so much for conservation during his lifetime—Senator Robert S. Kerr.

I will not take time to recount the grave predictions that have been made about the need to act on our water problems. The threat this year of water rationing in this, the Federal City, should be reminder enough. Yet, we must remember further that this need is much broader than the much talked-about crisis of water pollution and includes issues which range over the areas of law, medicine, desalination, soil conservation, and water distribution. The attack must be as broad as the problem.

At the present time, I am shocked to discover, there is no one place to which researchers can turn for a complete and comprehensive water resources library. Surely Lake Erie and the Potomac River are the stagnant and polluted progeny of too narrow a view of the water problem. With each passing year the problem mushrooms while our response stagnates along with our lakes. Soon it will not be merely the experts, the journalists and people who must live near pollution that complain—we must all drink the water. We can act on this broad front before the crisis has turned into a tragedy.

The water resources library provided for in this bill should be, first of all, in the vicinity of a diverse community of scholars who may enrich and be enriched by the work of this library. Second, and of equal importance, this library must augment an institute which has already made an aggressive commitment to this problem. Ada, Okla., the home of East Central State College and one of the four national water resources laboratories in the country, will serve as a dynamic nucleus for the utilization of the Robert S. Kerr National Water Resources Library. The research personnel are already there and more will come to make use of more powerful tools in this cause.

I urge all speed in this bill's consideration. We cannot proceed too quickly to build something we have always needed.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 349) to provide for a Robert S. Kerr National Water Resources Library at Ada, Okla., introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 350—INTRODUCTION OF THE AMERICAN FORESTRY ACT OF 1971

Mr. HATFIELD. Mr. President, today I introduce a bill that would provide a program of incentives for reforesting many of our public and private lands, and I ask unanimous consent that the bill be referred to the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER (Mr.

CHILES). The bill will be received; and, without objection, will be referred as requested.

The bill (S. 350) to authorize the Secretary of the Interior and the Secretary of Agriculture to institute programs designed to reforest and restore the quality of public and private forestlands; to enhance and expand recreational opportunity on such lands; to provide financial incentives to improve management of State and private forestlands; to establish a Federal Forestlands Management Fund; to facilitate public participation in Federal resource management; and to enhance the quality of the environment and the resources of the public lands, introduced by Mr. Hatfield, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs, by unanimous consent.

Mr. HATFIELD. Mr. President, we are facing in this country an increasing demand for the uses of our forest lands. More recreation areas are needed for a rising population which must have the opportunity to enjoy a quality forest environment. We must also insure that enough timber will be available to meet our critical housing needs. The President's Cabinet Committee Task Force on Softwood Lumber and Plywood reported last year that—

> A substantial increase in the supply of softwood timber products will be needed to meet the nation's growing requirements especially in order to obtain our goal of providing adequate housing for all our people by the end of this decade.

Over one-half of the forest lands in the United States is in privately held small ownerships. I believe that these small nonindustrial tracts of lands provide the key to meeting our recreation and housing needs. Last July, I announced that I would introduce the American Forestry Act of 1971 in this session of Congress, providing an incentives program for the reforestation of small State and private forest land tracts and a plan for more intensive management of Federal forestlands. A working draft of the legislation was widely circulated among State foresters, professional foresters, industry officials, government officials, recreation groups, and academicians. Many comments were received. All recommendations were carefully studied and some were incorporated into the legislation. In addition, the recommendations of 12 Southern States in "The South's Third Forest" and of the Forest Service in "A Forestry Incentives Program for the Seventies" were carefully considered and the revised legislation reflects the common goal of bringing the non-Federal, nonindustrial forest lands into use for recreation and for timber harvesting.

We must also intensify timber management practices on Federal forestlands in a manner consistent with good environmental practices. To this end, my legislation includes provisions for a Federal forestland management fund. This fund would include receipts from Federal timber sales, and expenditures would be authorized for reforestation, improvement of timber management, improvement of the quality of the environment and forestland research, consistent with the principles of multiple use on our national forestlands.

Mr. President, today I am introducing the American Forestry Act of 1971, a bill to authorize the Secretary of the Interior and the Secretary of Agriculture to institute programs designed to reforest and restore the quality of public and private forestlands; to enhance and expand recreational opportunity on such lands; to provide financial incentives to improve management of State and private forestlands; to establish a Federal forestlands management fund; to facilitate public participation in Federal resource management; and to enhance the quality of the environment and the resources of the public lands.

Mr. President, the bill I propose today will respond directly to the goals outlined by President Nixon in his state of the Union address.

The incentive forestry provision in this legislation will bring parks to the people—and bring them where they are most needed—near the urban centers of our Nation. This provision will provide the inducement private landowners need to plant their land to trees. As these trees mature the forests they create will be available for recreational purposes.

The American Forestry Act is specifically designed to reverse the flow of power to Washington. Under this proposal the States are required to develop the plans and administer the programs. The Federal role is to establish guidelines and provide matching funding. This approach, I believe, is on center with the President's call for returning the power to the people.

As much a part of our environment as the water we drink and the air we breathe, is the place in which we live. I believe all Americans are entitled to decent housing. This deficiency in our Nation's overall balance is one of the most serious blights upon our economic and environmental landscape. To meet these housing needs we must have lumber—lumber in great quantities. Fortunately, we can meet this need without destruction of our forests—without the destruction of our environment—rather, with the enhancement of each, merely by growing more trees.

This legislation represents what is needed to provide for our housing and recreation needs. I am hopeful that this Congress will act favorably upon it.

The cosponsors will be added at a later time.

S. 364—INTRODUCTION OF THE "FLAMMABLE FABRICS ACT AMENDMENTS OF 1971"

Mr. MOSS. Mr. President, on behalf of myself and Senators MAGNUSON, PEARSON, HARTKE, HART, INOUYE, and HATFIELD, I introduce for appropriate reference a bill to strengthen enforcement of the Flammable Fabrics Act and to authorize appropriations for fiscal years 1971, 1972, and succeeding fiscal years in order to carry out the purposes of the act.

The bill which we are introducing was passed by the Senate in the 91st Congress. In June of 1970 the Consumer Subcommittee of the Senate Commerce Committee, which I chair, held 3 days of oversight hearings on the Flammable Fabrics Act to explore why the act had been tardy in its implementation and ineffectual in its enforcement. On the basis of those oversight hearings, the committee reported a bill providing for increased authorizations and offering amendments to the enforcement provisions of the Flammable Fabrics Act. Because affected industries subsequently ask for an opportunity to comment on the specific amendments reported by the committee and because the distinguished ranking minority member of the Commerce Committee requested the opportunity for public hearings, the Consumer Subcommittee held further hearings on the proposed legislation in August of 1970. On the basis of these hearings, the committee proposed an amendment in the nature of a substitute to the bill as reported. This amendment was introduced by Senator COTTON on behalf of Senator MAGNUSON and myself. The bill, as amended, was then passed by the Senate. It is that Senate-passed bill which I offer today.

The bill authorizes to be appropriated a sum not to exceed $9 million for a period beginning July 1, 1970, and ending June 30, 1972, to carry out the provisions of the Flammable Fabrics Act, as amended. In addition to extending and increasing the authorization, the bill amends the Flammable Fabrics Act in order to provide for better enforcement. These enforcement amendments require a manufacturer to certify that a product, fabric, or related material offered for sale meets the requirement of any applicable standard or any other regulation. Such certification is to be based on a reasonable testing program conducted by the manufacturer or importer which has been approved by the Secretary of Commerce in accordance with the procedures established in the bill.

The bill also aids enforcement by augmenting the penalty section of the Flammable Fabrics Act. Any person who knowingly violates the act shall be guilty of a felony and upon conviction shall be fined not more than $10,000 and imprisoned not more than 3 years, or both. The bill also provides that a person who violates the act without knowledge shall be guilty of a misdemeanor and upon conviction shall be fined not more than $10,000 and imprisoned for not more than 1 year or both unless he can establish that he exercised due care in the application of an approved testing program and that such application disclosed that the product, fabric, or related material was in conformity with applicable standards of flammability. Finally, the bill imposes civil penalties not to exceed $10,000 for each violation of the Flammable Fabrics Act. However, no person shall be civilly fined if he can establish that he exercised due care in the application of an approved testing program and that such application disclosed that the product, fabric, or related material was in conformity with applicable standards of flammability.

In my opinion, there is urgent need for this legislation. We need law and

order in the marketplace as well as in the street. Unfortunately, the law regulating the flammability of fabrics has not been speedily implemented. And in those areas where flammability standards have been set, there is questionable order or adherence to law. For example, the Federal Trade Commission reported that within a 6-month period its compliance program disclosed more than 100 violations of even the most minimum flammability standards, and many of these violations involved imported products. The proposed enforcement amendments in the bill we are introducing today will assure order by requiring manufacturers to establish reasonable testing programs to insure that their products meet the applicable flammability standards and by providing strong criminal sanctions if the flammability standards are violated. These provisions would reach not only the foreign manufacturer but also the importer of any product or fabric manufactured abroad.

Because the implementation of the law and adherence to it depends upon dedicated Government action, it is incumbent that Congress provide the executive departments with sufficient funds to meet their responsibilities under the Flammable Fabrics Act. In oversight hearings the Senate Commerce Committee ascertained that the $6 million authorization requested by the administration was insufficient. On the basis of detailed accounts of expenditure plans for fiscal years 1971 and 1972, it was learned that at least $9 million in fiscal years 1971 and 1972 would be required to implement properly the Flammable Fabrics Act. Therefore, the bill we are introducing today provides not only for better enforcement of the act, but insures its implementation by authorizing the expenditure of $9 million.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 364) to strengthen enforcement of the Flammable Fabrics Act and to authorize appropriations for fiscal years 1971, 1972, and succeeding fiscal years in order to carry out the purposes of the act, introduced by Mr. Moss (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Commerce.

S. 365—INTRODUCTION OF A BILL TO AUTHORIZE THE ESTABLISHMENT OF THE FLORIDA FRONTIER RIVERS NATIONAL CULTURAL PARK

Mr. GURNEY. Mr. President, today I am pleased to announce that my colleague, the distinguished Senator from Florida (Mr. CHILES), and I, are introducing a bill to authorize the establishment of the Florida Frontier Rivers National Cultural Park.

Our country has finally awakened to the scandalous condition of our air, land, and water. In these days as we are trying to clean up an environment already damaged by abuse and neglect, it gives me great pleasure to join in sponsoring legislation intended to preserve the beauty and historic setting of three of Florida's most important rivers before they become industrialized and overdeveloped.

Along the three rivers—the St. John's, the Nassau, and the St. Mary's—we can find a great deal of Florida's heritage. It was along these rivers that the Spanish first fought the Indians to establish America's oldest permanent colonial city, St. Augustine. It was here that two battles which figured prominently in the southern campaign of the American Revolution were fought, at Thomas Creek and Alligator Bridge. These were the southernmost battles of our war for independence. Here is Kingsley Plantation, a relic of Florida's gentle southern hospitality.

But these significant historical sites, which hold so much meaning for Florida and America, make up only a portion of this proposed park. This bill is also intended to preserve the indescribable beauty of the Florida wilderness: the palm and palmetto, cypress, Spanish-moss, and wild hibiscus and oleander.

Surely this is a most richly endowed part of America. Let us keep it untouched and lovely as a national park, to be shared and enjoyed by all of us. In his state of the Union message, the President stated that we must have as a national goal the creation of a national park system that will serve the needs of future Americans, and that the time to begin was now while it is still possible. This legislation is consistent with that aim and that resolve. It deserves our attention.

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

The bill (S. 365) to authorize the establishment of the Florida Frontier Rivers National Cultural Park, and for other purposes, introduced by Mr. GURNEY (for himself and Mr. CHILES), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

Mr. CHILES. Mr. President, I am very happy to join with my distinguished fellow Senator from Florida (Mr. GURNEY) in sponsoring a bill to authorize establishment of the Florida Frontier Rivers National Cultural Park.

I have long been deeply concerned that our natural and historical wonders would be lost forever in the maze of residential, business, and industrial development that is engulfing our country and am, therefore, extremely pleased to join in introducing legislation that will preserve in Florida an area of scenic, natural, ecological, and scientific significance before such development can take place.

The area proposed for the park will focus on three estuarine rivers—the St. Johns, the Nassau, and the St. Marys—in three Florida counties—Nassau, St. Johns, and Duval. It is in the interest not only of Florida but of the Nation as a whole that we preserve the natural wonders of the area, as well as the historic values since this is the southernmost site of battles of the American Revolution.

If we are to protect our environment, if we are to preserve some of our natural wonders for public enjoyment, inspiration, and scientific study, we must move expeditiously and aggressively. Time is our enemy. This is a unique opportunity, and I urge concerned consideration of this legislation.

S. 366 AND S. 367—INTRODUCTION OF BILLS RELATING TO U.S. MARSHALS

Mr. STEVENS. Mr. President, I am introducing, for appropriate reference, two bills relating to the marshals in service of our Government. The first of these bills will provide that U.S. deputy marshals are provided with a minimum grade of GS–7 and further provides for steady advancement up to the grade of GS–10 up to a period of 5 years of satisfactory service. The second of these bills provides that U.S. marshals shall be appointed by the Attorney General of the United States.

It is my strong feeling that these two bills are necessary to continue to attract the quality of men who should be in the service of our country as marshals and to further provide that there is a continuity of service in these very important positions. I ask unanimous consent that both of these bills be printed immediately following my remarks.

The PRESIDENT pro tempore. The bills will be received and appropriately referred; and, without objection, the bills will be printed in the RECORD.

The bills (S. 366) providing for minimum grades for U.S. deputy marshals under chapter 51 of title 5, United States Code; and (S. 367) relating to the appointment of U.S. marshals, introduced by Mr. STEVENS, were received, read twice by their title, referring to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 366

A bill providing for minimum grades for United States deputy marshals under chapter 51 of title 5, United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The position held by an employee as a deputy marshal shall be classified at a grade not lower than—

(1) in the case of a new employee as, GS–7

(2) in the case of an employee who has completed one year's satisfactory service as a deputy marshal, GS–8

(3) in the case of an employee who has completed three years' satisfactory service as a deputy marshal, GS–9, and

(4) in the case of an employee who has completed five years of satisfactory service as a deputy marshal, GS–10.

S. 367

A bill relating to the appointment of United States marshals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 561(a) of title 28, United States Code, is amended to read as follows:

"(a) The Attorney General shall appoint a United States marshal for each judicial district."

(b) Section 561(b) of such title is repealed.

(c) Section 565 of such title is repealed.

(d) The sectional analysis at the beginning of chapter 37 of such title is amended by striking out item 565.

SEC. 2. (a) Section 24(b) of the Organic Act of Guam, as amended (64 Stat. 390; 48 U.S.C. 1424(b)), is amended to read as follows:

"(b) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for Guam to whose office the provisions of chapter 35 of title 28, United States Code, shall apply."

(b) Section 24 of such Act is further amended by adding at the end thereof a new subsection (d) as follows:

"(d) The Attorney General shall appoint a United States marshal for Guam to whose office the provisions of chapter 37 of title 28, United States Code, shall apply."

SEC. 3. (a) Section 45(a) of title 3 of the Canal Zone Code is amended to read as follows:

"(a) The Attorney General shall appoint a United States marshal for the district of the Canal Zone to whose office the provisions of chapter 37 of title 28, United States Code, shall apply, except as otherwise provided in this Code."

(b) Section 45(b) of such title is repealed.

(c) Section 45(e) of such title is amended to read as follows:

"(e) The appointment and tenure of deputies and clerical assistants of the United States marshal are subject to section 562 of title 28, United States Code."

(d) The caption of section 45 of such title is amended to read as follows:

"§ 45. Appointment, leave, and residence of United States marshal; deputies and assistants".

(e) Item 45 in the sectional analysis preceding section 1 of such title is amended to read as follows:

"45. Appointment, leave, and residence of United States marshal; deputies and assistants."

SEC. 4. A United States marshal serving under a Presidential appointment on the date of enactment of this Act shall be covered into the competitive service under title 5, United States Code, upon passing such suitable noncompetitive examination as the Civil Service Commission may prescribe.

S. 368—INTRODUCTION OF A BILL RELATING TO OVERTIME CUSTOMS FOR STATE-OWNED FERRIES

Mr. STEVENS. Mr. President, today I am introducing a bill to amend the Tariff Act of 1930. This bill passed the Senate last year as an amendment to other legislation but failed to pass the other body. The act provides that the operators of ferries shall be exempt from compensating the Customs Service for overtime pay to customs employees necessitated by service to ferries that operate on regular schedules at intervals of at least 1 hour. This provision is made in conjunction with the exemptions for service to the operators of tunnels, bridges, and highway vehicles. It seems clear that this provision is designed to aid in the operation of State-owned highway facilities for public service at points of entry into the United States.

The Tariff Act does not take into account the special circumstances of a noncontiguous State, such as Alaska. The ferries operated by the State of Alaska in its marine highway system are operated as a public service in much the same manner as bridges, tunnels, highway vehicles, and ferries are operated at other points of entry into the United States. Unlike other border service areas, the distance between points is great, yet the volume is not large enough to permit or require hourly service. Nonetheless, the service provided by the Alaskan marine highway is done on a regular schedule. The wording of the present law discriminates against operations between noncontiguous States and foreign nations merely because the existing law did not envision the admission of Alaska and Hawaii to the Union. The bill I am introducing today will correct this inequity and extend the level of Federal-State cooperation to the noncontiguous States.

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

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 368) to exempt certain State-owned passenger vessels from the requirement of paying for overtime services of customs officers and employees, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended—

(1) by inserting "(1)" after "shall mean" in the last sentence, and

(2) by inserting before the period at the end of the last sentence the following: ", and (2) a passenger service (including the service of transporting automobiles of passengers) operated with the use of vessels which are owned by a State and which arrive in the United States on regular schedules".

(b) The amendment made by subsection (a) shall take effect on the first day of the first month which begins after the date of the enactment of this Act.

S. 369—INTRODUCTION OF A BILL REQUIRING NOTICE OF HEARING PRIOR TO LEVY UPON THE SALARY OR WAGES OF AN INDIVIDUAL

Mr. STEVENS. Mr. President, it has come to my attention that on several instances, the Internal Revenue Service has acted with undue haste, perhaps inadvertently, in attaching wages and salaries of taxpayers.

I will give one example. An inquiry arose concerning a 1964 tax return. The taxpayer claimed he had already paid a deficiency the IRS said was still owed. The IRS notified the taxpayer that the question of payment was being looked into. The next thing the taxpayer knew, his salary was attached. Fortunately, this particular taxpayer did not suffer any adverse consequences as a result, but in many instances employers take a sufficiently dim view of having an employee's salary attached by the IRS that the employee may lose his job.

Because of the severe consequences that can flow from an attachment of an employee's salary or wages, I am today introducing legislation which will require the IRS to notify the delinquent taxpayer and offer him an opportunity to be heard before attachment can be made. This will assure that the taxpayer has an opportunity to assess the particular action the IRS is about to take and to make his case before the employer receives notice of attachment. An exception is provided in cases where the Secretary or his delegate determine that the collection of the tax is in jeopardy.

This extra precaution on the part of the IRS is necessary to assure that a taxpayer does not suffer an unjust and undeserved consequence, but instead has the chance to argue that the proposed attachment is unwarranted or unnecessary.

I introduced identical legislation on April 30, 1970, and I am hopeful that hearings can be held at an early date on this legislation.

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

The bill (S. 369) to amend the Internal Revenue Code of 1954 to require notice and hearing prior to levy upon the salary or wages of an individual, introduced by Mr. STEVENS, was received, read twice by its title, and referred to the Committee on Finance.

S. 370, S. 371—INTRODUCTION OF BILLS RELATING TO THE PRESIDENT'S AWARDS FOR POLICEMEN AND FIREMEN

Mr. STEVENS. Mr. President, phenomenon of dedicated and hard-working law enforcement officials being the object of ridicule and venom appears to be passing. Daily, these dedicated men and women risk their lives to make us all a little safer and a little more secure.

During the last Congress, I introduced legislation which would establish the President's Award for Distinguished Law Enforcement Service. This legislation passed the Senate but failed to survive conference. I also introduced legislation for creating a medal of honor for firemen.

I am confident that these bills reflect the feeling of the majority in this body and accordingly, have reintroduced both of them today.

I asked unanimous consent that they be printed in the RECORD in their entirety immediately following my remarks.

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

The bills, introduced by Mr. STEVENS, were received, read twice by their titles, referred as indicated, and ordered to be printed in the RECORD, as follows:

S. 370

A bill to establish the President's Award for Distinguished Law Enforcement Service; to the Committee on the Judiciary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Distinguished Law Enforcement Service Act".

SEC. 2. There is hereby established an honorary award for the recognition of outstanding service by law enforcement officers of State, county, or local governments. The award shall be known as the President's Award for Distinguished Law Enforcement Service. Each award shall be suitably inscribed and an appropriate citation shall accompany each award.

SEC. 3. The President's Award for Distinguished Law Enforcement Service shall be presented by the President, in the name of the President and the Congress of the United States, to law enforcement officers, including corrections officers, for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement.

SEC. 4. The Attorney General shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing this function, the Attorney General shall review recommendations submitted to him by State, county or local government officials, and shall decide which of them, if any, warrant presentation to the President. The Attorney General shall transmit to the President the names of those persons determined by the Attorney General to merit the award, together with the reasons therefor. Recipients of the award shall be selected by the President.

SEC. 5. There shall not be awarded in any one calendar year in excess of twelve such awards.

SEC. 6. The Department of Justice shall list in its annual budget request a sum of money equal to that necessary to carry out the provisions of this Act.

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) a medal to be known as the Medal of Honor for Firemen is hereby created. The President is authorized to award such a medal each year to one fireman from each State. Each recipient of a medal shall be selected by the Governor of the State in which the recipient serves.

(b) The medal shall bear the inscription "Salvere Servi" and such devices and emblems, and be of such material, as may be determined by the Secretary of the Treasury, who shall cause the medal to be struck and furnished to the President.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 372—INTRODUCTION OF THE HEALTH PROFESSIONS ASSISTANCE AMENDMENTS OF 1971

Mr. CRANSTON. Mr. President, I introduce today, for myself and Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare, for Senator KENNEDY who will become chairman of the Health Subcommittee, and for Senators EAGLETON, HUGHES, JAVITS, and NELSON, a bill to "amend title VII of the Public Health Service Act to meet the need for additional personnel in the health professions by encouraging and assisting disadvantaged individuals to pursue training designed to prepare them to engage in the practice of such professions, and for other purposes." Its short title would be the "Health Professions Assistance Amendments of 1971."

In this, the 92d Congress, we face the challenge of providing adequate health care to all the citizens of this Nation. I am hopeful that before this Congress adjourns, we will have enacted laws providing a comprehensive program of health insurance, measures designed to substantially increase the number of health professionals and paraprofessionals being trained, and other legislation to significantly improve the distribution and provision of health services throughout the Nation. I have cosponsored S. 3, the Health Security Act of 1971, on January 25, 1970, by Senator KENNEDY and 22 other Senators of both parties.

The purpose of this legislation is to make important improvements in the health professions student loan and scholarship programs, to encourage greater representation of the educationally and economically disadvantaged in the health professions, and to provide incentives for health professionals assisted through Federal student loans to practice in urban and rural poverty areas.

I first introduced this bill (S. 4296) in the second session of the 91st Congress, on August 27, 1970. Hearings were held on this proposal, S. 4296, on August 28, 1970.

Organizations which expressed their support for this measure at the hearings include the following:

Student American Medical Association, Association of Schools of Public Health, National Medical Association Foundation, National Dental Association, American Osteopathic Association, American Association of Colleges of Pharmacy, American Pharmaceutical Association, American Optometric Association, American Association of Colleges of Podiatric Medicine, American Veterinary Medicine Association, and the Association of American Veterinary Medical Colleges.

Letters of support and encouragement on this legislation have also been received from the following medical schools in California: University of California, San Diego; University of California, San Francisco Medical Center; University of California, Davis; and the University of California, Los Angeles.

In the months which have passed since it was introduced, the need has grown, rather than diminished.

We face a critical shortage of health professionals in the United States today, including an estimated 50,000 physicians and 9,000 dentists. Adequate health care is simply not available to millions of Americans. And this inadequacy is the result not only of a poorly functioning delivery system but also of shortages in various critical categories of health manpower.

In December 1968, the report of the Carnegie Commission on the future of higher education recommended "a substantial program of Federal aid for medical education" in order to increase the supply of medical school graduates in response to the Nation's rapidly growing need for medical services. Unfortunately, since that time, Federal support for medical education has not expanded at a pace adequate to meet the need.

An important facet of the overall shortage of health professionals is the disproportionately low representation of minority groups in such professions; their representation falls far short of the proportions which such groups represent in the population as a whole. For example, although blacks make up 11.2 percent of our population, only 2 percent of the medical profession is black. There are only 6,000 black physicians in the entire Nation; one out of every 560 whites is a physician while the rate for blacks is one out of every 3,800. Although comparable nationwide data is not available, the representation of Chicanos, Indians, and those of oriental descent is estimated to be even lower proportionately. For example, although the most recent estimates indicate that Chicanos comprise approximately 13 percent of the total population in the southwestern States, Chicanos comprise only 1 percent of the medical student bodies in those States.

An October 1970 report by the Carnegie Commission on Higher Education stresses the need to train minority group health professionals:

> The need to train more minority-group physicians and destists is crucial. They can play a leadership role in stimulating more emphasis on adequate health care services and health education for minority groups, and they can undoubtedly relate to patients of their own races more effectively than white practitioners.

The unequal representation of minority students in the health professions is due in large part to two things: the lack of effective counseling to encourage and assist minority students to enter the health professions, and the inadequacy of existing financial aid programs to provide assistance at levels which would enable the disadvantaged to meet the enormous, exploding costs of undergraduate and graduate education in the health professions.

The shortage of health professionals is most apparent and most unfair among the poor, for whom the lack of decent medical care is a serious and growing problem. It is estimated that 10 million persons in this country receive no medical care and for another 20 million the care is substandard and minimal. One reason for the appalling lack of adequate health care among the poor—both rural and urban—is the shortage of health professionals in general. Another is the severe economic disadvantages for any health professional choosing to serve in a low-income community. Poverty areas offer neither the prestige nor the economic rewards attainable in suburban or midcity areas. Thus, not only are the disadvantaged deterred from following careers in the health professions by the prohibitive cost of the many years of schooling required, but those who do manage to become doctors, dentists or other health professionals are prevented from practicing in a poverty area by the necessity of repaying educational debts.

Many young health professionals—black, white, or brown, disadvantaged or not—who would otherwise find a worthy outlet for their idealism, energy and social commitment working in a poverty area find it is simply economically impossible to do so. So these professionals go into practice elsewhere, or they go into research, and the health needs of the poor go unmet.

An important new initiative in this area—which the bill I am introducing would complement and enlarge upon—is the health manpower development program of the National Urban Coalition. This program is aimed at increasing the supply of doctors, dentists and other health providers in poverty areas, under a $2 million grant made last summer by the Office of Economic Opportunity. In announcing the new program, John W. Gardiner, chairman of the coalition and former Secretary of Health, Education, and Welfare, said:

> There is a particular need to recruit more minority groups into the health professions. In the United States today, only two percent of our physicians are black. Many more members of the minority communities, not only black but Mexican-American and Puerto Rican, would like to pursue careers in health. Such opportunities are almost wholly dependent on the provision of adequate financial support. I cannot emphasize that point too strongly.

In order to assist disadvantaged students to enter the health professions, and to make other improvements in health professions student assistance programs, the bill proposes a number of important changes in the health professions loan and scholarship programs. These changes would benefit all students in need of financial assistance. The loan program, which expires in fiscal year 1971, would be extended through fiscal year 1977. The fiscal year 1972 authorization would be $45 million. The authorization for fiscal year 1973 would be $55 million with increases of $5 million for each of the next 4 fiscal years. The student loan maximum would be increased from $2,500 to $3,500 per year for all students. Estimates given to me by medical schools in California are that present student costs average about $6,000 per year and are expected to increase substantially over the next several years. The combination of a $3,500 loan, and a $2,500 scholarship authorized under present law, would, therefore, just about cover average costs at these schools right now. However, there are many schools where costs are higher than $6,000 per year, and that figure does not include the added expenses for married students with dependents.

For those who are educationally or economically disadvantaged due to socioeconomic factors, the maximum loan would be increased to $7,000 per year. A recent report to the Inter-Association Committee on Expanding Educational Opportunities in Medicine for Black and other Minority Students, by a task force of the American Association of Medical Colleges, concluded:

> The main barrier today for minority students is the inadequacy of financial aid. Coincident with increasing enrollment of minority students in medical schools, federal government and other sources of funds have been decreasing. The need is urgent for reversing this trend and establishing better mechanisms for utilizing available funds.

Another feature of the bill is a broadening of present loan forgiveness provisions. Under existing law, indebtedness on health professions loans is forgiven at the rate of only 15 percent for each year of practice in a rural poverty area. The bill recognizes the need to provide greater encouragement for health professionals to practice in areas where the need is greatest, including both urban and rural poverty areas. Under the bill, loans would be forgiven, up to the full amount of the loan plus accrued interest, at the rate of 33 percent for each year in which a physician, dentist or optometrist practices in either an urban or rural poverty area. This provision for total loan obligation cancellation over 3 years would make cancellation for the first time an attractive alternative to private practice as a means of paying off a student loan.

In addition, in order to provide a greater inducement for medical and other health professions schools to admit larger numbers of disadvantaged students, the scholarship formula would be revised to provide substantial additional assistance to such schools based on the number of such students they enroll. Under present law, this formula is $2,000 times 10 percent of the full-time student population; that is, the school's scholarship fund receives $200 for each student enrolled. The bill would authorize an additional $2,500 to the scholarship fund based on each full-time student who is disadvantaged—as defined in the Outreach program which I will discuss next. The maximum individual scholarship for such disadvantaged students would be increased from $2,500 to $5,000, and the scholarship program would be extended through fiscal year 1977.

Finally, the bill would add a new part H to title VII of the Public Health Service Act to provide for grants and contracts to schools and other public or nonprofit organizations for the purpose of identifying, encouraging, and assisting disadvantaged individuals with a potential for education or training in the health professions. Specifically included are those returning veterans with training or experience in the health field. Individuals would be assisted in enrolling, or in qualifying to enroll, in post-secondary education or training, including health professions schools. The Outreach program would also provide for broad dissemination of information on sources of financial aid available for such postgraduate or postsecondary education and training.

To this extent, the bill's outreach provisions are similar to those contained in section 204 of the Health Training Improvement Act of 1970, Public Law 91–519, enacted November 2, 1970. However, our bill goes further and specifically would authorize the Secretary to fund such other programs as he determines would enhance the enrollment, pursuit, and completion of study by such disadvantaged persons once they are enrolled in medical and other health professions schools.

The bill would authorize appropriations of $5 million for fiscal year 1972 and $40 million over the next 4 fiscal years for this Outreach and special assistance program.

This Outreach concept was recommended in the AAMC report on expanding minority student opportunities in the health professions, to which I referred earlier. The report called for a network of regional centers to provide information about career opportunities for disadvantaged students in the health professions. Such a program, the report stated, would serve a vital motivational purpose in encouraging and assisting qualified disadvantaged students who were pursuing or considering education and training in the health professions. The fact is that many, many disadvantaged persons who could be effectively educated and trained for vital health professional roles never consider this as a viable possibility. This program would seek to change that and make clear the great possibilities which exist for them in this highly critical skill-shortage area.

The new outreach initiative which I am proposing would respond to two of the three major needs identified in the AAMC report: First, recruitment of students into health professions education; and, second, retention of students already in the educational pathway leading to such professions.

Finally, I wish to point out that physicians' assistants would be assisted under the allied health professions programs contained in Public Law 91–519, the Health Training Improvements Act of 1970. Physicians' assistants are specifically recognized in the Senate report on that measure as being one of several new and promising categories of health manpower. Physicians' assistants are not included under this bill which deals only with the more traditional categories of health professionals. However, I strongly believe that the physicians' assistant is a very important new category in the health manpower area, and must be assisted to the maximum possible extent.

As a member of the Labor and Public Welfare Committee's Health Subcommittee, I am deeply involved in the committee's efforts to improve our health care system and to expand our supply of health professionals. Meeting these goals requires increasing our commitment to and our financing of student assistance programs, institutional and special project grants to medical and health professions schools, construction funds and research. However, in expanding and improving these programs, I believe we must give special attention to ways in which they can be utilized to improve educational opportunities for the disadvantaged and to improve health care in our poverty areas.

Although I have emphasized the benefits of this bill to disadvantaged health professions students, I would like to make very clear that this bill is also intended to provide general assistance to health professions schools and students by improving and enlarging the loan and scholarship funds available for all students at all medical and health professions schools.

In regard to general assistance to all medical students and medical schools, the 92d Congress acted wisely and responsibly to provide funds to forestall any schools from closing this year. The Labor-HEW Appropriations Act of fiscal year 1971 (P.L. 91–667) makes appropriations of $124,350,000 for institutional

support, $25,000,000 for direct loans, $15,500,000 for scholarships, and $105,300,000 for construction purposes.

In a letter to the President on January 2, 1971, I joined the distinguished Senator from Massachusetts (Mr. KENNEDY), an outstanding leader in the drive to improve the Nation's health, and five other Senators in urging the full utilization of these funds.

Another example of the effort being made to meet the health professionals crisis is the action being taken by the University of California. The regents recently approved a 10-year plan for substantial expansion of the health sciences of the university.

This bold plan includes increasing the number of physicians produced by the State by 133 percent; nurses by 48 percent; dentists by 87 percent; and pharmacists by 43 percent. It is also planned to enroll and graduate 500 physicians' assistants in the first 5 years.

Initiatives such as this are extremely important, in California as well as all other States. California now trains less than 30 percent of its physicians and 25 percent of its nurses. It is urgent that we move to meet the great demand for health professionals. However, much of the success of plans such as this will rest on the adequacy of Federal support in such areas as student assistance, institutional support, and health facilities construction grants. The importance of maintaining and expanding these vital programs of Federal support has never been greater.

This bill I introduce today is an important element of the general effort we must make to meet the Nation's health crisis, and to reach beyond the chronic problem of too few health professionals.

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

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the analysis will be printed in the RECORD.

The bill (S. 372) to amend title VII of the Public Health Service Act to meet the need for additional personnel in the health professions by encouraging and assisting disadvantaged individuals to pursue training designed to prepare them to engage in the practice of such professions, and for other purposes, introduced by Mr. CRANSTON (for himself and other Senators) was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The material furnished by Mr. CRANSTON is as follows:

ANALYSIS OF S. 372—THE PROPOSED HEALTH PROFESSIONS ASSISTANCE AMENDMENTS OF 1971

I. GENERAL DESCRIPTION

The bill is designed to encourage and assist persons who are financially or educationally disadvantaged because of socio-economic factors to pursue training in the health professions. It would accomplish this by establishing a special outreach program to identify, encourage, and prepare disadvantaged persons to enroll in health professions schools and making grants to those schools once they enroll significant numbers of disadvantaged students. In addition, the present law concerning loans and scholarships for students in the health professions schools would be amended (1) to extend these two programs through fiscal year 1977; (2) to raise the maximum limits on loans for all students and on scholarships for disadvantaged persons; (3) to increase the authorizations of appropriations for the loan program; (4) to provide for substantial increases in the allocation of scholarship funds to schools in direct proportion to the number of disadvantaged students enrolled; and (5) to provide increased incentives for practice in urban or rural poverty areas by providing for full cancellation of student loans in return for three years of practice in those areas.

II. SHORT TITLE

Section 1 gives the Act the short title "Health Professions Assistance Amendments of 1971."

III. HEALTH PROFESSIONS OUTREACH PROGRAM

Section 2 of the bill would add a new Part H to Title VII of the Public Health Service Act. Title VII now includes provisions concerning training of professional health personnel. Part H would establish a new program to identify, encourage, and assist disadvantaged persons to prepare for, enter and complete training in the health professions. Part H consists of one section, 799a. It is analyzed by its three subsections. With the exception of clause (3), which is new, it is similar to the outreach provision contained in section 204, of Public Law 91–519, the Health Training Improvement Act of 1970.

Subsection (a) of Sec. 799a. Clause (1) gives grant and contract authority to the Secretary of H.E.W. to establish, through public and private educational or other agencies, programs to identify potential health professions students who, due to socio-economic factors are financially or educationally disadvantaged. (Veterans with training or experience in the health field are specifically included.) Such individuals would be encouraged and assisted to enroll if qualified, or to undertake such post-secondary work as is necessary to become qualified to enroll, in a health professions school.

Clause (2) specifies that a school's or organization's encouragement and assistance efforts would include publicizing existing sources of financial aid available to persons who are enrolled in health professions schools or are undertaking training necessary to qualify for enrollment in any such school.

Clause (3) of this subsection would provide for grants to or contracts with schools to establish programs which the Secretary determines will enhance and facilitate enrollment, pursuit, and completion of study by disadvantaged persons who are potential health professionals.

Subsection (b) of Sec. 799a. Defines "professional personnel in the health professions" as doctors of medicine, dentistry, osteopathy, pharmacy (or bachelor of science in pharmacy), optometry, podiatry or surgical chiropody, veterinary medicine or graduates of schools of public health. This definition is consistent with other parts of Title VII concerning types of health professions schools to which grants are made for construction, student loans and scholarships.

Subsection (c) of Sec. 799a. Would authorize appropriations for Part H from fiscal years 1972 through 1976. The initial authorization is $5,000,000 for FY 1976, and the authorization is $5,000,000 for FY 1972, and the authorization for each subsequent year is increased by $2,000,000 a year.

IV. STUDENT LOANS

Section 3 of the bill would amend the health professions student loan provisions of Title VII of the Public Health Service Act, 42 U.S.C. 294 a-b.

Loan Levels. Clauses (1) and (2) of subsection 3(a) would increase the present maximum loan level for all students from $2,500 to $3,500 per academic year.

Clause (3) would establish a maximum loan level of $7,000 for disadvantaged students described in the outreach provision (Part H of section 799a).

Cancellation of Loans. Subsection 3(b) of the bill would amend present law which cancels student loan indebtedness incurred by physicians, dentists, and optometrists at the rate of 15 percent for each year of practice in a rural poverty area. The annual rate of cancellation would be raised to 33⅓ percent, and the qualifying geographical areas would be expanded to include urban as well as rural poverty areas. The present provision permitting an additional 50 percent cancellation of the debt for work in a rural area is rephased for clarity.

Student Loan Authorization. Clause (1) of Subsection 3(c) would amend the present student loan authorization section which expires with an authorization of $35,000,000 in fiscal year 1971. The new schedule would begin with a fiscal year 1972 authorization of $45,000,000, rising to $55,000,000 for 1973, and increasing by $5,000,000 each fiscal year thereafter through fiscal 1977.

Clause (2) of subsection 3(c) would advance the dates but retain the present scheme for phasing out the student loan authorizations. For the three fiscal years following the last year's specfic authorization, such sums would be authorized to be appropriated as are necessary to continue to provide loans to students who began their health profession training with a loan under this program.

V. SCHOLARSHIP GRANTS

Section 4 of the bill would (1) amend the present formula for scholarship grants, (2) extend the scholarship grant program through fiscal year 1977, and (3) raise from $2,500 to $5,000 the maximum limit on scholarships in the case of disadvantaged students described in the Outreach Program (Part H of section 799a).

Scholarship Grant Formula. Subsection 4(a) of the bill would change the formula for scholarship grants to schools. The present formula provides a sum equal to $2,000 multiplied by one-tenth of the enrollment, that is, $200 for the scholarship fund based on each student enrolled. This provision would add to the scholarship fund $2,500 based on each disadvantaged student enrolled. It also would extend the scholarship program beyond fiscal year 1971, the last year authorized in present law, to fiscal year 1977.

Scholarship Grant Authorization. Subsection 4(b) and clauses (1) and (2) of Subsection 4(c) provide, comparably to the provisions in section 3(c)(2) of the bill regarding the loan program, for extension of the dates of the scholarship program and for a gradual phasing out of the grants to ensure that a student who began his training with a scholarship may be assisted through to completion.

Scholarship Limit Raised. Clause (3) of Subsection 4(c) would increase the maximum scholarship which can be awarded during a school year from $2,500 to $5,000 in the case of disadvantaged students.

The bill (S. 372) is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Professions Assistance Amendments of 1971".

SEC. 2. Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR THE HEALTH PROFESSIONS

"SEC. 799B. (a) To assist in meeting the need for additional professional personnel in

the health professions (as defined in subsection (b)), the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts (without regard to section 3709 of the Revised Statutes (41 U.S.C. (5)) for the purpose of—

"(1) identifying individuals with a potential for education or training in the health professions (including veterans of the Armed Forces of the United States with training or experience in the health field) who due to socioeconomic factors are financially or educationally disadvantaged, and encouraging and assisting them (A) to enroll in a school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health which is accredited as provided in section 721(b)(1)(B); or (B) if they are not qualified to enroll in such a school, to undertake such postsecondary education or training as may be required to qualify them to enroll in such a school;

"(2) publicizing existing sources of financial aid available to persons enrolled in any such school or who are undertaking training necessary to qualify them to enroll in any such school; or

"(3) establishing such programs as the Secretary determines will enhance and facilitate the enrollment, pursuit, and completion of study by individuals referred to in clause (1) in schools referred to in clause (1)(A).

"(b) For purposes of this part, the term 'professional personnel in the health professions' refers to any of the following—

"(1) doctors of medicine;

"(2) doctors of dentistry or persons holding an equivalent degree;

"(3) doctors of osteopathy;

"(4) doctors of pharmacy or bachelors of science in pharmacy;

"(5) doctors of optometry or persons holding an equivalent degree;

"(6) doctors of podiatry or doctors of surgical chiropody;

"(7) doctors of veterinary medicine or persons holding an equivalent degree; or

"(8) graduates of schools of public health.

"(c) For the purpose of carrying out the provisions of this part, there is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972; $7,000,000 for the fiscal year ending June 30, 1973; $9,000,000 for the fiscal year ending June 30, 1974; $11,000,000 for the fiscal year ending June 30, 1975; and $13,000,000 for the fiscal year ending June 30, 1976."

SEC. 3. (a) Section 741(a) of the Public Health Service Act is amended—

(1) in the first sentence thereof, by striking out "Loans" and inserting in lieu thereof "except as otherwise provided in the succeeding sentence, loans";

(2) in the first sentence thereof, by striking out "$2,500" and inserting in lieu thereof "$3,500"; and

(3) by inserting after the first sentence thereof the following new sentence: "In the case of any student who is an individual referred to in section 799B(a)(1) such loans may not exceed $7,000 for any such student for any such year."

(b) The second sentence of section 741(f) of such Act is amended—

(1) by striking out "15 per centum" and inserting in lieu thereof "33⅓ per centum";

(2) by striking out "a rural area" and inserting in lieu thereof "an urban or rural area"; and

(3) by striking out "an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled" and inserting in lieu thereof "an amount equal to the total amount of such loans plus interest may be canceled".

(c)(1) Effective in the case of fiscal years ending after June 30, 1971, the first sentence of section 742(a) of such Act is amended to read as follows: "There is authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out this part (other than section 744) $45,000,000 for the fiscal year ending June 30, 1972, $55,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, $65,000,000 for the fiscal year ending June 30, 1975, $70,000,000 for the fiscal year ending June 30, 1976, and $75,000,000 for the fiscal year ending June 30, 1977."

(2) the third sentence of such section 742(a) of such Act is amended—

(A) by striking out "1972" and inserting in lieu thereof "1978"; and

(B) by striking out "1971" and inserting in lieu thereof "1977".

SEC. 4. (a) Effective with respect to fiscal years ending after June 30, 1971, the first sentence of section 780(b) of the Public Health Service Act is amended to read as follows: "For the fiscal year ending June 30, 1972 and for each of the next five fiscal years, the amount of the grant under subsection (a) to each such school shall be equal to (1) $2,000 multiplied by one-tenth of the number of full-time students of such school, plus (2) $2,500 multiplied by the number of full-time students of such school who are individuals referred to in section 799B(a)(1)."

(b) The second sentence of such section 780(b) is amended—

(1) by striking out "1972" and inserting in lieu thereof "1978"; and

(2) by striking out "1971" and inserting in lieu thereof "1977".

(c)(1) Section 780(c)(1)(D) of such Act is amended by striking out "two" and inserting in lieu thereof "eight".

(2) Section 780(c)(1)(E) of such Act is amended—

(A) by striking out "1971" and inserting in lieu thereof "1977"; and

(B) by striking out "1972" and inserting in lieu thereof "1978".

(3) The second sentence of section 780(c)(2) of such Act is amended by striking out $2,500" and inserting in lieu thereof "$5,000 (in the case of any student who is an individual referred to in section 799B(a)(1)), or $2,500 (in the case of any other student),".

S. 373—INTRODUCTION OF THE SANTA BARBARA CHANNEL MORATORIUM AND ECOLOGICAL PRESERVE ACT

Mr. CRANSTON. Mr. President, I introduce, for appropriate reference, the Santa Barbara Channel Moratorium and Ecological Preserve Act. I am delighted that I have been joined by the new junior Senator from California (Mr. TUNNEY) as a cosponsor of this bill. In this our first legislative action together, Senator TUNNEY and I hope to have an acceptable solution to the continuing problem of oil pollution in the Santa Barbara Channel.

Tomorrow is the second black anniversary of the blowout beneath platform A which drenched the Santa Barbara Channel with oil.

Two years after the spill, the oil is still leaking beneath platform A.

Mr. President, I believe that it is intolerable that we have been unable to face up legislatively to the need to end the threat of oil pollution in the Santa Barbara Channel.

The proposal I submit today would terminate 38 leases on which no oil has been found. These leases along with all other portions of unsold lease areas in the Santa Barbara Channel would constitute the ecological preserve. The bill would further declare a moratorium on 29 leases until such time as oil could be produced without threat to the environment. The bill would prevent the erection of platforms on the Sun and Union leases where existing platforms are depleting the reservoir from which oil is leaking.

In order to compensate for the leases terminated and to provide interest payments for those leases which have been suspended and on which oil is eventually produced, the act would establish a Santa Barbara Channel account. This account would be funded from increased oil production on U.S. petroleum reserves or other Federal lands excluding lands on the Outer Continental Shelf.

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

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 373) to provide for a Federal ecological preserve in a portion of the Outer Continental Shelf in the Santa Barbara Channel and to provide for a moratorium on drilling operations pending the ability to control and prevent pollution by oil discharges and to improve the state of the art with respect to oil production from the submerged lands, introduced by Mr. CRANSTON (for himself and Mr. TUNNEY) was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Santa Barbara Channel Moratorium and Ecological Preserve Act."

SEC. 2. The Congress finds and declares that—

(1) hazards exist in offshore oil and gas production which present a threat of pollution of coastal waters and, in fact, such pollution has occurred in the Santa Barbara Channel of California;

(2) present drilling and production methods and unsightly drilling rigs constitute an environmental and navigational hazard and a threat to Santa Barbara and its submerged lands sanctuary, including the offshore islands;

(3) energy resources in the form of gas and oil do exist in and under Federal lands in the Santa Barbara Channel, and development of these resources must be weighed against the need to protect our environment; and

(4) There exists the need for a drilling moratorium and for an ecological preserve in the Santa Barbara Channel.

SEC. 3. All rights on the leases listed in this section issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California, are terminated. The United

States shall be vested with all of the right, title, and interest in such leases:

P–0167	P–0212
P–0168	P–0213
P–0169	P–0218
P–0170	P–0219
P–0171	P–0220
P–0172	P–0221
P–0173	P–0222
P–0174	P–0223
P–0175	P–0226
P–0176	P–0227
P–0177	P–0228
P–0178	P–0229
P–0179	P–0230
P–0198	P–0231
P–0199	P–0232
P–0200	P–0233
P–0201	P–0234
P–0206	P–0237
P–0211	P–0238

The area described in said leases and all other lands in the Santa Barbara Channel not described in section 4 or section 9 hereof are hereby deemed and designated a Federal Ecological Preserve. No lands within such Federal Ecological Preserve shall be subject to drilling for or production of oil, gas or other minerals.

SEC. 4. All drilling on the leases listed in this section and issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California, is suspended. Such suspension will remain in effect with respect to each such lease until,

(a) The Secretary of the Interior (hereinafter referred to as the "Secretary") finds and reports to the Congress for it consideration that drilling on such lease can be accomplished without risk of pollution or hazards to navigation, and

(b) The Congress affirmatively concurs in such finding and report.

In no event shall any drilling of any such lease be resumed or commenced sooner than five years from the date of enactment of this Act. The leases are as follows:

P–0180	P–0195
P–0181	P–0196
P–0182	P–0197
P–0183	P–0202
P–0184	P–0203
P–0185	P–0204
P–0186	P–0205
P–0187	P–0207
P–0188	P–0208
P–0189	P–0209
P–0190	P–0210
P–0191	P–0215
P–0192	P–0216
P–0193	P–0217.
P–0194	

SEC. 5. In making the finding required in section 4 with respect to any lease, the Secretary shall insure that—

(1) the characteristics of the specific geological formation to be drilled and produced indicate sufficient stability to allow for drilling and production without the danger of causing oil seepage from the ocean floor;

(2) the technology of the offshore drilling provides the optimum in pollution prevention for the specific geological formation to be drilled;

(3) the drilling and production plan minimizes the ecological hazards and the oil spill containment techniques are adequate for local sea conditions, which findings shall be based upon written recommendations of the Environmental Protection Agency, or successor agency with similar concerns, to which shall be annexed plans of the lessees approved by the U.S. Coast Guard, describing specifically such spill containment techniques;

(4) environmental impact recommendations are filed by appropriate federal agencies or advisory boards in compliance with the reporting requirements of the Environmental Policy Act of 1969;

(5) underwater completion and production techniques have been perfected and will be used so that no apparatus is visible above the surface of the water;

(6) the location of the drilling site offers no navigational hazards;

(7) public hearings on these matters are held in Santa Barbara, California.

SEC. 6. The Secretary, after review, approval, and certification by the Department of Justice, is authorized, consistent with the terms of section 7 of this Act, to negotiate and settle all claims for compensation filed by any lessee of such lands for actions taken under section 3 or under section 9 of this Act.

SEC. 7. (a) The holder of any lease terminated pursuant to the Act may bring an action against the United States for the recovery of just compensation for the lease or leases so terminated and such action shall be brought in the Court of Claims as provided in section 1491 of title 28, United States Code, within one year after the date of enactment of this Act. No part of this Act shall be deemed to divest the Court of Claims from determining whether or not the termination of any such lease is legally compensable.

(b) The amount of any judgment in any such action or of any compromise settlement of such action and any interest accruing thereon shall be certified to the Secretary of the Interior by the Department of Justice. There is authorized to be appropriated out of the Santa Barbara Channel account such amounts as may be necessary to enable the Secretary to pay such judgments and compromise settlements concluded pursuant to this section or section 6 and any interest accruing thereon. In the event the funds in the Santa Barbara Channel account are not sufficient to pay any amount so certified and appropriated there is authorized to be appropriated to the Secretary of the Treasury for advance to the Santa Barbara Channel account out of any money in the Treasury not otherwise appropriated such funds as may be necessary for such payments. The Secretary of the Treasury shall be reimbursed for such advances from funds paid into the Santa Barbara Channel account in accordance with this Act, with interest thereon, at such rates as may be determined from time to time by the Secretary of the Treasury.

(c) There is hereby created in the Treasury of the United States a special account which shall be known as the Santa Barbara Channel account from which the Secretary is directed to cause payments to be made in accordance with the provisions of this Act. In order to provide the funds for the Santa Barbara Channel account, the Secretary is directed to offer for sale on the open market under such competitive bidding procedures as he may establish, the United States share of the oil extracted from such United States petroleum reserves or other federal lands as he may designate excluding therefrom any reserve or lands on the Outer Continental Shelf, pursuant to the provisions of this Act and to pay the funds realized from such sale into the United States Treasury. In each year, sales proceeds equal to the Government's receipts from such reserves or other federal lands during the twelve calendar months immediately preceding enactment of this Act shall be credited to the general fund and the remaining sales proceeds shall be credited to the Santa Barbara Channel account. Any sums remaining in the Santa Barbara Channel account after the payments authorized by subsection (b) have been made shall be transferred to miscellaneous receipts of the Treasury, and thereafter the funds realized under this subsection shall be paid into miscellaneous receipts of the Treasury.

(d) Without regard to the provisions of chapter 641, title 10, United States Code, the United States official invested with authority over such lands as the Secretary may designate in section 4 (c) of this Act is authorized and directed to produce, by means consistent with other federal and state laws, sufficient oil from the designated lands to fulfill the requirement of this Act. Such United States official is also authorized to renegotiate and modify existing contracts relating to production of oil in such manner consistent with other federal and state laws as may in his judgment be necessary or advisable to enable such increased production.

SEC. 8. (a) The Secretary is authorized to extend the primary term of each lease described in section 4 for:

(1) the period of the suspension provided for in section 4 and;

(2) for an additional period equal to the time remaining on the primary term of that lease at the date of enactment of this Act.

During the period of suspension the Secretary shall waive all of the rentals and drilling deferment payments with respect to each such lease. After the period of suspension is terminated and at the time the holder begins to produce oil on its leased property in paying quantities pursuant to the terms of the lease between such holder and the United States of America, the Secretary shall pay interest to such holder on its total investment in such leasehold for each day of the period of the suspension of such lease, at the rate of six per centum per annum. The total investment in a leasehold shall include the bonus payments for the lease and the expenses incurred in successful explorations on that lease before the suspension began, but shall not include expenses incurred for unsuccessful explorations.

(b) All interest payments referred to in subsection (a) shall be appropriated out of the Santa Barbara Channel account (which was created in section 7(c) of this Act.)

SEC. 9. (a) The Secretary is authorized under such terms and conditions as he may prescribe to unitize all or any part of the following described leases issued pursuant to the Outer Continental Shelf Lands Act, in the Santa Barbara Channel, offshore of the State of California, if he finds such action is necessary or desirable to prevent or minimize oil spillage, leaks, or other pollution:

P–0241 P–0240 P–0166

(b) The Secretary shall not permit the erection of any further platforms within the leases described in this section unless necessary to prevent oil leakage, not otherwise contained, and where no other methods are feasible. Before any such platforms are authorized, the Secretary shall comply with requirements of section 5 of this Act.

(c) The Secretary shall provide for and require the orderly removal of all platforms within the leases described in this section when he finds that they can be replaced by underwater drilling or production units which comply with section 5 subsection 5 of this Act.

(d) At such time as the Secretary determines that no further drilling or production is required in leases P–0240 and P–0241 to prevent or minimize oil spillage, leaks, or other pollution, he shall report such fact to Congress.

(e) The Secretary shall terminate and include the lease designated as P–0166 within the Federal Ecological Preserve as provided in section 3 of this Act at such time as the State of California terminates the lease designated as PRC–3150, granted by such State, with respect to adjoining lands in the Carpinteria Oil Field.

Mr. CRANSTON. Mr. President, I ask unanimous consent to insert a statement by Mr. TUNNEY at this point in the RECORD.

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

STATEMENT BY SENATOR TUNNEY

Mr. President, I introduce today, with Senator Cranston, a bill to establish a Federal Ecological Preserve in the Santa Barbara Channel, and to meet an urgent need to deal immediately with a dangerous threat to one of California's beautiful coastal areas.

Tomorrow is the end of the second year during which our Government's policies have permitted the risk of further destruction. Even today, the oil is still leaking into the sea. On this eve of that anniversary, we join in action to protect the Santa Barbara Channel from the despoliation of ocean waters, shorelines and marine life caused by ill-planned oil drilling. The legislation we introduce will also provide a mechanism for fair compensation where loss occurs due to suspended and terminated leases.

On this basis, we can now proceed immediately to protect a vital part of the natural heritage of California which all Americans share. Let us act now to guarantee that the third anniversary of the disastrous blowout near Santa Barbara will be a time of real celebration—not just a reminder of the past.

S. 376—VIETNAM DISENGAGEMENT ACT OF 1971

Mr. McGOVERN. Mr. President, I introduce for myself and for Senators HATFIELD, CRANSTON, HUGHES, BAYH, EAGLETON, GRAVEL, HART, HARTKE, INOUYE, JAVITS, KENNEDY, MONDALE, MOSS, NELSON, PROXMIRE, RIBICOFF, TUNNEY, and WILLIAMS, a bill entitled the "Vietnam Disengagement Act of 1971."

The provisions of this act, which would amend the Foreign Assistance Act of 1961, are similar to those of the Vietnam withdrawal amendment considered in the last Congress.

We offer it in the conviction that it remains an urgently necessary alternative to the Nixon administration's so-called Vietnamization strategy.

The earlier version was defeated in the Senate on September 1, 1970, by a vote of 55 to 39.

What has happened since?

Young Americans continue to bleed and die. And their sacrifice is made all the more painful by the knowledge that it will affect not at all the cause that demands it.

Gradual withdrawals of U.S. forces have continued, with each step raising the risk to those who must remain as the war goes on.

Hundreds of Americans still languish in enemy prison camps with no real hope of release. "Vietnamization" is a policy which, even if it could succeed militarily, would leave those prisoners languishing in prisons into the indefinite future. The administration deplores their plight but ignores the course that would return them and our troops to their homes and families.

It has become increasingly clear that the negotiations in Paris have no chance of producing agreement. That condition will remain so long as we maintain our desire to win goals on the conference table that we have long since foregone on the battlefield. But since the defeat of the McGovern-Hatfield amendment last fall spokesmen for the National Liberation Front and Hanoi have said that if the U.S. Government would declare a definite date for the withdrawal of all our forces, they would immediately begin discussions leading to the release of our prisoners and would pledge a safe exit for our troops. A Gallup poll last fall showed the American people favoring this formula by a 2-to-1 margin.

Yet, we cling still to a South Vietnamese Government which resists reform and practices contempt for the principles that would give it legitimacy.

And while they bear the indecencies of that regime, the South Vietnamese people still bear, too, the devastation of their countryside and the destruction of their lives by weapons that cannot discern between enemy and innocent.

The war has spread farther across Indochina. Cambodia now wears the scars of heavy bombardment, faces economic ruination, and feels the devastation of widening conflict. Activities in that country now confirm precisely what the sponsors and supporters of the Cooper-Church amendment sought to prevent—an American commitment to yet another wobbly Southeast Asian government.

At home our own national economy continues in the most serious recession in a decade. Each month's indicators defy the administration's rose-colored predictions—while the President vetoes national programs to assist recovery and to meet urgent domestic needs.

To win acceptance of its war policy, the administration has discarded vital elements of its own capacity to govern. Daily air missions over Cambodia violate the President's own guidelines. He gives lie to the statements of his own Cabinet officers—Secretary Rogers on Cambodia and Secretary Laird on the Son Tay raid. Invasions are "incursions," failures are "victories," air attacks are "protective reaction," and Vietnam is our "finest hour."

The rhetoric cannot long shield the weakness of a policy mistaken from the beginning. It can only deplete the reservoirs of trust, good will and respect which are essential to effective national leadership. It deprives our society of the moral strength it needs now as much as at any time in our national experience.

We wait in vain for a solution that can save our national face and avoid the pain of admitting our mistake. The removal of any cancer leaves a wound to heal. What intelligent being would ask to keep the cancer instead?

The war corrupts all it touches. We must end it now. We must begin now the redemption of our own society at home and the restoration of wisdom and commonsense in our posture abroad.

This bill is a decisive step toward those goals. The commitment to complete withdrawal of U.S. forces by a date certain can open the way to a political settlement. It offers the one responsible, realistic means of bringing U.S. prisoners home. Within hours after adoption we could expect the negotiating machinery to begin working, probably to produce an immediate ceasefire, possibly to produce an early settlement of differences among the Vietnamese people themselves.

We can hope to achieve no more through continued war.

If it can chart a more hopeful course in Asia, this bill would also define a more responsive government in America.

The framers of our Constitution foresaw a Congress with supreme obligations on issues of war and peace. Only the Congress, they said, can raise and support armies. Only the Congress can declare war. And with those powers, Congress was given an obligation to review its military decisions once every 2 years.

Last year we heard pleas for Presidential flexibility. The President has had it. The war continues. And now, with repeal of the Gulf of Tonkin resolution, there is no longer the slightest vestige of positive congressional authority for U.S participation in the Vietnam war.

It would be difficult indeed to find a Member of Congress who would dispute the need for new attention to the conditions and the procedures for committing American forces to battle. Vietnam has clearly strengthened the resolve of Congress to reexamine its constitutional prerogatives. I suspect that each one of us has made his own individual resolution for "no more Vietnams."

But can we deal only in abstract theories? Why not be relevant to today?

If we worry about the peoples' regard for the Congress, I submit that while we concern ourselves with new procedures to prevent future wars, we ought to be even more anxious to use the procedures set forth in the Constitution to end the war that bleeds our society right now.

There are many reasons to resolve "no more Vietnams."

Let us resolve, then, against this one.

Mr. President, I ask unanimous consent that the text of the "Vietnam Disengagement Act of 1971" be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 376) to amend the Foreign Assistance Act of 1961, as amended, introduced by Mr. McGOVERN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Foreign Relations, as follows:

S. 376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Vietnam Disengagement Act of 1971.

SEC. 2. Congress finds and declares that under the Constitution of the United States the President and the Congress share responsibility for establishing, defining the authority for and concluding foreign military commitments; that the repeal of the Gulf of Tonkin Resolution raises new uncertainties about the source of authority for American involve-

ment in Vietnam; that both the domestic and foreign policy interests of the United States require an expeditious end to the war in Vietnam; that the conflict can best be resolved through a political settlement among the parties concerned; that in light of all considerations, the solution which offers the greatest safety, the highest measure of honor, the best likelihood for the return of United States prisoners and the most meaningful opportunity for a political settlement would be the establishment of a date certain for the orderly withdrawal of all United States armed forces from Vietnam.

SEC. 3. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620 (a) In accordance with public statements of policy by the President, no funds authorized to be appropriated under this or any other Act may be obligated or expended to maintain a troop level of more than two hundred and eighty-four thousand armed forces of the United States in Vietnam after May 1, 1971.

(b) After May 1, 1971, funds authorized or appropriated under this or any other Act may be expended in connection with activities of American armed forces in and over Vietnam only to accomplish the following objectives:

(1) To bring about the orderly termination of military operations there and the safe and systematic withdrawal of remaining American armed forces by December 31, 1971;

(2) To insure the release of prisoners of war;

(3) To arrange asylum or other means to assure the safety of South Vietnamese who might be physically endangered by withdrawal of American forces; and

(4) To provide assistance to the Republic of Vietnam consistent with the foregoing objectives."

INTRODUCTION OF THE VIETNAM DISENGAGEMENT ACT OF 1971

Mr. HATFIELD. Mr. President, one central event has taken place since the Congress last considered legislation requiring a deadline for our withdrawal from Vietnam. The President has signed the repeal of the Gulf of Tonkin resolution. It was that resolution which often had been cited as a positive congressional authorization for our military involvement in Indochina. Its repeal would seem to remove the last vestige of constitutional legitimacy to our war policy. Certainly the President has the constitutional power to protect American troops and to bring them all home; but he is not empowered, in my judgment, to continue a policy involving offensive military operations and leading to a limitless commitment of American forces in Vietnam. Questions are far more than support or opposition to a particular policy are involved here. Fundamentally, we are dealing with the basic meaning of the Constitution, and whether its intentions regarding the balance of powers between the executive and legislative branch in matters of war and peace are to have any real meaning today.

During a televised conversation with three newsmen on July 1, 1970, Howard K. Smith of ABC asked the President about the legal basis of our Vietnam involvement in light of the repeal of the Gulf of Tonkin resolution:

LEGAL BASIS FOR VIETNAM ACTION

Mr. SMITH. Mr. President, one of the things that happened in the Senate last week was the rescinding of the Gulf of Tonkin resolution resolution by the Senate. Mr. Katzenbach, in the previous administration, told the Foreign Relations Committee that resolution was tantamount to a congressional declaration of war. If it is rescinded, what legal justification do you have for continuing to fight a war that is undeclared in Viet-Nam?

The PRESIDENT. First, Mr. Smith, as you know, this war, while it was undeclared, was here when I became President of the United States. I do not say that critically. I am simply stating the fact that there were 549,000 Americans in Viet-Nam under attack when I became President.

The President of the United States has the constitutional right—not only the right but the responsibility—to use his powers to protect American forces when they are engaged in military actions; and under these circumstances, starting at the time I became President, I have that power and I am exercising that power.

LIMITED U.S. OBJECTIVES

Mr. SMITH. Sir, I am not recommending this, but if you don't have a legal authority to wage a war, then presumably you could move troops out. It would be possible to agree with the North Vietnamese. They would be delighted to have us surrender. So you could—What justification do you have for keeping troops there other than protecting the troops that are there fighting?

The PRESIDENT. A very significant justification. It isn't just a case of seeing that the Americans are moved out in an orderly way. If that were the case we could move them out more quickly; but it is a case of moving American forces out in a way that we can at the same time win a just peace.

Now, by winning a just peace, what I mean is not victory over North Viet-Nam—we are not asking for that—but it is simply the right of the people of South Viet-Nam to determine their own future without having us impose our will upon them, or the North Vietnamese or anybody else outside impose their will upon them.

When we look at that limited objective, I am sure some would say, "Well, is that really worth it? Is that worth the effort of all these Americans fighting in Viet-Nam, the lives that have been lost?"

I suppose it could be said that simply saving 17 million people in South Viet-Nam from a Communist takeover isn't worth the efforts of the United States. But let's go further. If the United States, after all of this effort, if we were to withdraw immediately, as many Americans would want us to do—and it would be very easy for me to do it and simply blame it on the previous administration—but if we were to do that, I would probably survive through my term, but it would have, in my view, a catastrophic effect on this country and the cause of peace in the years ahead.

Now, I know there are those who say the domino theory is obsolete. They haven't talked to the dominoes. They should talk to the Thais, to the Malaysians, to the Singaporeans, to the Indonesians, to the Filipinos, to the Japanese, and the rest. And if the United States leaves Viet-Nam in a way that we are humiliated or defeated—not simply speaking in what is called jingoistic terms, but in very practical terms—this will be immensely discouraging to the 300 million people from Japan clear around to Thailand in free Asia; and even more important, it will be ominously encouraging to the leaders of Communist China and the Soviet Union, who are supporting the North Vietnamese. It will encourage them in their expansionist policies in other areas.

The world will be much safer in which to live.

Mr. SMITH. I happen to be one of those who agrees with what you are saying, but do you have a legal justification to follow that policy once the Tonkin Gulf resolution is dead?

The PRESIDENT. Yes, sir, Mr. Smith, the legal justification is the one I have given, and that is the right of the President of the United States under the Constitution to protect the lives of American men. That is the legal justification. You may recall, of course, that we went through this same debate at the time of Korea. Korea was also an undeclared war; and then, of course, we justified it on the basis of a U.N. action. I believe we have a legal justification, and I intend to use it.

The apparent lack of any clear constitutional authority for our actions in Vietnam, and the uncertainties about this fundamental question, seems to be clear from this discourse. For I do not believe the constitutional right and duty of the President "to protect the lives of American men" is sufficient legal and constitutional justification for sustaining American troops and power indefinitely in prolonged armed conflict in the support of a foreign government, with no positive grant of approval by the U.S. Congress.

These matters transcend our beliefs about whether present policy is the proper way for us to seek an end to the conflict in Indochina. At stake is the sanctity of constitutional government.

Congress' responsibility for participating in the decisions and the responsibility of war was expressed eloquently by Abraham Lincoln when he said:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such a purpose, and you allow him to make war at his pleasure. Study to see if you can fix any limit to his power in this respect, after having given him so much power as you propose . . .
>
> The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood."—Letter to Herndon while in Congress.

I can think of no more urgent question before the 92d Congress than the attempt to define and determine the constitutional authority for our military actions in Indochina. Therefore, I am compelled to introduce this bill in order to prevent the further erosion of our constitutional process.

The President has pointed out how his policies have reduced casualties from as many as 300 per week to as few as 30 per week, and how he has significantly reduced our troops in Vietnam. In these efforts he has my full support and approval. Yet, I am concerned about the ultimate result of our present direction of policy. Our first concern must be finding a solution that will stop the war; the goal of our policy in Indochina must be directed at a political solution to the conflict that will enable an end to the fighting, the bombing, the suffering, and the destruction in that land. I do not believe it is necessary to recite the litany of the devastation that continues to inflict Indochina. And even the brutalizing facts of death and destruction seem to fall on

a numbed and hardened national conscience.

Suffice it to say that our policy must be directed toward enabling a political settlement of the war. In recent months more and more reliance has been placed upon "Vietnamization" as a means of "ending the war." Yet, it should be clear that by its definition, "Vietnamization" is a strategy for perpetuating the conflict. Of course such a policy may seem desirable to some Americans, since the main emphasis is to shift responsibility for infantry combat from Americans to South Vietnamese soldiers; thus, it allows reductions in the number of our troops in Vietnam and decreases American casualties. However, this strategy fails in two very important ways. First, it will not lead to an end of American involvement in Vietnam; second, it will not enable a negotiated political settlement of the war, which is also the only way to insure the safe return of captive Americans. Further, it could even fail in a third way; it may prove to be militarily unfeasible.

Vietnamization will lead this spring to the "end of the ground combat role" for Americans. But many seem to be misled by just what that means. Ending ground combat implies, as I said, that the offensive infantry operations will fall more to the South Vietnamese. Yet, Americans will still fly helicopters, fire artillery, and drop bombs, as well as "protect" their installations, convoys, and troop deployments. In reality, Vietnamization is a change in the tactics of the war, designed chiefly to make our policy more palatable to the American public. It is not a formula for ending American involvement or achieving a settlement of the conflict. The success of Vietnamization requires a continued American involvement and postulates the lack of a negotiated settlement of the war.

I am also concerned from a purely military point of view about our present policy. For the moment, the policy seems to have succeeded in reducing casualties and withdrawing some troops. Yet where will our policy lead us, militarily, by the end of this year? What will happen if, when American ground combat units are deactivated, the North Vietnamese and Vietcong choose to move against the South Vietnamese Army, and make substantial strategic gains? There are many military analysts who believe that they will have this capability. In other words, what will happen if Vietnamization begins to fail militarily? My fear is that we would be tempted by steps of futile military escalation in order to prevent the failure of a policy. It is my sincere concern that our present course of action may not succeed even in its military objectives.

If it is an end to the war that we wish to achieve, that must come through negotiations. In order for negotiations to make any progress, we must demonstrate flexibility on either of two critical points: The first is a deadline for our complete withdrawal of troops; the second is a willingness to suspend our unqualified support for the Thieu-Ky regime. My own belief is that the most feasible and responsible step for us to take is the establishment of a date certain for our withdrawal. True negotiations for settling the war would be the likely result of such an initiative. This is the principle motivating the Vietnam disengagement of 1971.

Our present course of action seems designed to achieve the same objective of our past policy: The survival of a friendly, non-Communist government in South Vietnam; thus, it attempts to preserve the support of those who have favored our present policies. Yet, our policy is also constructed to enable troop reductions and lowered casualties, attempting to win the support of those who have opposed the war. But if this policy appears to be jeopardized militarily, and also prohibits the complete withdrawal of our troops, then it will no longer hold decisive support from either of these segments of public opinion. The grim truth is that it is not possible to construct a policy that will satisfy everyone.

The majority of Americans, however, have made clear their opinion: They favor withdrawal of all our troops by the end of 1971. The most recent survey of public opinion, conducted by the Harris poll, estimated that 65 percent of Americans favored this option—a growth of about 10 percent from last September, when this proposal came to a vote in the Senate. There is no unanimity possible on any alternative for our future Vietnam policy. Yet, there is a clear majority of opinion which favors a date certain to complete our withdrawal.

A negotiated settlement is the means for ending the war; a timetable for withdrawal is the means to enable authentic negotiations: it is also the means for assuring the return of our prisoners of war.

In his state of the Union address, the President said that the 92d Congress can help end our longest war. There is no cause that I want more to achieve. The President's programs, and the spirit in which they were presented, won my deepest respect and admiration. Because I share his belief in these, I offer this alternative as the most responsible means for bringing the war in Indochina to a close. Without that accomplishment, all of our noblest goals will remain idle dreams.

Mr. MONDALE. Mr. President, the 91st Congress ended at a moment of deceptive apathy about the war in Indochina.

Many of us in the Senate felt this sense of indifference. In some ways, we even welcomed it. We were numbed by the frustrating debates.

And, in fact, there seemed to be a breathing space.

The Church-Cooper amendment was supposed to put clear limits, by law, on more U.S. involvement in Indochina. The Secretary of State assured us there was no real difference on that score between the Senate and the administration. Of course, we were told, there would be no wider war.

But as this new Congress begins, our "advisers" are seen again in Cambodia, and our bombers and helicopters are all over Indochina. As I wrote the President recently, there are reports that our CIA and military are instigating and supplying a new invasion of southern Laos by Thai battalions. These reports have since been substantiated by sources in Laos.

I also came back to the new session to find on my desk this letter from Minnesota. The signature is withheld to protect the privacy of the family:

DEAR SENATOR MONDALE: I write to you my plea, not only because as the years have gone by more people believe, admire, and appreciate the stand Senator McCarthy took against the war, but because I feel you too would have the great courage to step forth.

We have just buried my son, who never had the chance to hold his baby daughter in his arms. He was killed in combat December 23, 1970 in Vietnam—Mike went not believing in the cause but only because he felt he was no better than anyone else who was forced to go.

I know now that we, their very own family and friends, not some government, are forcing them to go. From the outpouring of sympathy from our relatives, friends, and total strangers, I realize the people want an immediate withdrawal so no more will die in vain. I'm sure the outcry of the people coupled with giving the boys an opportunity to serve their country only in a truly peaceful effort here in these United States so all its people will gain the principles for which our Flag stands. If ever our dear Flag is being desecrated it is in Vietnam.

Therefore my plea—please lead the people in this truly great country in a cry for *immediate withdrawal* so no more sons, brothers, and fathers will die in *vain*.

The columnists and pollsters tell us the war is no longer a major issue.

It is an issue for this mother, and the thousands like her all over America.

It is going to be a major issue for this Congress until every American soldier is out of Indochina.

I am not talking about Nixon's war or Johnson's war. This war belongs at the doorstep of every public official—including myself—who stood by and let it happen.

We quibbled. We gave the benefit of the doubt. We were never more wrong.

We are in danger of doing it all over.

The North Vietnamese, the Vietcong, the Pathet Lao, the Thai, the Cambodians—everybody knows what we are doing in Indochina except the American people, who are paying for it all with their men and their money.

That is why I asked the President about reports of U.S.-supported Thai troops in Laos. That is why the administration must be pressed at every turn to define the vague formulas, to say what they mean on these life-and-death issues.

When the President stood before the Congress and the country to tell us the state of the Union, he had an obligation to tell us the truth about the state of this war.

We paid nearly 50,000 lives and billions of dollars for that kind of straight talk from our President.

But whatever the evasion, the false optimism, or the sophistry, the Congress has an obligation to draw the line once and for all on the killing and dying.

Then, and only then, can any public official really answer the plea of these mothers—"so no more sons, brothers, and fathers will die in vain."

I am proud, Mr. President, to join in cosponsoring the Vietnam Disengagement Act of 1971, which would bring the

orderly withdrawal of our forces by the end of this year.

The need for this act is as overwhelming today as it was last year when it was known as the end-the-war amendment. Of the many questions that test this Congress, none will weigh more heavily on our place in history.

We saw our Nation sink into the Vietnam tragedy before, and failed to stop it.

We cannot let that happen again.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to include in the body of the CONGRESSIONAL RECORD a statement by the Senator from Iowa (Mr. HUGHES).

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

STATEMENT OF SENATOR HUGHES

Mr. President, the United States is now in its second decade of fighting a war in Vietnam. Every day that passes, more and more Americans, in the Congress and in the country at large, become convinced that we must withdraw our troops and end that war.

When they talk of disengagement of our fighting forces from Vietnam, I am convinced that the vast majority of Americans mean *total* disengagement. It is commendable that President Nixon is removing ground troops from Southeast Asia. But to change the nature of our military involvement to a predominantly air and military advisory effort is still short of ending our intervention.

Today I am joining colleagues in sponsoring the Vietnam Disengagement Act of 1971, an updating of the End the War Amendment which was defeated although substantially supported in the Senate last year.

By offering this bill, I believe we are keeping faith with millions of Americans by giving expression to their prayerful conviction that partial disengagement is not enough, that we must totally disengage as rapidly as is safe and practicable.

We propose this legislation at a time when events in Cambodia bear tragic resemblance to early stages of our actions that led to our plunge into the quagmire of Vietnam.

Headlines tell us of increased bombing, increased terrorism, increased casualties and increased instability. The optimism of only a few weeks ago has given way to the familiar pessimism we have experienced for years about this seemingly endless undeclared war.

Despite attempted rescue missions and stern governmental pronouncements, the destiny of the brave men who are prisoners of war in Indochina is as insecure as ever.

Although at this hour we appear to be facing new crises of widening conflict in Indochina, the proposed bill is not an emergency response to these current problems. It is, rather, an effort to look beyond the tactics and crises of the moment down the long road of strategic policy.

Are we to continue using military intervention as a primary instrument of our foreign policy? Are we to continue to spend American lives to support corrupt dictatorships, politically unresponsive to the will of their own people? These and other questions need to be squarely answered.

The press reports, the secrecy by the Pentagon, the confusing explanations offered by our government each day, can only lead us to one conclusion—that our policy is to change the form of our involvement in Indochina, but not to end the conflict.

American lives are American lives, whether they be of soldiers or airmen. Substituting firepower for manpower may seem to be more efficient, more politically tolerable, but the fact remains that Americans are risking and losing their lives in a war that should be ended. Moreover, by perpetuating our involvement, we are destroying more villages, more farms, more innocent people in a war-ravaged country which wants peace and an end to our intervention even more than we do.

No one doubts the President's devout desire for peace. But it is our conviction that he will never attain that peace without making a clean break with the policies of the past that got us into Vietnam in the beginning.

We want to build peace in unison with the Administration, not in opposition to it. We want the Congress to reassert its constitutional responsibilities and powers in the determination of policy for peace and war.

Only last week, the President told the Congress that the Federal government is remote from the people, and that the power to govern must be returned to them and their elected representatives.

This is true—and the truth extends to foreign affairs as well as to domestic policies.

The introduction of the Vietnam Disengagement Act at this early stage of the session will, I believe, assure that this overriding issue gets full hearing and consideration before the nation, as well as before the Congress.

S. 378—INTRODUCTION OF BILL TO AUTHORIZE ESTABLISHMENT OF THE BIG THICKET NATIONAL PARK, TEX.

Mr. TOWER. Mr. President, I rise to offer a new approach to the establishment of a Big Thicket National Park in east Texas which I believe merits early approval by the Congress and the broad support of Texans.

Last year, the Senate approved legislation in this regard, but the bill was not considered by the House of Representatives. The legislation passed by the Senate had been offered by our former colleague, Senator Ralph Yarborough. But, before Senate passage, it was amended to limit the area of the proposed park to 100,000 acres. The original version of the bill had called for a park of at least 100,000 acres.

The new Senator from Texas (Mr. BENTSEN) has now reintroduced the bill in the form in which it passed the Senate last year.

Mr. President, that legislation leaves, in my opinion, much to be desired in terms of satisfying the realities of requirements for establishment of a Big Thicket National Park in east Texas.

I support the concept of a national park to preserve a portion of the ecologically unique areas of the Big Thicket so that future generations may enjoy them and so that scientists will not be deprived, through the encroachment of civilization, of the opportunity to observe and study this area.

At the same time, I recognize the need for increased recreational opportunities in east Texas. And I recognize that legislation passed by the Congress should not be so drawn as to stifle the east Texas economy by unreasonably hampering existing commercial operations.

Mr. President, I did not support the Big Thicket bill originally offered in the Senate because I thought it left too many unanswered questions. The bill did not specify a boundary for the proposed Big Thicket National Park. Also, it failed to rectify the cross purposes of preservation and recreation. Additionally, I feel that a huge expanse of land larger than 100,000 acres would be detrimental to the economic growth and general welfare of east Texas.

After listening to many various park advocates for the past few years, I have been working during recent weeks to draw up a legislative proposal which would preserve the Big Thicket and simultaneously provide for increased recreational facilities in east Texas, all without undue economic hardship to existing industry.

Today, I am offering the result of that work.

My bill would authorize the Secretary of the Interior to establish a Big Thicket National Park of 81,472 well-defined acres in two adjacent parcels in Hardin, Polk, and Liberty Counties in east Texas.

One parcel has been known previously as the Profile unit of the String of Pearls concept earlier put forward as a Big Thicket National Park. The String of Pearls concept, however, composed of nine separate land parcels, has been generally discounted, I believe quite correctly, since the separate parcels would be extremely difficult to administer. It would be particularly difficult to enforce the preservation aspect of a national park composed of so many noncontiguous areas. Thus, the basic preservation goal of the national park would be subverted.

The Pofile unit begins near Saratoga in Hardin County and extends generally northward to touch, but not include, the Alabama-Coushatta Indian Reservation in Polk County. A section of this unit also juts into Liberty County.

The second parcel defined in my bill to be included in the park is a rough triangle of acreage touching the Profile unit near Saratoga and having its remaining corners near the communities of Kountze and Sour Lake in Hardin County.

My discussions with east Texans indicate that a contiguous park composed of these two parcels will provide the protection required for a portion of the Big Thicket representative of the area and including most of the ecologically unique areas.

The bill I am now offering also authorizes increased development of recreational areas in east Texas in conjunction with Lake Livingston, Sam Rayburn Reservoir and Toledo Bend Reservoir, and the four national forests of east Texas: Sam Houston National Forest, Davy Crockett National Forest, Angelina National Forest and Sabine National Forest.

The bill specifies that the additional acreages for recreational areas plus the defined acreage for the Big Thicket National Park shall not exceed 100,000 acres.

It is my belief that the Secretary of the Interior should be allowed discretion in establishing the recreational areas in order to best meet the needs of east Texans. It may be that, in some cases, a tradeoff of National Forest land, administered by the Secretary of Agriculture, may be made with the Interior Department to most satisfactorily pro-

vide the national recreational areas authorized by my bill.

I am also hopeful that the State of Texas will cooperate to meet the growing recreational requirement for east Texas through the development of State parks within the area which will compliment my proposed Federal action.

Mr. President, I ask that my bill be referred to the Senate Interior and Insular Affairs Committee, the committee which took testimony last year regarding the establishment of a Big Thicket National Park and thus the committee with the most experience in this effort.

I am hopeful that the committee will call early hearings on this measure and that the Interior Department and interested parties in Texas will move rapidly to prepare their advice and counsel on this legislation.

I stand ready to work with all interested parties to achieve the establishment of a Big Thicket National Park which will provide protection for an adequate expanse of the ecologically unique areas of the Big Thicket, and simultaneously provide for increased recreational opportunities, all without undue hardship on existing industry. I believe my bill would achieve these goals.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 378) to authorize the establishment of the Big Thicket National Park in the State of Texas as a natural area, and to provide for recreational areas for public benefit adjacent to man-made reservoirs; Sam Rayburn, Toledo Bend, and Lake Livingston, in the State of Texas, introduced by Mr. TOWER, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 379—INTRODUCTION OF A BILL TO PROVIDE AN EXEMPTION FROM THE SOCIAL SECURITY EMPLOYMENT TAX ON WAGES FOR RELIGIOUS GROUPS OPPOSED TO INSURANCE

Mr. SCHWEIKER. Mr. President, I am today introducing a bill to provide an exemption from the social security employment tax on wages for religious groups opposed to insurance.

I cite the Amish as an example of people who desire and should be afforded this social security exemption.

In 1965, the first form of relief was granted the Amish. The Internal Revenue Code was amended to provide an exemption from self-employment tax, if a person could show he is a member of a recognized religious sect which follows the practice of making provisions for its dependent members; I now ask that this exemption be extended from self-employment tax to those who work for others and oppose for religious reasons, payment of social security employment tax on wages.

As part of their religion, the Amish refuse any form of relief or what they call Government handouts. They oppose all forms of social security, including old-age pensions. Regarding it not as a tax but rather as a policy premium in a national insurance system, the Amish are opposed to participation, because of their conscientious objection to all forms of insurance. This belief is embodied in the Dordrecht Confessions, which predates our Constitution. Its doctrine of the church as the visibile communion of the saints may be taken as the implicit ground for rejection of insurance in the sense that the congregation of God's people are expected to live by faith and trust in Providence. Otherwise it counsels obedience to the State, which is why the Amish have no objection to the payment of taxes.

Forcing people such as the Amish to pay a tax which is a form of insurance, directly opposed by the tenets of their faith, is an impingment on the religious rights of any group, no matter how small.

It is difficult for me to understand why we have not been ready to permit religious groups to conscientiously object to economic regulations when we rightfully recognize their right to object to the military service.

I feel strongly that this Government must not ride roughshod over the religious rights of a minority. Such is the case under present law. In 1961, the Federal Government seized three horses belonging to an Amish farmer in Pennsylvania and sold them at public auction to obtain money for social security payments which the man refused to make because of his religious convictions.

It was about this time that I began my effort to assist the Amish people to get relief from participating in the social security program to which they are opposed on religious grounds. In 1961 and again in 1963, I introduced a bill in the House which would have provided an exemption from participation in the Federal old age and survivors insurance program for those whose religious doctrines forbid participation in such a program.

In 1964, there was social security legislation in Congress. Since the House was operating under a closed rule, I was unable to introduce an amendment to the 1964 social security law. However, the Senate version of the bill contained such an amendment. The House-Senate conference committee then had to decide whether to use the House version of the bill, which had no provision for the Amish exemption, or the Senate version, which included the Senate amendment. I wrote letters to all Congressmen and personally talked to the House Members of the conference committee, urging them to accept the Senate version for the Amish. Fortunately, the Treasury Department, as well as the Justice Department, rendered legal opinions saying that the Old Order Amish exemption met all constitutional requirements and was strictly a matter of legislative policy. Finally, the conferees agreed to accept the Senate Amish amendment, for which I was very pleased.

Unfortunately, the bill died in the conference committee because of the dispute over medicare. It did, however, lay the groundwork for the first relief granted to the Amish.

On July 30, 1965, Congress amended the Internal Revenue Code, allowing a person to apply for exemption from self-employment tax if he is a member of a recognized religious sect which follows the practice of making reasonable provision for its dependent members. We must now take this one step further, and provide an exemption from social security taxes on wages.

Specifically, my amendment provides that any member of a recognized religious sect in existence since at least 1950, who can show that he is an adherent of established teachings which cause him to be conscientiously opposed to acceptance of social security benefits, may file an application to be entitled to a credit or refund of the amount of the tax.

The applicant would submit evidence to substantiate his membership in the sect and his adherence to its teachings, and would be asked to show that it has been the practice of the sect to make provision for the care of its elderly or dependent members.

In addition, the employer would continue to pay into the social security fund, thus eliminating any chance that such an amendment would make one employee more desirable than another. The objective here obviously is not to make one group of people more desirable employees than another, but instead to assist those who object to social security coverage because it directly opposes the basic religious tenets of their faith. Since the employer would continue to pay into the social security fund, the exempted employee would offer no financial advantage over the nonexempted employee.

The provisions of this bill are identical to those contained in H.R. 17550, the Social Security Amendments of 1970, as reported by the Senate Finance Committee during the 91st Congress.

I ask unanimous consent that this bill be printed in the RECORD and that additional material regarding the beliefs of the Amish people on social security and a letter I received in 1965 from the Treasury Department on the constitutionality of this exemption be inserted at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection the bill and material will be printed in the RECORD.

The bill (S. 379) to amend the Internal Revenue Code of 1954 and title II of the Social Security Act so as to permit exclusion from social security coverage and refund of social security tax to members of certain religious groups who are opposed to insurance, introduced by Mr. SCHWEIKER, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) Section 6413 of the Internal Revenue Code of 1954 (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL REFUNDS OF SOCIAL SECURITY TAX TO MEMBERS OF CERTAIN RELIGIOUS FAITHS.—

"(1) IN GENERAL.—An employee who receives wages with respect to which the tax

imposed by section 3101 is deducted during a calendar year for which an authorization granted under this subsection applies shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of the amount of tax so deducted.

"(2) AUTHORIZATION FOR CREDIT OR REFUND.—Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this subsection) for an authorization for credit or refund of the tax imposed by section 3101 if he is a member of a recognized religious sect or division thereof described in section 1402(h)(1) and is an adherent of established tenets or teachings described in such section of such sect or division. Such authorization may be granted only if—

"(A) the application contains or is accompanied by evidence described in section 1402(h)(1)(A) and a waiver described in section 1402(h)(1)(B), and

"(B) the Secretary of Health, Education, and Welfare makes the findings described in section 1402(h)(1)(C), (D), and (E).

An authorization may not be granted to any individual if any benefit or other payment referred to in section 1402(h)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of filing of such waiver.

"(3) EFFECTIVE PERIOD OF AUTHORIZATION.—An authorization granted to any individual under this subsection shall apply with respect to wages paid to such individual during the period—

"(A) commencing with the first day of the first calendar year after 1970 throughout which such individual meets the requirements specified in paragraph (2) and in which such individual files application for such authorization (except that if such application is filed on or before the date prescribed by law, including any extension thereof, for filing an income tax return for such individual's taxable year, such application may be treated as having been filed in the calendar year in which such taxable year begins), and

"(B) ending with the first day of the calendar year in which (i) such individual ceases to meet the requirements of the first sentence of paragraph (2), or (ii) the sect or division thereof of which such individual is a member is found by the Secretary of Health, Education, and Welfare to have ceased to meet the requirements of subparagraph (B) of paragraph (2).

"(4) APPLICATION BY FIDUCIARIES OR SURVIVORS.—If an individual who has received wages with respect to which the tax imposed by section 3101 has been deducted during a calendar year dies without having filed an application under paragraph (2), an application may be filed with respect to such individual by a fiduciary acting for such individual's estate or by such individual's survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act)."

(2) Section 31(b)(1) of such Code (relating to credit for special refunds of social security tax) is amended by striking out "section 6412(c)" and inserting in lieu thereof "section 6413 (c) or (e)".

(b)(1) Sections 201(g)(2) and 1817(f)(1) of the Social Security Act are each amended by striking out "section 6413(c)" and inserting in lieu thereof "sections 6413 (c) and (e)".

(2) Section 202(v) of the Social Security Act is amended—

(1) by inserting "(1)" after "(v)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provisions of this title, in the case of any individual who files a waiver pursuant to section 6413(e) of the Internal Revenue Code of 1954 and is granted an authorization for credit or refund thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver; except that, if thereafter such individual's authorization under such section 6413(e) ceases to be effective, such waiver shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on his wages beginning with the first day of the calendar year for which such authorization ceases to apply and on his self-employment income for and after his taxable year which begins in or with the beginning of such calendar year."

The material furnished by Mr. SCHWEIKER is as follows:

REQUEST OF THE OLD ORDER AMISH FOR EXEMPTION FROM THE SOCIAL SECURITY SELF-EMPLOYMENT TAX

BACKGROUND OF THE PROBLEM

The following background information indicates the basic nature of the social security program, the general character of religious objections to participation in social security, and the present situation of the Old Order Amish in relation to social security.

Compulsory nature of social security

The social security program is designed to provide old-age, survivors, and disability insurance protection for American families, regardless of family size, income, or other factors. Under this program workers (and their employers) and the self-employed contribute while working so that the contributor and his family may have a continuing income when earnings cease or are greatly reduced because of retirement in old-age, long-term disability, or death. About 9 out of 10 working people and their families are covered under the program.

Social security can carry out its purpose only under conditions of compulsory coverage. Compulsory coverage assures that there will be a given distribution of what might be called poor risks—those who will get considerably more than they pay in—and good risks. Under a voluntary program, there would be an unduly high proportion of poor risks. Many people could predict with reasonable certainty whether or not they would get a large return on their contributions and those choosing coverage would generally be the ones who could expect to receive benefit bargains. This would increase the cost of the program for all who participate. Those given a choice as to coverage would have an unfair advantage over those workers and employers whose coverage would continue to be on a compulsory basis and who would have to help bear the increased cost arising from the individual voluntary coverage. Moreover, under individual voluntary coverage, many who need social security protection most would not participate. Many low income workers would choose not to pay the contributions because of the press of day-to-day financial problems, although in the long run social security protection would be especially valuable to such workers and their families.

Individual voluntary coverage is now provided under social security only in respect to services performed in the exercise of the ministry (including the performance of the duties of a Christian Science practitioner). The exclusion from coverage of such services (where coverage is not elected) is not a personal exclusion but an occupational exclusion. Thus, a minister who engages in any employment or self-employment other than the exercise of the ministry—whether or not he elects coverage of his ministerial services—is covered on the same basis as all other persons. Once a minister elects coverage of his services in the ministry, the election is irrevocable and, once the time for election passes, a minister who has not elected coverage may no longer do so.

Religious objections to coverage under social security

Representatives of those divisions of the Amish Mennonites generally classed as Old Order Amish (with some 19,000 adult members) have objected to social security taxes on grounds that social security is a form of insurance, and that their participation in an insurance program would show mistrust in the providence and care of God to meet future needs. This basis for objection is shared by the Old Order Mennonites (about 5,000 members) by at least some of the followers of Father Divine (some 300,000 members), and by an unknown number of small sects, such as the Hutterites (a Mennonite group with 2,300 members, who practice communal living) and the division of the Plymouth Brethren known as Exclusives.

Another religious basis for opposing participation in social security is adherence to a principle of separatism—the belief that one's sect or group should keep apart from all other persons. The Old Order Amish, for example, place great importance on the scriptural admonition: "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" Separatism is also a cardinal principle of some groups which have not indicated their attitudes toward social security: for example, the Black Muslims, perhaps the prime exponents of separatism, and Jehovah's Witnesses, with 287,000 members in the United States, all of whom are held by the sect to be ministers. There would seem to be considerable doubt that participation in social security is compatible with the belief of Jehovah's Witnesses that the end of the world is close at hand—1984, at latest—and objections to social security have been received from individual members from time to time.

Each of the above-mentioned groups has come into conflict with Federal or State law on questions other than social security. All oppose compulsory military service, and there have been various other conflicts with State or local laws, such as the refusal of the Old Order Amish to permit their children to attend school beyond the 8th grade, and the refusal of Jehovah's Witnesses and the Black Muslims to salute the flag.

The Christian Science Church opposed provision of disability benefits under social security on religious grounds.

Old Order Amish

The 19,000 Old Order Amish Mennonites live in about 270 communities in 19 States. The communities are known as church districts; however, there are no meeting houses and worship is conducted in private homes. Each community is headed by a bishop. There is no hierarchy above the bishops and no formal organization among the various communities. Thus each bishop is able to interpret doctrine independently of views held in other communities.

Amish who do not belong to old order groups—e.g., a category known as Beachy Amish—have adopted relatively modern ways of living, and are apparently not opposed to social security. There continue to be cleavages in which Old Order Amish communities, or segments of communities, split off to adopt more modern ways of living. One-third or more of the offspring of Old Order Amish parents do not continue in the sect. As in virtually any group there are marginal members, some of whom eventually become separated from the sect. The Amish strive continually to maintain their com-

munities against worldly temptations; an effective means of maintenance has been their stand against high school education and their doctrine of shunning,[1] with its grave economic implications for individuals who are so ill equipped to prosper outside the community.

The Old Order Amish relate practically every detail of their way of living to religious beliefs, which in turn are based on literal interpretation of scriptural texts. The Old Order Amish attempt to pursue a life similar in its course to that of the German peasant of perhaps the 17th or 18th century. The farm way of life is justified on religious grounds because being "in the country" separates the group from more worldly, less firm followers of Scripture. Consideration has been given to the use of nonmechanized farming methods as one way of differentiating (in proposed legislation) the Old Order Amish from other religious objectors to social security. But even among the Old Order Amish there have been various concessions to the changing times. For example, though a tractor may not be used in the field, it is permissible to use a tractor to furnish belt power. The Old Order Amish farmer is generally allowed to have one- or two-cylinder gasoline motors for his farm operations. The Old Order Amish make a significant distinction between owing and merely using modern conveniences. For example, in some communities it is permissible to have electric current and appliances in a mortgaged home but not after the mortgage is paid off. A significant distinction is also made between members of the sect and those who are members of the Amish community but not members of the sect—for example, Amish youngsters, who do not become members of the Old Order Amish until they are baptized (which usually occurs in their later teens). A case has been described in which a young man deferred baptism for a period of time so as to enable continued ownership of an automobile and a tractor, with which he not only provides transportation for his numerous family and neighbors but also works his father's large farm and many of his neighbors.[2]

History of the problem

The problem of the Old Order Amish with social security dates mainly from 1955 when coverage of self-employed farm operators began. (However, some members of the sect who take employment in town have been covered as far back as 1937.) Although the law does not require that social security benefits must be accepted, the Old Order Amish bishops assert that required payment of social security taxes obliges their members to participate in the social security program—an insurance program—and thus to act contrary to their religious beliefs. Though the social security tax provisions are not included with the benefit provisions in the Social Security Act, but are part of the Internal Revenue Code, the bishops seem to look upon the social security taxes as in the nature of a personal premium paid for insurance. The bishops believe that their members should pay other types of taxes, pursuant to the scriptural admonition to "render unto Caesar the things that are Caesar's." In general, the creed of the sect (also held by some other groups) dictates that members should obey civil laws except where they "militate against the law, will, and commandments of God."[3]

The religious objection to the insurance principle is not clear cut. For example, the Old Order Amish make systematic arrangements for protection against property loss from fire, storm, and other causes, under which, after a loss occurs, members contribute labor and make a monetary contribution related to their net worth. One such group arrangement, known as the Amish Mutual Fire Insurance Association of Atglen, Pa., was organized by the Old Order Amish of Lancaster County in 1875 and was licensed as an insurance company in Maryland and Pennsylvania. The Old Order Amish do not consider this type of arrangement to be insurance because there is no advance funding. Liability insurance is apparently not considered to be contrary to their religious beliefs—a conclusion based on the view that liability insurance provides indemnity not to the insured but to the party suffering damage. It seems clear, however, that the Old Order Amish are strongly opposed to life insurance even though the survivors, not the insured, are protected under it.[4]

There is no question, of course, as to the sincerity of the assertion of the Old Order Amish bishops that participation in social security is contrary to their religious beliefs, and a number of the Amish farmers carry out this objection to the point of open refusal to pay social security taxes and active resistance to the execution by the Government of liens on their bank account to satisfy unpaid taxes. During many discussions with representatives of the Social Security Administration, the bishops have consistently refused to consider any compromise solution short of exclusion from social security coverage. On the other hand, a number of individual members of the sect have claimed old-age insurance benefits under social security when they became eligible for such benefits. It appears that at least some of the Old Order Amish—particularly, younger members—are undergoing a change in attitude toward social security and are coming to regard it as a good thing. This is quite consistent with their increasing acceptance of various innovations of the 20th century.

As noted, the problem of those Old Order Amish who actively resist social security coverage is related mainly (though not entirely) to the social security self-employment tax.[5] The enforcement problem was thrust on the national scene when one Amishman, Valentine Y. Byler, of New Wilmington, Pa., who had no bank account, could not be persuaded to pay his tax for the years 1956–59. In the spring of 1961 the Government seized three of his six plow horses, sold them at public auction, and applied the proceeds against his outstanding liability. After consultation with an attorney who had become interested in civil liberties cases, Mr. Byler brought suit on the grounds of infringement of the freedom of religion guaranteed under the first amendment.

Given assurance that the constitutionality of the tax would be tested in court, and that the statute of limitations on collection of taxes would be waived by the Amish, the Commissioner of Internal Revenue agreed in October 1961, to suspend all forceful collection of tax until the issue was resolved in court. On January 21, 1963, the suit was dismissed with prejudice on motion of the plaintiffs, Mr. and Mrs. Byler. (This action was apparently based on religious objections to participating in litigation, and was taken without consultation with the plaintiff's attorney.) As an alternative course, Old Order Amish bishops appealed to the Congress and bills were introduced during the 87th Congress to exempt them from the tax. The Treasury Department and the Department of Health, Education, and Welfare pointed out objections to these bills on administrative and precedent grounds. During consideration by the 87th Congress of H.R. 10606, the Public Welfare Amendments of 1962, one of these bills (S. 2031) was adopted as a Senate amendment but was dropped in conference. Appended is a list of bills which have been introduced in the 88th Congress for the purpose of permitting exclusion from social security on grounds of religion or conscience, or to make coverage voluntary for self-employed farmers.

Although the suit to test the constitutionality of the self-employment tax as it applies to the Old Order Amish was never tried, the moratorium on the collection of tax has not been terminated by the Internal Revenue Service. According to the most recent report of the Service, there are some 1,500 delinquent Amish accounts, the delinquencies ranging for the most part for periods from 1 to 3 years and involving nearly $250,000 in tax liabilities.

The moratorium was intended as a temporary measure. Since tax liabilities are not satisfied but only postponed by this moratorium, it cannot be extended for too long a period of time. The 6-year period of limitation on collection of tax will expire this year in some cases. Some Old Order Amish have already indicated that they would not sign waivers to extend the collection period. The Government, therefore, in these cases soon will be forced to take action for the collection of taxes due from these individuals or else allow its collection rights to lapse.

FOOTNOTES

[1] "Amish Society," by John A. Hostetler, p. 144.

[2] "Our Amish Neighbors," by William I. Schreiber, p. 77.

[3] "The Dordrecht Confession (1932)." In reference to civil government, this confession also directs believers "faithfully to pay it custom, tax, and tribute." One article of the confession forbids defense by force.

[4] The first reference to insurance in basic documents related to Amish religious background appears in "Christian Fundamentals," adopted by the Mennonite General Conference in 1921, which states that "life insurance is inconsistent with filial trust in the providence and care of our heavenly Father." A more recent commentary, in "The Mennonite Encyclopedia," explains: "This refers to commercial life insurance only. The (Mennonite) brotherhood has a growing awareness of its obligation to make systematic provision for the economic needs of its members including financial assistance for the widows and orphans in event of serious incapacity or death."

[5] The self-employment tax rate is now 5.4 percent, and is applicable to the first $4,800 of annual net earnings from self-employment. Virtually all self-employment, except self-employment as a doctor of medicine, is compulsorily covered under social security for any year in which an individual has annual net earnings of at least $400 from self-employment. The current social security tax rate for employers and employees is 3⅝ percent each.

TREASURY DEPARTMENT,
Washington, August 12, 1964.

Hon. RICHARD S. SCHWEIKER,
House of Representatives,
Washington, D.C.

DEAR MR. SCHWEIKER: I am enclosing herewith the opinion of Mr. Berlin, the General Counsel of the Treasury Department, relating to the constitutionality of optional exemption of members of a certain religious faith from the social security self-employment tax or optional recovery of the tax paid.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., August 6, 1964.

CONSTITUTIONALITY OF OPTIONAL EXEMPTION OF MEMBERS OF A CERTAIN RELIGIOUS FAITH FROM THE SOCIAL SECURITY SELF-EMPLOYMENT TAX OR OPTIONAL RECOVERY OF THE TAX PAID

Legislation has been proposed in the present and the previous Congress to pro-

Footnotes at end of article.

vide optional exemption from the social security self-employment tax for "a member or adherent of a recognized religious faith whose established tenets or teachings are such that he cannot in good conscience without violating his faith accept the benefits of insurance," upon a finding by the Secretary of Health, Education, and Welfare that his application for exemption was made in good faith and that the members of such religious faith make adequate provision for elderly members to prevent their becoming public wards.[1] Senators CLARK and SCOTT, among the chief proponents of this legislation, have explained that the faith in question is that of those Amish Mennonites who are known as the plain people or Old Order Amish who live in relative independence and isolation in rural communities and adhere strictly to many literal biblical injunctions, including reliance on divine providence for their care. The consistency and sincerity of the sect is attested to by the refusal of most of their members to accept social security benefits or pay the self-employment tax.

In the consideration of these bills in Congress the question was raised as to whether the proposed exemption would be constitutional and the views of the Treasury Department were requested. This opinion is in response to that request. Since then, additional legislative proposals, including an alternative proposal of relief for the Amish in the form of tax recovery in place of tax exemption, have been discussed in a joint statement by the Treasury Department and the Department of Health, Education and Welfare, entitled "Request of the Old Order-Amish for Exemption from the Social Security Self-Employment Tax," which was transmitted to interested Members of Congress by a joint letter dated July 20, 1964. In connection with the earlier request, it is also appropriate to consider the constitutionality of these proposals, as well as the constitutionality of the various limitations included, or suggested for inclusion, in the definition of the faith whose members or adherents would be eligible for exemption. The joint statement referred to above reviews the religious tenets and modes of life of these Amish and provides an extended analysis of the social security system and the possible effects of an exemption. I will not, therefore, in this opinion cover any of this factual material. A copy of this joint statement is attached hereto.

Conclusion on tax exemption and tax recovery

My conclusion, based upon a review of the principles of constitutional law, is that there is no valid constitutional objection to the proposed exemption and that the question of exemption is one of public policy for Congress to determine. After discussion of the grounds for this conclusion I will review in the latter part of this opinion the constitutionality of various proposed additional limitations upon the exemption.

This conclusion concerning tax exemption comprehends any provision by Congress for tax recovery, since tax exemption is the most complete relief that could be given. In the subsequent discussion, therefore, the constitutional conclusions with respect to the requirements of uniformity, of the first amendment, and of due process should be read as also extending to a provision for tax recovery.

Congress and the States have provided for the recovery of taxes in various situations where for reasons of public policy the legislature has determined this to be appropriate. I have found no constitutional challenge of these provisions. For example, 26 U.S.C. 6420 provides for refund of the gasoline taxes paid for gasoline used for farming purposes. A similar provision in the Virginia Code section 58–715 (Supp. 1964), includes refunds for gasoline used for public or nonsectarian school buses. Title 26 U.S.C. 6418 provides for refund of the Federal tax on sugar manufactured in the United States to those who use such sugar as livestock feed or in the distillation of alcohol.

If members of the designated religious faith were permitted to choose to recover in monthly installments the amount, and only the amount, of the social security taxes they have paid, they would be under a limitation which operated to their disadvantage as compared with other social security taxpayers to whom an indefinite amount of social security recovery would be available in the form of insurance. Consequently, it would seem that no other social security taxpayer would be in a position to claim that the tax recovery allowed to the Amish in any way discriminated against his or added to his tax burden.

1. The requirement of uniformity: The Constitution provides in article I, section 8, clause 1: "The Congress shall have power to lay and collect taxes, duties, imposts, and excise, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excise shall be uniform throughout the United States; * * *." This canon of uniformity has been long established to be a requirement of geographical uniformity only *Knowlton* v. *Moore,* 178 U.S. 41 (1900); *Brushaber* v. *Union P., Co.,* 240 U.S. 1 (1916); *Fernandez* v. *Wiener,* 326 U.S. 340 (1945). Insofar as uniformity may be required as an element of reasonableness under the due process clause, the problems are dealt with in my discussion of the application of that clause.

2. The first amendment: The proposed exemption, if allowed, would represent a determination by Congress that an accommodation of the self-employment tax law to prevent offense to religious scruples against insurance would not be contrary to public policy. The first amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; * * *." The question is whether an exemption from the social security tax would be constitutional as an accommodation or mitigation of a general requirement in order to permit the free exercise of a religion or whether it would be an "aid" to the specified religion at the expense of other religions and therefore be an unconstitutional establishment of religion.

It is my conclusion that the proposed exemption would in all probability be held to be a valid accommodation of the general law to permit religious liberty under the free exercise clause. The subsidiary question whether the definition of the persons exempted may be a reasonable classification under the due process clause is discussed in a subsequent part of this opinion. I base my conclusion on the following decisions of Federal and State courts particularly the Supreme Court, which interpret the first amendment to permit accommodations to religious beliefs. This discussion will be followed by an analysis of those cases which hold that certain government action is a violation of the establishment clause, in order to make clear that this exemption would not be an establishment of religion.

The classic example of the applications of the free exercise clause is the series of cases which have upheld congressional exemption of conscientious objectors from military service. The validity of this exemption was first established by the *Selective Draft Law Cases,* 245 U.S. 366 (1919) upholding the exemption in the draft law of members of religious sects "whose tenets prohibited the moral right to engage in war." The Solicitor General had argued (p. 374) that this exemption did not establish such religions but simply aided their free exercise. The court considered that the Congressional authority to provide such exemption was so obvious that it need not argue the point (p. 389–390).

The present Universal Military Training and Service Act enacted June 24, 1948, c. 625, 62 Stat. 604, as amended, in section 6(j), 50 U.S.C. App. 456(j), exempts from combatant training and service in the Armed Forces a person "who by reason of religious training and belief, is conscientiously opposed to participation in war in any form." This exemption continues to be recognized as constitutional under the free exercise clause, *Clark* v. *United States,* 236 F. 2d 13 (9th Cir. 1956), cert. denied, 352 U.S. 882 (1956); *United States* v. *Jakobson,* 325 F. 2d 409 (2d Cir. 1963), cert. granted 32 L.W. 3385, May 5, 1964. Certiorari was granted in the Jakobson case and in two other conscientious objector cases[2] apparently in order to reconcile the conflict between the second and ninth circuits as to whether the statutory definition of "religious training and belief" as being a "belief in a relation to a Supreme Being" may constitutionally be applied to exclude a conscientious objector whose belief is based on humanistic principles. This conflict is one essentially concerned with reasonable classification of an exemption under the due process clause, discussed below. It does not concern the constitutional right of Congress to exempt conscientious objectors under the free exercise clause.

In the Jakobson case the second circuit faced the problem whether "making exemption from military service turns on religious training and belief as stated in section 6(j) aids religions, and more particularly religions based on a belief in the existence of God" (p. 414) and thereby conflicts with the holding in *Torcaso* v. *Watkins,* 367 U.S. 488 (1961). There it was determined that Maryland could not require an oath affirming a belief in God as a prerequisite to becoming a notary public. The Jakobson court concluded that "the important distinction seems to us to be that, in contrast to Maryland's notary public oath, Congress enacted this statute, in mitigation of what we assume to be the constitutionally permissible course of denying exemptions to all objectors, for the very purpose of protecting 'the free exercise' of religion by those whose religious beliefs were incompatible with military service which Congress had the right to require" (pp. 414–415).

An exemption identical with that in the 1948 military training act was specifically included in section 387(a) of the Immigration and Naturalization Act of June 27, 1952, c. 477, 66 Stat. 163, 258, 8 U.S.C. 1448(a). This statutory exemption followed the decision of the Supreme Court in *Girouard* v. *United States,* 328 U.S. 61 (1946) ruling that the naturalization law need not be, and should not be, interpreted to exclude an alien who would not promise to bear arms because of religious scruples. Justice Douglas, for the majority, reaffirming principles enunciated in earlier dissents by Justices Hughes and Holmes, said, "The struggle for religious liberty has through the centuries been an effort to accommodate the demands of the state to the conscience of the individual" (p. 68).

The general exemption from taxation of religious groups, activities and property is another example of the exercise by legislatures of the constitutional authority to make exemptions to aid in the free exercise of religion, which continues to be upheld against contentions that the exemption operates to establish the religions thus benefitted.[3] Under this exemption a unique religious doctrine may make an activity of one religious group exempt as having a religious purpose which would not be exempt when carried on by other groups not holding to that doctrine.[4] The exemption from taxation of religious activities and occupations is in-

Footnotes at end of article.

corporated into the Social Security Act itself which provides optional exemptions for ministers, Christian Science practitioners, employees of religious organizations and members of religious orders (26 U.S.C. 1402 (c) and (e) and 3121(b)(8).

A further illustration of the principle that a legislature may accommodate particular religious beliefs without violating the first amendment is the case of *Zorach* v. *Clauson* 343 U.S. 306 (1952). Here the Supreme Court held that the New York Legislature did not violate the establishment clause by authorizing public schools to release children 1 hour early every week for religious instruction off the school grounds. It said:

"When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs" (pp. 313–314).

The distinction between *Zorach and McCollum* v. *Board of Education*, 333 U.S. 203 (1948) well illustrates the distinction between the two first amendment clauses for in McCollum the released time plan was held unconstitutional as an establishment of religion as classrooms and the force of the school were used in that plan.

The most important case, for our purposes, is the recent Supreme Court decision in *Sherbert* v. *Verner*, 374 U.S. 398 (1963). In this case the Court required South Carolina to accommodate the requirements of its unemployment compensation law to the religious scruples of an adherent of a particular sect, the Seventh-day Adventists. In three separate opinions the members of the Court balanced the demands of the free exercise clause against the prohibitions of the establishment clause. The opinion and the concurring opinion determined that the denial of unemployment benefits to a person unavailable for suitable work on Saturday because, being an Adventist she could not for religious beliefs work on Saturday, was a restriction on the free exercise of her religion and, therefore, unconstitutional. The dissenting opinion contended that the accommodation of Adventists was a question of policy for the legislature and that while the legislature could constitutionally exempt the Adventist from the requirements for eligibility placed upon all other persons the legislature was not required to do so. Consequently, the full Court apparently would agree that Congress could constitutionally make an exemption from the general requirements of taxation and compulsory insurance of persons who because of religious scruples are unwilling to accept social security insurance. It is solely the constitutional ability of Congress to make this exemption to which this opinion is addressed.

The reasoning in the Sherbert case needs to be examined as it bears upon the power of Congress in this area. The principle of accommodation of a general law to a particular religious scruple is the same in this situation as in Sherbert though the facts differ in that in the Sherbert case the accommodation was for the purpose of enabling the Adventist to receive welfare benefits and in the Amish situation the accommodation would be for the purpose of exempting the Amish from benefits as well as from taxation for these benefits.

First, the Court says that while "the consequences of such a disqualification to religious principles and practices may be only an indirect result of welfare legislation" and that no criminal sanctions compel work on Saturday, the indirect discrimination is nevertheless a burden on the free exercise of the Adventist's religion. It requires her to abandon her religious precept or forgo a welfare benefit generally available (pp. 403, 404). In the social security situation the employment tax is supported by civil and criminal sanctions of assessed penalties and fine, imprisonment and forfeiture, so that the justification for congressional relief is even clearer.

Second, the court points out that while the State may not discriminate invidiously between religions the accommodations required to be allowed to the Adventist would not be discriminatory but rather would remove a discrimination based upon her religion, since the law does not disqualify persons who do not work on Sundays (at 406). An exemption for those sects which cannot in good conscience accept the insurance for which they are taxed would not be an invidious discrimination against other religions which have no such scruple and whose members are therefore able to accept the insurance for which they are taxed.

Third, the court points out that the administrative problems concerned and the possibility of spurious claims do not justify a restriction on the free exercise of religion (at 407).

Then the court concludes (at 409) that its holding does not foster the "establishment" of the Seventh-day Adventist religion in South Carolina for the extension of unemployment benefits to Adventists is not like the involvement of religions with secular institutions which the establishment clause is designed to forestall as shown in its decision announced the same day, *School District of Abington Township* v. *Schempp*, 374 U.S. 203 (June 17, 1963). In fact the Sherbert ruling reversed the State court ruling that allowance for the religious obligation of the Adventist would be an unconstitutional discrimination in her favor. See *Sherbert* v. *Verner*, 240 S.C. 286, 125 S.E. 2d 737, 746 (1962).

In the Schempp and its companion case, *Murray* v. *Curlett*, decided with the same opinion, the court found that the States were establishing religion in their public schools by requiring Bible reading and the recitation of prayers therein. These decisions are developments of the prior term's opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962) holding that the requirement of recitation in the public schools of a State-authored prayer was a violation of the establishment clause which prohibits Government from placing its "power, prestige, and financial support * * * behind a particular religious belief" (p. 431). In the Schempp case the court develops the idea that Government must remain "neutral," a term derived from the 5-to-4 decision in *Everson* v. *Board of Education*, 330 U.S. 1 (1947). In its context in the several Establishment cases this term means an inability of the State to use its powers to require religious observances or to use public funds for the support of religious institutions. None of the holdings applies the establishment clause to forbid the granting of an exemption from Government coercion of a secular action to accommodate religious scruples under the free exercise clause. The latter clause is predicated, says the Schempp court, on Government coercion which impinges on religious practice, 374 U.S. at 223. The distinction between these two historic lines of decisions has permitted the Schempp case to be decided consistently with the Sherbert case on the same day.

In sum, then, an exemption removes a handicap to the free exercise of a particular religion placed upon it by force of Government; it is not a requirement by the Government that the particular religion be practiced or observed or supported by nonadherents.

The meaning of the Sherbert case is made unmistakable in its application by the court in the recent case. *In re Jenison*, 375 U.S. 14 (1963). Here the court "in the light of *Sherbert* v. *Verner*" vacated the judgment of the Minnesota Supreme Court in *In re Jenison*, 265 Minn. 96, 120 N.W. 2d 515 (1963). The Minnesota court had held a person selected for jury duty in contempt of court for refusing to serve on the jury because of a religious belief based upon the biblical injunction against judging other persons. The Minnesota court had reasoned that jury duty, being a primary duty of all citizens, was superior to a religious belief deemed by the court contrary to public order, citing *Reynolds* v. *United States*, 98 U.S. 145 (1878) which held that Congress could prohibit polygamy as a violation of the social order.

Since the Supreme Court has now held that Government must accommodate even the highest duties of citizens to sincere religious scruples, it is probable that it would hold that Congress may accommodate the religious scruple against insurance by allowing for such a scruple an optional exemption, or a lesser form of relief, from social security taxation and benefits.

3. The due process clause: Under the due process clause of the fifth amendment tax statutes must provide reasonable classifications of the subjects taxed or regulated and reasonable exemptions, if exemptions are provided. But, as has been firmly established by the Supreme Court, particularly in cases upholding the various exemptions provided in the Social Security Act and State unemployment compensation acts (*Carmichael* v. *Southern Coal Co.*, 301 U.S. 495 (1937); *Steward Machine Company* v. *Davis*, 301 U.S. 543 (1937); *Helvering* v. *Davis*, 301 U.S. 619 (1937)), the outer bounds of what is a reasonable tax or exemption classification allow a wider play of legislative judgment than many other areas of the law where the "reasonable" standard is applied. In these cases the court assured legislatures that they had the widest powers of selection and classification in taxing some at one rate, others at another and exempting others altogether, where distinctions were based upon "considerations of policy and practical convenience."

Claims of discriminatory treatment under social security continue to be rejected as not "patently arbitrary." *Flemming* v. *Nestor*, 363 U.S. 603, 611 (1960). Recently, *Smart* v. *United States*, 222 F. Supp. 65 (S.D.N.Y. 1963), upheld a higher tax on (American) employees of the United Nations, as the means employed bore a substantial and logical relation to the objective; and *Lesson* v. *Celebreze*, 225 F. Supp. 527 (E.D.N.Y. 1963), accepted differences in dependency determination for children of a deceased mother from that for children of a deceased father, based on family support experience. See also *Cape Shore Fish Co.* v. *United States*, 330 F. 2d 961 (Ct. Cl. 1964), and *Abney* v. *Campbell*, 206 F. 2d 836 (5th Cir. 1953) on fishing vessel employment differences and on domestic service differences respectively.

The requirement that exemptions have a reasonable basis applies as well to exemptions based upon religious scruples provided by Congress in conformity with the first amendment. In a nontax area this requirement has been recently reviewed in the second circuit decisions, pending review in the Supreme Court, on the reasonableness of the selective service definition of religious training and belief as being confined to belief in a Supreme Being. *United States* v. *Jakobson*, 325 F. 2d 409 (2d Cir. 1963) and *United States* v. *Seeger*, 326 F. 2d 846 (2d Cir. 1964); certiorari granted in both cases, 32 L.W. 3385, May 5, 1964. In these cases the court determined that an exemption from bearing arms based on religious belief was a constitutional accommodation of religion, but that a restriction of the defintion of religion to a Supreme Being was too narrow in view of its conclusion that a conscience sincerely compelled to refrain from bearing arms because of a "mystical force of 'Godness'" or a "compulsion to follow the paths of 'good-

ness' " might be religious in nature (Seeger, p. 853). In other words, at least in the second circuit, the exemption on the grounds of religious objection must reach all who have sincere objections which could be interpreted as religious in nature.

In the social security situation, however, a classification may be as limited as circumstances require, as indicated in the Smart and other cases, supra.

In fact the Social Security Act and its amendments have characteristically carved out exemptions which are as narrow as required by the sociological facts, including differences among vocations and religious attitudes. Thus, for example, lawyers are covered by the self-employment tax, ministers, including Christian Science practitioners, are optionally covered, but doctors and persons who have taken the vow of poverty as a member of a religious order are completely exempted (26 U.S.C. 1402 (c) and (e), and 42 U.S.C. 411(c) (4) and (5)). When the self-employment tax was passed in 1950 the act excluded the performance of service by a minister of a church or a member of a religious order or by a Christian Science practitioner in the exercise of their callings, in order to avoid impairment of religious liberty (Senate Finance Committee hearings on H.R. 6000, 81st Cong., Jan. 17, 1950, pt. 1, pp. 1 and 3). The exemption was made optional in the 1954 amendment of the act for these classes of persons except the mendicant orders. These exemptions have not been challenged.

The reason for the present proposal to exempt members of religious sects, as such, is solely that they have a religious objection to receiving insurance. Accordingly, a classification of such sects for exemption purposes, with appropriate safeguards, would reach all those whom Congress would have a reasonable ground to exempt and would, therefore, not be arbitrary nor violative of due process.

This conclusion is the basis of the opinion of the staff of the Joint Committee on Internal Revenue Taxation and that of the American Law Division of the Library of Congress provided to Senator CLARK under dates of November 9, 1962, and September 19, 1962, respectively. These opinions conclude that the proposed exemption would be constitutional as it would apply to all those who fall within the classification and that the classification is reasonable, CONGRESSIONAL RECORD, volume 109, part 1, pages 463, 464. A copy of these opinions as reproduced in the CONGRESSIONAL RECORD is attached.

Since, therefore, Congress may exempt those members of a religious faith who have scruples against receiving insurance, the next question is what practical safeguards Congress may designate to assure that only those who come within the policy of the exemption obtain the exemption, without imposing arbitrary limitations.

Limitations on the exemption

The joint statement by the Treasury Department and the Department of Health, Education, and Welfare reviewing the problems created by the proposed exemption for the Amish contains in section 3 suggested additional limitations upon the exemption. These limitations are proposed as possible means to protect the social security system from an unintended extension of exemptions from compulsory insurance which would weaken and dilute it. The extensions of the exemption might occur, according to this joint statement, either through the formation of additional faiths claiming opposition to acceptance of benefits as one of their tenets or through the redefinition by various existing separatist groups of their tenets to include such opposition.

I shall consider each of these proposed additional limitations, designated "a" through "e," to determine whether the limitation may be considered by the courts to be a reasonable classification and consistent with the due process clause. I shall also suggest a limitation, designated "f," which was not among those proposed but which may be found to limit the exemption reasonably and realistically to the groups which Congress intends to accommodate by this exemption.

(a) An explicit limitation of the exemption to the old order Amish: This limitation would probably be considered arbitrary since the designation of one sect to the exclusion of other sects having the same scruple would be inconsistent with the congressional policy of removing the Government coercion of belief which constitutes the denial of the free exercise of religion. It would also probably constitute an invalid preference of one particular faith over those which were similarly situated. The facts presented to Congress indicate that they may be certain other sects of the Amish and possibly other religious groups who have the same religious scruple which is now being coerced. Furthermore, the exemption of a single named group will be held to be arbitrary[5] unless the relation to the public good is clearly demonstrable.[6]

(b) Limitation to members of a sect, excluding adherents who are not members; and (c) limitation to members of sects who "take care of their own": These limitations are being considered together since at least some of the bills before Congress provide that a necessary condition of exemption is a finding by the Secretary of Health, Education, and Welfare that the sect makes provision for its elderly "members." This condition would probably be considered a necessary and proper public policy consideration and, therefore, a reasonable condition upon which to base eligibility for exemption. The purpose of Congress in this legislation would be to assure the fulfillment of the welfare purpose of social security while relaxing that feature of social security which impinges on the free exercise of religion. Moreover, since individuals can seldom guarantee their own future against deprivation and need, it would be reasonable for Congress to provide that to qualify for an exemption a person must be a member of a sect which shares the religious commitment, both with respect to refusing State insurance and providing for that sect's welfare. Consequently, since the sect aspect is essential, it would seem reasonable to limit the qualification for exemption to persons who are members of a qualifying sect. As said by Justices Black and Douglas in *Board of Education* v. *Barnette*, 319 U.S. 624, 643 (1943): "No well-ordered society can leave to the individuals an absolute right to make final decisions, unassailable by the State, as to everything they will or will not do."

(d) Limitation to sects which require members to follow the occupation of farming as a matter of religious principle: This limitation, as phrased, would not be appropriate on the basis of the facts given in the joint statement. It is there stated that "most old-order Amish communities permit members to make their living as self-employed carpenters or masons" (p. 9). The possibility of limiting the exemption to sects which are established in farming communities for religious reasons is suggested and discussed below.

(e) Limitation to religious groups which were established before 1935: Any limitation which designates a cutoff date would generally be less reasonable than one which on its face shows some relationship to the public purpose of the statute. For example, a requirement that the sect shall have demonstrated over a period of years its ability to take care of its own members would probably be more acceptable as a classification. The text of certain of the legislative proposals already contain this principle in that they refer to the sect to be exempted as one which is "established." I would see no reason why the extent or the test of establishment might not be specifically spelled out. There is some authority that a "classification which draws a line in favor of existing businesses as against those later entering the field will be upheld if any reasonable and substantial basis can be found to justify the classification." *Del Mar Canning Co.* v. *Payne*, 29 Cal. 2d 380, 175 P. 2d 231, 232 (1946). The circumstances justifying such a discrimination must provide substantial reason. *Mayflower Farms* v. *Ten Eyck*, 297 U.S. 266 (1936). It is probable that the unusual situation of the Amish with respect to social security would be considered a substantial reason for a limitation of the classification to established sects.

(f) Limitation to sect established in farming communities for religious reasons: The faith, the members of which are to be exempted, might be described not only as one whose established tenets would be violated by the acceptance of insurance, and one which provides for elderly and dependent members, but as one which for religious reasons is established in farming communities. These limitations might be reasonable if Congress found after sufficient inquiry that they were necessary to assure that the exemption would be confined to sects which were religiously motivated and responsible, and to assure that the welfare purpose of social security would be fulfilled. Congress might reasonably find that the restriction of the exemption to those sects established in farming communities would be justified on the ground that such a sect could be more certainly relied upon to identify and provide for its dependent and elderly members than those in the mobile and transient urban environment. Conversely, the limitation would have the effect of excluding sects which subsequently organize for the purpose of exemption from social security, as it is unlikely that these would or could establish themselves in farming communities for religious or other reasons. The limitation would exclude other present separatist groups whose principles might, but do not specifically, include refusal of social security benefits. Legislation which distinguishes farming situations from others because of sociological and economic differences has taken many forms and has been accepted by the courts. See, for example, *Tigner* v. *Texas*, 310 U.S. 141 (1940), rehearing denied, 310 U.S. 659 (1940).

G. D'ANDELOT BELIN,
General Counsel.

FOOTNOTES

[1] S. 294, 88th Cong.; H.R. 10606, 87th Cong., among others.

[2] *United States* v. *Seeger*, 326 F. 2d 846 (2d Cir. 1964), and the *Jakobson* case, compared with *Peter* v. *United States*, 324 F. 2d 173 (9th Cir. 1963). The *Peter* case followed *Etcheverry* v. *United States*, 320 F. 2d 873 (9th Cir. 1963) on which certiorari was denied, 375 U.S. 320 (1963). The influence of the 2d circuit against the definition is shown in *MacMurray* v. *United States*, 330, F. 2d 928 (9th Cir. 1964).

[3] *Swallow* v. *United States*, 325 F. 2d 97 (10th cir. 1963); *General Finance Corp.* v. *Archetto* (R.I. 1961) 176 A. 2d 73, appeal dismissed, 369 U.S. 423 (1962); *Fellowship of Humanity* v. *County of Alameda*, 315 P. 2d 394 (Cal. Dist. Ct. App. 1957); *Lundberg* v. *County of Alameda*, 298 P. 2d 1(Cal. 1956), appeal dismissed, sub. nom., *Heisey* v. *County of Alameda*, 352 U.S. 921 (1956).

[4] "Golden Rule Church Association," 41 T.C. 719 (1964), (Nonacq. May 19, 1964).

[5] *Eyers Woolen Co.* v. *Gilsum*, 84 N.H. 1, 146 *Baltimore*, 289 U.S. 36 (1933).

[6] *William* v. *Mayor and City Council of Atl.* 511 (1929); *Baltimore* v. *Starr Methodist Protestant Church*, 106 Md. 281, 67 Atl. 261

(1907). Cf. *United States* v. *Department of Revenue of Illinois*, 191 F. Supp. 723 (N.D. Ill. 1961) invalidating a retail tax on sales to the Federal but not to the State government.

S. 380—INTRODUCTION OF A BILL TO PROVIDE TAX RELIEF FOR FAMILIES OF VIETNAM PRISONERS OF WAR TRAVELING OUTSIDE THE UNITED STATES SEEKING INFORMATION ABOUT THEIR MISSING RELATIVES

Mr. SCHWEIKER. Mr. President, I introduce today a bill to amend the Internal Revenue Code to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action in Vietnam or who is, or may be, held prisoner by the North Vietnamese.

In addition, I am proposing that the Internal Revenue Code be further amended to relieve prisoners of war and those missing in action from income tax liability during the time they are held in a detained status by the enemy.

Mr. President, during the past few years one of the most distressing aspects of the tragic Vietnam war has been the inhumane attitude taken by the North Vietnamese and the National Liberation Front in South Vietnam toward American prisoners of war.

State Department inquiries, congressional resolutions, which I have strongly supported, letterwriting campaigns by newspapers, and their readers across the Nation, and the joint session on prisoners of war have been of no avail. It is particularly disheartening to hear of the personal experiences of the mothers, fathers, sisters, brothers, and wives who have spent thousands of dollars in vain attempts to learn whether their loved ones are in fact dead or alive, and in attempts to seek their freedom.

The North Vietnamese have repeatedly refused to adhere to the Geneva Convention and, despite entreaties from many sources, both official and unofficial, have not even taken the basic step of human decency in revealing the names of the prisoners they are currently holding.

The tragedy of this secrecy is that thousands of relatives and friends of Americans missing in action must live daily under the torment of not knowing whether their loved ones are alive or not.

Last year, the Congress enacted Public Law 91–289, to provide extra pay under the War Claims Act of 1948, to men held prisoners of war.

However, in addition to this step to help the POW's, there is further action we can take to be of direct benefit to relatives, who in addition to the mental anguish and emotional strain of not knowing whether their loved ones are prisoners or not, have undergone considerable financial expenses trying to find out this information.

Many wives, parents, and children have traveled to Paris, and other spots around the world, to try to obtain information about the status or whereabouts of a serviceman who is missing in action. In so doing, they have incurred many expenses, such as transportation, hotel, meals, and telephone bills. I feel that, if we allow businessmen to deduct such items in the course of their business, we also should take this humanitarian step and allow similar deductions for those families that have to bear so much grief.

This bill is similar to H.R. 19380, introduced last year in the other body by Representative PAUL FINDLEY, of Illinois. I hope the Congress can act swiftly so that in this small personal way, we can let the relatives of our servicemen missing in action know that we are concerned about their personal anguish, and want to do everything within our power to help.

Mr. President, I ask that my bill be appropriately referred, and that the text be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 380). A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes, introduced by Mr. SCHWEIKER, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as section 219 and by inserting after section 217 the following new section:

"SEC. 218. EXPENSES INCURRED IN SEEKING INFORMATION CONCERNING FAMILY MEMBERS WHO ARE OR MAY BE PRISONERS OF WAR.

"(a) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, there shall be allowed as a deduction the amount of any expenses (includible under subsection (b)) which are paid or incurred during the taxable year by the taxpayer, or by another person with respect to whom the taxpayer is entitled for such taxable year to an exemption under section 151, in connection with a trip outside the United States for the purpose of locating or communicating with a member of the taxpayer's immediate family who is or may be a prisoner of war or is otherwise in a missing status (as defined in section 551(2) of title 37, United States Code) during and in connection with the Vietnam conflict, for the purpose of ascertaining whether such member is alive, or for the purpose of seeking his release from imprisonment or detention.

"(b) EXPENSES INCLUDIBLE.—The expenses which may be included in the deduction under subsection (a) with respect to any trip shall include the costs of transportation, board, lodging, telephone calls, and other items and services on or in connection with such trip, but only to the extent that they are directly related to and necessary for the purpose (specified in subsection (a)) for which the trip was made.

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Expenses incurred in seeking information concerning family members who are or may be prisoners of war.

"Sec. 219. Cross references."

"(c) VIETNAM CONFLICT DEFINED.—For purposes of this section, the term 'Vietnam conflict' includes combatant activities by United States forces in Vietnam and other areas of Southeast Asia, and directly related military, naval, air, and supply activities, conducted on or after February 28, 1961, and prior to such date as may be specified by the President by Executive order as the date of the termination of such activities."

SEC. 2. Section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by adding at the end thereof the following new subsection:

"(d) PRISONERS OF WAR, ETC.—Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551 (2) of title 37, United States Code) during the Vietnam conflict (as defined in section 218(c))."

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after December 31, 1970."

SENATE JOINT RESOLUTION 18—INTRODUCTION OF A JOINT RESOLUTION DEFINING PRESIDENTIAL AUTHORITY TO DEPLOY U.S. TROOPS ABROAD

Mr. TAFT. Mr. President, as we began our involvement in Vietnam, the Congress partly surrendered its constitutional responsibilities relative to the scope of American foreign policy. This was a mistake which should not be repeated. Today I expect to introduce for appropriate reference a joint resolution which restricts the deployment of American troops beyond the territorial limits of the United States without specific congressional authorization. It would exempt only four carefully defined situations involving our national security. Even within these four exempt situations, the President would be required to report any U.S. troop deployment in a foreign nation to the Congress within 48 hours. In all other situations, congressional approval would be required prior to such deployment of American forces.

I have long held the opinion that Congress must assume a leading role in the definition of Presidential authority to intervene militarily in foreign nations. The war in Vietnam has made this abundantly clear. I cannot think of any task more important for this Congress than the proper and clear definition of the respective constitutional roles of the President and the Congress in the area of foreign policy.

Mr. President, I offer a resolution for reference to the appropriate committee and I ask unanimous consent that the text of the joint resolution be printed in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 18) to define the principles which shall govern the deployment of the Armed Forces of the United States by the President, the express U.S. foreign policy objectives in Southeast Asia, introduced by Mr. TAFT, 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.J. RES. 18

Whereas wide discussion and differences of opinion have arisen among the members of the body politic with respect to the power of the President as Commander in Chief to deploy the Armed Forces of the United States beyond its territorial limits and to commit such Armed Forces to combat, and

Whereas the Congress has, through acquiescence and overt action, sanctioned on numerous occasions the deployment of the Armed Forces of the United States beyond its territorial limits and commitment of such Armed Forces to combat without prior express authorization or a declaration of war by the Congress, and

Whereas in order to eliminate the confusion caused by the previous acquiescence and overt actions by Congress, there is a need for a clear statement of policy by the Congress as to the foreign policy of the United States in Southeast Asia, the deployment of Armed Forces by the President generally, and specifically their deployment in fulfillment of such foreign policy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

The deployment and commitment to combat of the Armed Forces of the United States in, within the territorial waters of, or over the territory or territorial waters of any other nation is authorized and shall be undertaken only with specific prior authorization of Congress by law; except that the President, as Commander in Chief, is authorized to deploy and commit to combat such Armed Forces at his sole discretion:

(1) When he finds that the territory or the Armed Forces of the United States are under attack or imminent threat of attack; or

(2) When he finds that such deployment is necessary to fulfill a treaty obligation of the United States not qualified by constitutional or treaty contained limitations of conditions; or

(3) When he finds that such deployment is necessary to effectuate a declaration of war acted on by the Congress; or

(4) When he finds that such deployment is necessary to exercise the inherent right of self-defense of the Nation or its nationals pursuant to established principles of international law or article 51 of the Charter of the United Nations,

The President shall notify the Congress within twenty-four hours after any such finding of all action he has taken at his sole discretion pursuant to any such finding. In the event the Congress is not in session, then the President shall convene the Congress in an extraordinary session and so notify the Congress within forty-eight hours after such finding. This authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

PART II

The Congress hereby declares that it is the policy of the United States that each of the several free Southeast and South Asian nations should have the primary responsibility for the defense of its own territorial integrity: *Provided, however,* That it is the policy of the United States where requested and where needed to furnish economic and military material assistance to such nations whose territorial integrity is threatened by armed aggression. The Congress specifically authorizes the continued deployment of the Armed Forces of the United States in the territorial limits of the Republic of South Vietnam for such time and in such manner as the President, as Commander in Chief, shall deem necessary and appropriate to accomplish a responsible and irreversible withdrawal of such Armed Forces of the United States and the assumption by the Armed Forces of the Republic of South Vietnam at the earliest feasible date of the responsibility for the defense of the territorial integrity of the Republic of South Vietnam: *Provided further,* That the Armed Forces of the United States should not be deployed or committed to combat in Indochina in territory other than that of the Republic of South Vietnam, except as provided in part I hereof. This declaration of policy and authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

ADDITIONAL COSPONSOR OF BILLS

S. 123 AND S. 124

At the request of the junior Senator from Wyoming (Mr. HANSEN), the name of the senior Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of the bills S. 123, to authorize the Secretary of the Interior to modify the operation of the Kortes unit, Missouri River Basin project, Wyoming, for fishery conservation, and S. 124, to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench Area of the Shoshone extensions unit, Missouri River Basin project, Wyoming, and for other purposes.

SENATE RESOLUTION 13—SUBMISSION OF A RESOLUTION CONTINUING FOR 1 MONTH CERTAIN AUTHORITY FOR INVESTIGATIONS BY THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. BYRD of West Virginia (for Mr. RIBICOFF) submitted a resolution (S. Res. 13) continuing for 1 month certain authority for investigations by the Committee on Government Operations into the efficiency and economy of operations of all branches of Government, which was considered and agreed to.

(The remarks of Mr. BYRD of West Virginia when he submitted the resolution appear later in the RECORD under the appropriate heading.)

SENATE RESOLUTION 14—SUBMISSION OF A RESOLUTION TO AMEND RULE XXII OF THE SENATE RULES

Mr. MILLER submitted the following resolution (S. Res. 14); which was referred to the Committee on Rules and Administration:

S. RES. 14

Resolved, That rule XXII of the Standing Rules of the Senate is amended by striking out the third paragraph of section 2 and by substituting in place thereof the following: "And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting and also by a majority of the Senators affiliated with each of the two major political parties present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

PROPOSED AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE—AMENDMENT

AMENDMENT NO. 2

Mr. MILLER submitted an amendment, intended to be proposed by him, to Senate Resolution 9, to amend rule XXII of the Standing Rules of the Senate, which was ordered to lie on the table and to be printed.

THE ROLE OF THE UNITED STATES IN LATIN AMERICA

Mr. HARRIS. Mr. President, the January 29 New York Times Economic Survey of Latin America includes two articles that underscore the danger that while rapid and unprecedented political change is occurring in Latin America, the U.S. Government remains inactive and silent, its attention diverted to other areas of the world. Moreover, Washington's silence and inactivity do not appear to be the result of deliberate abstention. Rather, they seem to be the result of neglectful abandonment so long as Government energies are directed elsewhere.

U.S. citizens now hold $13 billion of direct U.S. investment in Latin America, which compares to $12 billion in the Common Market area. If the pace of change in Latin America continues to accelerate—and this we must expect—we may anticipate further expropriations or other restrictive measures by Latin American governments directed against U.S. investors. These two articles suggest the time has come for the rapid development of a U.S. policy that will provide assistance and guidance to our businessmen and that will at the same time defuse some of the dangerous political tensions now building up between Latin America and the United States.

Mr. President, I ask unanimous consent that the articles appearing in the New York Times be printed at this point in the RECORD.

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

LATINS ACCELERATE TEMPO OF REVOLUTION

(By H. J. Maidenberg)

SANTIAGO, CHILE.—The sea of discontent that has long threatened the traditional Latin American establishment broke over an increasing number of countries in the region last year.

The largest wave was the democratic election of a Marxist Government here last fall.

With the former bulwarks of United States aid and involvement giving way rapidly to Washington's new policy of "low profile" and disengagement, the tempo of change is intensifying throughout the area.

The four key pillars of the Latin American establishment—the political forces, the military, the church and business—were thus left without the traditional support of their North American ally.

For the foreign investor, the turmoil that long had threatened his venture in Latin countries descended on a growing number of former El Dorados.

The foreign investor found Chile promising to nationalize all basic commercial and industrial enterprises. Earlier, neighboring Peru and Bolivia had moved against many foreign companies.

While Mexico maintained her economic rate of growth through costly borrowing, Central America and the Caribbean countries were swept toward currents that might be potentially dangerous to foreign companies.

Brazil, the giant of the area, continued to purchase her impressive gains at the cost of severe repressive measures that were creating a reservoir of anti-establishment sentiment.

Argentina, Venezuela and Ecuador sought to cope with their institutionalized problems by shifting the blame to foreign interests.

Elsewhere, Colombia narrowly escaped being taken over by extremists, Uruguay became a battleground for urban guerrillas and Paraguay remained caught in repression and poverty, despite an outward boom.

Given this gloomy picture of the region insofar as foreign investments are concerned, Washington's so-called "low profile" policy is viewed by many United States businessmen as the sealing of their fate in Latin America.

In the absence of any word from Washington about its policy toward the owners of more than $13-billion of direct United States investment in the area—against $12-billion in the European Common Market—the investors can only wait for the inevitable.

And the inevitable would appear to be more nationalization and profit-slashing restrictions.

Washington's new policy—or lack of one—toward its southern neighbors has eliminated its former "carrots and sticks" that had protected United States investments in the region.

In his Halloween night speech on Latin American affairs 15 months ago. President Nixon offered trade instead of the former aid. Since then, the Alliance for Progress has been quickly buried and financial loans and grants cut sharply.

At the same time, few businessmen expect the marines to come to their rescue as they have in the past.

What has brought about Washington's outward indifference? According to diplomatic observers seeking an answer, there appear to be three major factors that govern State Department thinking.

First, it is widely believed in Washington that the problems of Latin America are so vast that only vast outlays of aid could help solve them. The Administration cannot commit financial resources of such magnitude at present.

Second, there is the feeling that Washington's preoccupation with Vietnam, the Middle East and domestic social and economic problems has tended to take the limelight away from the hemisphere.

Finally, there is a widespread belief among diplomats in Latin America that few, if any, of President Nixon's close advisers have any first-hand knowledge of the region.

Meantime, the other four pillars endure, for better or worse, seeking to accommodate as best they can to changing conditions.

The political leaders in many Latin countries, for example, have little choice. Faced with staggering social, economic and often racial troubles, they frequently seek to buy time or peace. And the least expensive cost seems to be nationalism or statism.

Throughout the area, government officials have expressed a sense of having been betrayed by the United States. Having committed themselves to sweeping reform programs under the Alliance for Progress, which raised the expectations of their people, they now find themselves isolated.

Those political leaders not already given over to radical solutions or experiments to solve their problems are rapidly losing ground in Latin America today.

As dollars become scarce because of the decline in aid and the slowdown in business in the developed lands, many Latin American countries are finding it difficult to permit investors from the United States and other countries to take out profits.

United States investors alone earned a gross profit of $11.3-billion on their direct investment of $13-billion in the decade ended with 1968, according to the Council for Latin America, which represents some 200 of the major North American concerns operating in the area.

The second pillar of the traditional group—the military—has also taken a hard line toward its former mentors in the United States.

The military's primary concern is security against anti-government guerrillas. Many Latin military men are deeply impressed by the United States experience in Vietnam. Few here doubt they could do better against determined and popular uprisings.

Most Latin military forces are too badly armed, insufficiently trained and poorly motivated to conduct guerrilla warfare. Knowing full well their limitations, the military men have become a potent force urging political leaders to find solutions to the problems that spawn guerrilla movements.

Besides, few military men believe that their jobs depend on the political complexion of their country. Their main concern is the integrity of their institution as a force in society.

As for the Roman Catholic Church, formerly a mainstay of the established order in Latin America, the new liberal tendencies within the church have often neutralized it as a power. Desperately short of those seeking a vocation, the church in Latin America must depend more and more on foreign clergymen.

Ironically, the clergymen recruited from abroad have been sent out in many instances because their non-conformist views have made them unwelcome at home. Today, radical priests sent from conservative areas of Europe and the United States are dominating the thinking of religious orders throughout Latin America.

Most disappointing to foreign business interests today, however, is the fourth pillar—the local entrepreneur—for he has been hardly a friend to the foreigner in recent years, choosing instead to divert the attention from himself.

In many Latin nations, notably Peru, Argentina and Venezuela, the doemstic businessman has actually led and fed nationalistic forces. Obviously, one motive was to remove more powerful competition.

To foreign businessmen, however, the attitude of their local counterparts is shortsighted. Once the state moves into commerce and industry, they assert, the appetite of the state will know no bounds.

But tradition is difficult to overcome. And the Latin American businessman has long operated under the so-called "suitcase mentality" that calls for "get it and get out."

Perhaps, some foreign investors concede, the Latin businessman saw the upheaval coming earlier. In any event, the steady grinding away of United States interests in the area may also be ascribed to the indifference of the home offices over the years.

The general view expressed by many United States businessmen and diplomats last year was in the words of one old Latin hand:

"What good will it do Uncle Sam to spend countless billions, not to mention the human toll, to save Asia and the Middle East and lose our traditional friends and neighbors in our own back yard?"

DOES THE UNITED STATES HAVE ANY ROLE TO PLAY?

(By Rodrigo Botero)

The decade of the nineteen-seventies finds the inter-American community in a situation of disarray and confusion, which is fitting and proper for any self-respecting part of the world today. Strife and turmoil have become normal.

Yet there are significant if undramatic changes taking place within Latin America, as well as in the United States-Latin American relationship, that will have a decisive influence upon the nature of the inter-American dialogue in the foreseeable future.

The change in the United States' attitude toward Latin America is part of the over-all reassessment of foreign policy as frustration with the Vietnam war has become widespread. Disenchantment with involvement abroad includes the hemisphere. The Alliance for Progress, conceived as a democratic alternative to dictatorship, is a shattered dream from a distant era.

After President John F. Kennedy's assassination, the substance of the Alliance disappeared, although the name and the rhetoric survived the Johnson Administration. Today, one is at a loss trying to identify anyone at a decision-making level within the United States Government who knows or cares about Latin America. Latin America has become a nonissue in well-informed United States circles, and is in danger of becoming a lost continent so far as American public opinion goes.

The disappearance of the United States as a participant in the hemispheric colloquy is an unexpected contingency. The inter-American system was designed fundamentally to establish rules for coping with the Colossus of the North. For decades Latin America has been seeking a modus vivendi with the United States—which, as Prime Minister Pierre Elliott Trudeau of Canada said, is comparable to sleeping in bed with an elephant.

The problems of not getting crushed are of a different nature from those bought about by the departure of the beast. Neither in the United States nor in Latin America can it be taken for granted now that the modernization of the hemisphere is of any relevance to the world's richest and most powerful nation.

The changes that have been taking place in Latin America can be summarized under four headings: self-awareness, nationalism, the new militarism and the sobering effects of economic reality. Those affect Latin America's view of itself, its role in the world and its relationship with the United States.

Latin American leaders are finding out what little practical value there is in trying to form a common bloc with the underdeveloped, non-Western nations known as the Third World. Latin American countries have little in common with the newly independent nations of Asia and Africa. Our interests and theirs rarely coincide.

For better or worse, Latin America is part of Western society. Parts of it already are approaching southern European living standards. Before the end of this century several Latin Amerian countries will rank as world powers in a category comparable to that of France or Britain.

This knowledge, coupled with an increased assertiveness of local value in every sphere, has brought about a greater degree of self-confidence and a stronger regional nationalism. Nationalism has also been given impetus by the new military regimes, which represent attempts on the part of the military to cope with the economic and social problems that eluded civilian leadership.

The magnitude of those problems has increased sharply. The combined effects of the population explosion, rapid and uncontrolled urbanization and spreading unemployment

are creating tremendous demands upon the social, economic and political systems of the region. Those factors and others have led to a stiffening of the Latin American position in dealing with the United States, particularly in the senstitive areas of trade, direct foreign investment and control over natural resources.

But simultaneously, as it has broadened its international economic experience, Latin America is discovering that in this imperfect world there are worse partners than the United States. When the recommendation to the new Chilean regime to maintain a working relationship with the United States comes from the Cuban Government, we are approaching a useful degree of realism in dealing with the world.

The deterioration of the inter-American system affects the issues more than the mechanisms. The inter-American machinery continues to thrive in a Parkinsonian tangle of agencies and committees. There are plenty of bilateral and multilateral talks on such things as soluble coffee, fishing rights, textile quotas and the precise meaning of "prompt, adequate and effective compensation." Those topics are by no means irrelevant, but unless we can discuss them within a larger framework, they may prove intractable.

It is doubtful that any new inter-American initiative can be undertaken until after the Vietnam tragedy has come to an end. Even so, there is much to be done at the academic level to try to reconstruct the lost consensus, in view of the radically different circumstances in which this decade finds the United States and Latin America. Let the scholars address themselves to the issues the statesmen and politicians are for the present ignoring:

Should Latin America accept the cooperation of the United States, or go it alone?

If conflict is unavoidable, can the hostilities be carried on according to some minimum ground rules of civility?

Given the present state of affairs in the hemisphere, that is about as much as can be asked from men of goodwill on both sides of the Rio Grande.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Idaho is recognized for 3 minutes.

"SENIOR POWER": AS A FORCE FOR PROGRESS

Mr. CHURCH. Mr. President, the term "senior power" has received increasing attention of late. Older Americans were active in the 1970 congressional elections, supporting those candidates who seemed most attuned to their problems and their hopes. But even more important, elderly citizens are busy, not only during election campaigns, but also in the day-to-day process of generating widespread understanding and support of legislation or other actions which affect them directly.

Many individuals have found that, in retirement, they must do battle when State legislatures consider matters such as tax relief for aged homeowners. Others have argued before their municipal governing bodies for reduced transit fares or for better housing. And in Washington, national organizations have been effective advocates of social security reform, better nursing home care, improvements in medicare and medicaid, and much else.

In addition, some spokesmen for the elderly have given vigorous support to legislation which has no apparent direct relationship to the elderly. The National Council of Senior Citizens, for example, has supported such causes as job safety legislation and the National Health Security program for all age groups. The NCSC attitude is: What is good for all Americans is also good for the elderly; today's young people will one day be elderly themselves, and they will approach retirement with much more confidence if their total lifetime is one of fulfillment.

As a member of the Senate Committee on Aging for the past 10 years, I have been deeply impressed with the growing self-awareness among older Americans as to the need for action on their behalf and on behalf of others. They are by no means a group without the ability to speak out.

This trend will be especially important during 1971, which will culminate with a White House Conference on Aging. It is vital that the elderly speak out even more loudly during the next 10 months or so. It is significant that both the NCSC and the American Association of Retired Persons have expressed deep-rooted misgivings about preparations now underway for that Conference. Leaders of those organizations fear that the Conference could become simply an exercise in problem identification rather than an instrument for devising action strategies to deal with those problems. If aged and aging Americans throughout the Nation take aggressive roles in preliminary State conferences planned for the month of May, however, they will help assure that the White House Conference will do the job that must be done to help make this decade one of real progress for today's generation of retirees and for all those who will follow.

Mr. President, I believe that every legislator—local, State, or Federal—should heed the voice of "senior power" in this White House Conference year. Some aspects of that phenomenon were described in the magazine section of the Washington Sunday Star of January 24. I ask unanimous consent to have the article printed in the RECORD.

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

DUCK! GERIATRIC LIB IS ON THE MARCH

(By Vernon Pizer)

"And sigh that only one thing has been lent
To youth and age in common—discontent."
—Sir Edwin Arnold.

Sir Edwin—wherever you may be a century after penning that snippet of poetry—there's news for you. Youth and age no longer have only discontent in common; today they also share in common a growing militancy arising from that discontent. The elderly do not quite adopt all of youth's forms of militancy—they are too insomniac for sleep-ins, too anaphrodisiac for love-ins, too arthritic for rock throwing—yet it is clear that the geriatric generation, rallying under its war cry of "Senior Power," is in rebellion. Here are some of the more recent skirmishes.

Last summer, in front of Gov. Rockefeller's New York City office, 1,000 oldsters—some in wheelchairs and all wearing big "Senior Power" buttons—staged a turbulent street demonstration in behalf of increased benefits for the aged, the blind and the disabled. They won the increase.

On the opposite coast, another governor, Ronald Reagan of California, also had been the target for the ire of the elderly. A group of seniors recently burst into his office. Taking it over, they staged a defiant, five-hour sit-in to protest the level of welfare payments. They won no immediate concessions, but they did give Reagan something to ponder.

In Miami Beach, senior citizens declared war against grocers they charged with consistently overpricing their goods. Hundreds of chanting, placarded grandparents (many astutely playing both ends against the middle by bringing along their grandchildren) laid siege with picket lines. The grocers caved in, agreeing to adjust their pricing policies.

In Boston, old-timers took direct action against a state legislative committee chairman obstinately bottling up an old-age assistance bill in his committee. Learning that the chairman suffered from an ulcer that he held in check only by going out for soothing nourishment at noon each day, two dozen geriatric commandos formed a phalanx at his office door just before lunchtime. Stymied by unyielding, wall-to-wall elders, the legislator fumed while his ulcer escalated from discomfort to anguish. In the end he capitulated, solemnly pledging to release the bill promptly; whereupon the human barricade wished him *bon appetit* and parted.

But it was in Washington that the elderly gained a signal victory with nationwide implications. A major complaint of the aged almost everywhere in the U.S. is that municipal health services are woefully inadequate, and last May Washington seniors decided the time had come to challenge the medical establishment head-on. They selected as their battlefield D.C. General Hospital, notorious for understaffing and overcrowding. Under the banner of the Senior Citizens Clearinghouse of the District of Columbia, and joined by other interested local groups, they demanded to be heard by the Joint Commission on the Accreditation of Hospitals inspection team scheduled to evaluate D.C. General for its biennial re-accreditation. Never in JCAH's 51 years had private citizens appeared before its inspection teams, but this challenge was too determined, too well organized to ignore. Shattering precedent, JCAH agreed to hear the patients' story. Dr. John Porterfield, commission president, came himself from Chicago to head the team. The senior citizens, for the first time, had an opportunity to testify, and their testimony directly influ-

enced the decision to grant D.C. General only limited, one-year accreditation, pending clean-up of deficiencies. Going further, JCAH agreed that all inspection teams nationwide would henceforth hear citizen representatives as a regular part of its accreditation procedure.

The latest senior citizen battle—an all-out attack against nursing-home operators brutally victimizing elderly patients—is now shaping up into a major confrontation. The opening guns have just been fired by a "Nader's Raiders" task force before a special Senate Subcommittee on Aging. Charging nursing homes with appalling abuse of the elderly, Ralph Nader and members of his team cited shocking examples of "collective callousness" toward senior citizens and urged the aging to form a "liberation movement" to fight it. The call to arms is being heeded. Said one grim senior in the hushed hearing room, "It has come down to a case of survival—theirs or ours. We will fight fire with fire to put the nursing home hell-hole operators out of business."

From coast to coast, contradicting their tradition of undemanding docility, the elderly are no longer willing to accept crumbs while others reach for slices, no longer willing to follow a script that others have written for them. In an age of protest, they too are protesting. In an age of activism, they have become activists.

The only surprise is that the elderly have waited so long to take a forceful stand on their own behalf. As a group, they are among the poorest of the poor, the most neglected of the neglected. Ten million citizens over 65 have incomes under $75 a week to meet all living expenses. Two million elderly couples have combined incomes of only $50 a week to cover all expenses. Half of the aging Americans who live alone must do it on a total income of less than $30 a week. Because the elderly are "last hired, first fired," only one of every five who is employable and actively seeking work is able to secure even a part-time job. The highest suicide rate among American males is in the over-65 group.

But those are statistics, not flesh-and-blood people. A Washington housewife, Mrs. Mae Phillips, keen and youthful-appearing despite her 75 years, knows first-hand the human side of those depressing figures. "Lack of money doesn't really hit home until you can't turn on a heater in the winter because you can't meet a fuel bill. It doesn't hit home until you have to figure how many suppers you can squeeze from a package of crackers and a piece of cheese. It doesn't hit home until you have to choose between buying the crackers and cheese or buying medicine. And it isn't just poverty, it's also the indignity and contempt you face. You wait for a bus, and it stops three feet from the curb. The extra six inches to step up can be pure misery, especially with the driver yelling at you to get moving because he has a schedule to keep. You go to a government office and have to wait four or five hours before you are called. When it is finally your turn, the clerk tells you roughly to go to a different office halfway across town. The fact is that the elderly are made to feel that they no longer have a place in the community."

Another senior citizen says bitterly, "One day my supervisor compliments me on my fine work, and the next day he fires me because I've reached what the front office says is 'retirement age.' Nobody asked me if I wanted to retire, but there I am out in the cold. My little cushion in the bank disappears because inflation has shrunk it. I move to a crummy room in a crummy neighborhood. After a lifetime as a law-abiding, tax-paying citizen I have frayed collars and holes in my shoes. On the street, people start to give me a wide berth, like they think I'm a panhandler or a pickpocket. Because I've lived long enough to reach 'retirement age,' I've become a wart on the face of humanity."

It is a bleak, sad picture that the senior citizens paint. If the elderly are at last rebelling, nobody can accuse them of being rebels without a cause.

How strong is the rebellious spirit that seems to be coursing through the once-tractable rocking-chair generation? I put the question to John B. Martin, who is both U.S. commissioner on aging and special assistant to the President for the aging. He does not quibble in his response. "I see increasing militancy on the part of the elderly, and I expect to see more of it in the future. I am convinced that, though there may be many kinds of power, there is nothing more potent than aroused Senior Power."

Martin deplores resort to violence, but he defends the right of the elderly to stir things up. "For far too long, older Americans have been regarded as nuisances to be tolerated or as charity patients. Instead of being rewarded for contributions they make in their working years toward building the tremendous capacity of the nation, older Americans have been expected to be content with half measures. They are all too often barred from the world they made—by lack of money, by lack of place, by lack of welcome and opportunity, by the attitudes of those around them who dominate and control their lives. As a nation, we have not yet made an irrevocable commitment to a policy of treating our older people as first-class citizens truly participating in our national life." With a suggestion of irony, he adds, "We don't expect them to protest. But someone must protest."

Effective senior citizen protest began when the elderly discovered that the name of the game is organization. Of their several nationwide organizations, the largest is the National Council of Senior Citizens, Inc. Characterized by Commissioner Martin as "activist," it is the creation of former Rep. Aime J. Forand of Rhode Island, who relinquished his House seat in 1960 to devote full time to fighting for passage of Medicare; in 1961 he established the National Council as a rallying point in the drive for enabling legislation. Victory came in 1965, when President Johnson signed Medicare into law, declaring that it had come into being only because of the persistence of Forand and the National Council of Senior Citizens.

Forand's imprint of political activism has been left indelibly on the National Council and its three million members grouped regionally into 3,000 clubs. As Nelson H. Cruikshank, present president of the council, puts it, "We may be nonpartisan, but we are far from being political bystanders. As an issue-oriented organization, we have the political clout, and the expertise in wielding it, to significantly influence the outcome of issues."

How much influence do senior citizens really have? Twenty million Americans—10 percent of the population—are over 65. Another 10 percent are "junior-seniors," aged 55 to 65. And increasingly sophisticated geriatric procedures are enlarging the rolls of the elderly. But that is only part of the story. Over 90 percent of all senior citizens are registered voters, far higher than the rate of registration among younger groups. More significantly, two-thirds of registered seniors vote regularly, while only about half of the younger registrants actually show up at the polling booths. Former HEW Secretary Wilbur J. Cohen sums it up succinctly: "Older people vote more predominantly. We have a lot of young people raising holy hell but not voting." This is a lesson being learned by those whose political lives rest in the hands of the voters. It is from this reality that the elderly get their clout.

Cruikshank contends that the recent national elections served to demonstrate the ballot-box strength for seniors, especially in the Florida senatorial contest. In that race, William Cramer, a Republican congressman whose voting record has not endeared him to the elderly, was pitted against Lawson Chiles, whose performance as a Democratic state senator had struck a more responsive chord among oldsters. With deep satisfaction, Cruikshank says, "The first organized groups to endorse Chiles for the U.S. Senate were the Florida senior citizens' clubs. That's nothing piddling—there are 400 of these clubs in the state. Nobody claims the senior citizens single-handedly carried the day for Chiles. On the other hand, nobody can deny that a sixth of all Floridians are elderly, and Chiles was their boy."

Now there is evidence that senior citizens will not stop with bloc-voting. The reason is clear. Often they must rally behind a candidate who is not ideal but is simply the least of the evils on the ballot. To break out of this box, the elderly in several sections of the country are preparing to put up their own candidates. Frank Manning, a driving force among Massachusetts seniors, revealed this developing electoral confrontation recently when he announced, "By 1972 in California, Massachusetts, Florida and other key states, we will in some instances be fielding our own candidates, not necessarily senior citizens. Our main target at the start will be Congress and the state legislatures."

The point to all this is that the elderly have emerged as an organized, potent force to be reckoned with. Sen. Harrison A. Williams of New Jersey, chairman of the Senate Special Committee on Aging, noting the growing political awareness of the elderly, says, "I see more and more evidence of solidarity and growing numbers of older persons who are taking vigorous public positions on local and national issues."

Cruikshank couldn't agree more. "That gets to the heart of the matter. Solidarity and a vigorous public stand have made Senior power more than just a snappy slogan. And we have proved that we won't hesitate to use Senior Power of the nation's elderly are threatened."

How the National Council mobilizes its geriatric troops in the face of threat was demonstrated in its war against the giant of the magazine world, the *Reader's Digest*. Three years ago the *Digest*, opposing a move to broaden Social Security coverage, ran an article condemning the program as mismanaged and fiscally unsound.

"The charges were viciously false, and they were a dagger at every senior citizen's throat," Cruikshank says. "The *Digest* refused to correct the record, so we had to take matters in our own hands."

The National Council girded for battle, setting up a command post under its executive director, William R. Hutton. Marshaling his forces, Hutton deployed them to the 10 areas of the country where the *Digest* maintains offices. In charge of each region he placed an experienced lieutenant, many of them veterans of the labor wars of an earlier era. On D-day, Hutton blew the whistle and there was a massive, coordinated outpouring of senior citizens from coast to coast. Converging on the *Digest* offices, the grim, angry seniors threw up picket lines while their "truth squads" handed out astringently blunt leaflets. Extra police details were called out to hold the pickets in check in Philadelphia, Los Angeles, Detroit, Atlanta, Chicago, Minneapolis, Boston, Pittsburgh and San Francisco. In New York City, despite a driving rain, nearly 1,000 seniors led by Walter Newburgher, a seasoned hand, took up battle stations around the *Digest* offices under the watchful eyes of riot police. A task force dispatched by the New York contingent upset the tranquility of *Digest* headquarters upstate in Chappaqua by invading its luxurious 160-acre complex. In Bethesda, Md., picket line of seniors spring up around the home of Charles Stevenson, author of the offending article.

While the shock troops were maneuvering against the enemy's redoubts, the National Council also was prodding political artillery into position. In the opening salvo, HEW issued an eight-page categorical denial of the *Digest's* allegations, knocking them down one by one. Before the thunder had died away. Wilbur Mills, chairman of the House Ways and Means Committee, which had just concluded an in-depth study of Social Security, rose in Congress to condemn the article's "erroneous implications," emphasizing the soundness of the program. Other congressmen castigated the *Digest's* assertions as "unprincipled," "vicious," "false," and "the big lie." In the Senate, Abraham A. Ribicoff of Connecticut took the floor to echo the sentiments of his colleagues on the House side.

"We simply routed the *Digest*," Hutton says. "No comparable nationwide protest had ever before been mounted by senior citizens and their supporters. It accomplished two things: publicized the falsity of the *Digest's* charges, and demonstrated forcefully that seniors could no longer be pushed around."

If there seem to be parallels between many of the methods and issues of organized senior citizens and those of labor, it is not mere coincidence. Labor is closely allied with the seniors, and, more and more, union leaders are organizing their retirees into clubs chartered by the National Council of Senior Citizens. Before assuming the presidency of the National Council, Nelson Cruikshank was an AFL–CIO executive.

Cruikshank and Hutton seem paradoxically mismatched, yet remarkably complementary as leaders of Senior Power. Thin, wiry, reflective, 70-year-old Cruikshank speaks deliberately, weighing his words and presently his views with calm logic. He is the unflappable, persistent type who is dangerous adversary at a negotiating table. Hutton—a little shorter, a lot heavier, and 16 years younger—is extroverted, nimble-witted and innovative, still bearing the earmarks of the advertising man he used to be. A facile speaker, he speaks confidently, with his words clothed in the accent of his native England. Together, Cruikshank and Hutton make a formidable team. They stress that they are committed to action programs to benefit all segments of the population, but they readily agree their prime concerns are senior citizen gut issues like Social Security payouts high enough to pry open the inflationary vise, more and better housing, improved and less costly health care, better transportation, job opportunities and a meaningful role in the life of the nation.

Only four blocks from the National Council's offices is the headquarters of the other "big two" organization of the elderly—the American Association of Retired Persons—but the two groups are further apart than geography suggests. The National Council is lean, its atmosphere shirtsleeve and somewhat harried. The AARP is sleek, its furnishings elegant, its atmosphere is subdued as the piped-in background music. The externals are reflected in basic attitudes—the AARP is less "activist," more "establishment" than the National Council.

Bernard E. Nash, AARP's polished, poised, 48-year-old executive director, recognizes the growing militancy of the elderly, but he doubts that muscle-flexing confrontations achieve much. "Older people are increasingly frustrated, disenchanted, disillusioned, their problems continually worsening, but I don't see that militant activism leads to eliminating the causes," he says. Though fundamental goals of AARP and the National Council are essentially the same, their strategies differ. Nash believes in being "less visible and less public." He prefers judicious application of legislative pressure; his staff of 200 includes five Capitol Hill lobbyists. Having served as deputy to Commissioner Martin before assuming his AARP post in 1969, Nash knows his way around official Washington, and he deploys his lobbyists skillfully. His men on the Hill remind congressmen that AARP has 2¼ million members, but they do it with finesse and subtlety.

Both AARP and the National Council are convinced that 1971 is the critical year for senior citizens. In this they are joined by Commissioner Martin. This unanimity rests on the scheduled White House Conference on Aging, due in November. It will be only the second such conference; the first was called by President Eisenhower in 1961. Already in preparation for more than a year, the conference aims to create a more realistic, more comprehensive national policy for older citizens.

Commissioner Martin, as one would expect, is optimistic about the White House Conference. "It has been a long time in the planning, and the best minds have devoted themselves to creating a sound framework for developing a real philosophy of aging and a real commitment to the aging, both of which are long overdue. I believe it will result in a realizable blueprint of where we should head, and how, in solving the problems of the aging. And I expect to see massive public support for the specific proposals that emerge."

Nash is considerably more cautious. Candidly admitting his position is awkward because, as Martin's former deputy, he was a prime drafter of preliminary conference plans, he expresses concern lest delegates concentrate on defining the needs of the elderly instead of formulating solutions. "We already know the needs. What is wanted now is less talk and more action," Nash says. Then, affecting an aggressive stance that is unusual for AARP, he adds, "We must now place responsibility and demand follow-through. We must challenge people in authority—agencies, procedures, institutions, attitudes. If the White House conference turns out to be a verbal deodorant for an odorous situation, I think the country will see an outburst of political activism by the elderly accompanied by physical militancy on specific issues."

Cruikshank and Hutton believe little good will emerge from the conference. "We are watching every move the administration makes," Cruikshank says. "If the conference fails, and I am not optimistic over its chances for success, the National Council will take the lead in forming a coalition with labor and others to initiate positive action." Hutton is even blunter: "If the White House does not deliver the goods, this nation will have unprecedented senior citizen militancy. We are quite prepared to fight for justice for the elderly. Make no mistake, the senior citizen is not afraid to fight—he has very little to lose."

What it all adds up to is that the nation's elderly will no longer meekly permit themselves to be shunted aside or short-changed. They are serving notice that Senior Power is here, it is now, and it will not be denied.

BRAZILIAN LEADER IN DEVELOPMENT

Mr. CHURCH. Mr. President, one of the men most dedicated to the economic and social development of his country is Dr. Jarbas Goncalves Passarhino, Brazil's Minister of Education. I met Dr. Passarhino last fall at an international conference in Puerto Rico.

Before assuming the top education post in the national government, Dr. Passarhino served as Governor of the State of Para where he is well remembered for his energetic programs to build schools and highways. As Education Minister, he now faces an immense challenge, as described by Mr. Lewis H. Diuguid in the Washington Post, of leading the vast majority of his countrymen from illiteracy into the age of technology.

I ask unanimous consent that Mr. Diuguid's report of December 20, 1970, "Brazil Wages Two-Pronged War on Illiteracy," be printed in the RECORD.

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

BRAZIL WAGES TWO-PRONGED WAR ON ILLITERACY

(By Lewis H. Diuguid)

RIO DE JANEIRO.—Brazil, with half of the land and people of South America, is entering the era of technology largely illiterate. On a continent accustomed to superlative social problems, few are more ominous.

There is no agreement on the precise number of illiterates. Indeed, the population estimate of 93 million is officially described as a projection from dubious figures. The most recent government survey estimates that 16 million Brazilians over 15 cannot even read or write their names.

Another government figure, based on more conservative standards, found 30 million illiterates. The number of people who make no effective use of their schooling spirals up to over half of the population.

Primary education is the responsibility of the 22 states. The systems around Rio and Sao Paulo turn out most of the literates, and in the poorest states of the northeast here have been virtually no schools at all.

Symptoms of illiteracy and closely related problems of an untrained work force are endless: city newspapers carry columns of ads for skilled workers while the slums fill with unemployed who lack even the ability to read the ads; a major occupation is prostitution, which sociologists here link closely to illiteracy; statistics from newspaper readership to library lending (and book supply) show Brazil as a devastating dead weight in hemispheric averages.

The government is building schools and training teachers but it has concluded that other efforts are needed. The Brazilian Literacy Movement (Mobral) is the official answer; other, unofficial, programs were more experimental. One was driven out and another is barely tolerated.

I. THE GOVERNMENT WAY

The government of Gen. Emilio Garrastazu Medici selected education as a top priority and chose a proven performer, Jarbas Goncalves Passarinho, to develop it.

That was over a year ago. Passarinho, 49, attacked the problem much in the manner of a war game in the retired colonel's days at the artillery school.

The great limiting factor impeding educational advance was illiteracy. How many illiterates? How dispersed? How much money was available, and what was the cost per head to achieve literacy?

By UNESCO Illiteracy Day, last Sept. 8, Passarinho had a man, a plan and a program: the Brazilian Literacy Movement (Mobral from the Portuguese). A large part of any literacy effort is motivation, and the newspaper publicity soon spread wide the word of Mobral.

In an interview upcountry at Belem, where Passarinho first took up politics as the appointed governor, he described how he found a field marshal for Mobral.

The first man selected ran over the figures: 16 million illiterates x $22 (UNESCO estimate of cost per head)=U.S. $352 million. But the budget of Mobral was about $12 million. The candidate tore up his notes and quit.

"Clearly we needed someone more inventive," said Passarinho.

The colonel-turned-educator recalled a

chapter in a book called "Brasil 2001" arguing that the country's educational failure was caused not by spending too little, but unwisely. The author of the book was Mario H. Simonsen, businessman and economist.

"I offered him a unique opportunity to put his ideas to work," said Passarinho.

RAISING THE MONEY

Simonsen found a way to finance the program, and Passarinho seems assured it will work, at $3 per head federal outlay instead of $22. Mobral puts its actual cost per head to achieve literacy at $15. The difference between that and the $3 federal outlay is made up by communities that contract with Mobral, by a cut from the national lottery, a minimal tuition and big checks from public figures.

When soccer football hero Pele made a contribution, Mobral made page one of every paper in the country.

Simonsen intends eventually to contract with 1200 communities, rural and urban. As a starter, he will concentrate on 400 municipalities where 70 per cent of the illiterates are said to live.

Classrooms are where Simonsen finds them, often in the nearest church. The first task is to teach the teachers, typically students in education but also priests and housewives. "We will use various methods, we will see which one works," said Passarinho. "We will have taught 500,000 to read and write by February, way above our estimates."

With a sense of the picaresque seldom found in military governments, Mobral chose a first operational site in Mangue, Rio's slum-side center of prostitution. Time was that police feared to venture in Mangue, but now two detectives operate Mobral classes there and the students are enthusiastic.

Though Rio and Sao Paulo have their elegant call girls, studies show that patterns of poverty, illiteracy and prostitution coincide consistently. In Mangue, of 1200 people surveyed, half were illiterate and the rest nearly so.

QUALITY IS CHALLENGED

Critics of Mobral do not question its productive capacity. Passarinho, after all, as governor of Para state, built a university in Belem in 90 days ("now has 3,840 students," chimed in the chancellor, who attended the interview with Passarinho). But critics do question the quality of the literacy that Mobral will produce, and whether literacy alone is enough.

Passarinho said the program will teach reading and writing in the context of job training—with the jobs adapted to the needs of the various communities. He agreed that the program alone is insufficient but drummed out statistics to show education advancing on all fronts:

Central government spending on education has doubled since 1963, when left-leaning Joao Goulart presided over what Passarinho called "the time of the demagogue."

In 1965, 120,000—or .15 per cent of the population—were in the universities, compared to 400,000 now. That is approaching the figure in France, which has half the population.

Whereas in 1965, 70 per cent of high school students went to private schools last year the figure was down to 58 per cent. "We are more democratic," said Passarinho. Junior high enrollment tripled in the same period to 233,000 (.26 per cent of the population, compared to 3.5 per cent of the U.S. population in junior high).

RADICAL RHETORIC

Passarinho came into office after a severe conflict between the government and university students. They protested that under an aid program, the United States was dictating the pattern of Brazilian education.

Education has proved a delicate area politically for U.S. AID throughout Latin America, despite obvious needs. Now, two years after the collision with the students, the AID mission is putting up $83 million in matching funds for construction of comprehensive junior high schools and for other programs, including teacher preparation.

William A. Ellis, director of the AID mission, explained the turnabout thusly: "Under Passarinho the programs we long sought to assist have now jelled. . . . There is no chance of our dominating. He will tell us what we should do."

Passarinho, mentioned as a possible future president, said he was introduced to modern principles of organization and planning by U.S. military advisers after World War II.

In discussing the educational philosophy that he is instilling in Mobral, the minister borrowed easily from the vocabulary of the most radical Brazilian experimenter in basic education, the now exiled Paulo Freire. But he put the words in a different context.

"Our neocapitalist system will create conditions for *conscientizacion* of the workers," he said. That word was first popularized by Freire here and it has spread throughout the idioms of Latin America. It means "to make conscious," and it is used to describe Freire's process of awakening the sense of social rights and responsibilities—as well as developing literacy—in deprived classes.

Passarinho said he did not differ with the need to make the workers socially aware—but he did object to "socialization" of the country. Freire's method, according to Passarinho, was to teach literacy with a loaded alphabet. "R was for revolution. He prepared revolutionaries. There are social injustices in Brazil, but that approach was destructive."

He added that the church-state Basic Education Movement, which survived when Freire was forced to leave in 1964, had fallen into the same ways on occasion. But he praised the movement's rural literary efforts and said the organization would have a role in the Mobral program to the extent that it accepted the goals and methods of Mobral.

Those methods are strongly criticized by many educators, usually with the protection of anonymity. Probably a majority of the educators most likely to criticize, those on the left, have been forced out of public employment, if not out of the country, in the purges since the military took over in 1964. The minority remaining in the school systems mute their criticisms in the belief, often justified, that to speak out would be to lose their jobs.

Generally the critics feel Mobral is designed to teach reading to people who ought to be provoked into independent thought. There are even allegations that Mobral is designed to prevent just such thought.

One churchman put it personally, describing Mobral's theoritician, an army chaplain named Father Felipe Spotorino: "He got his experience teaching maids who were required to know how to write. Now he is applying those principles to Mobral."

On the other hand, wide sectors of the church are participating in Mobral, many of them drawn in by their respect for Education Minister Passarinho. The critic quoted above went on to say that "Passarinho is the most effective minister we have had."

II. THE OTHER WAY

In the early '60s, two innovative educators took to the Brazilian hinterland to confront the utter inadequacy of the country's conventional school system.

One of them, Paulo Freire, now is in exile, accused by the military government of teaching socialist revolution along with reading and writing. The other, Marina Bandeira, stayed through the coup in 1964 that brought the generals to power, and she still runs her church-based Basic Education Movement (MEB).

Miss Bandeira's MEB receives a government subsidy, but it is shrinking and the program is now being eclipsed by the government's own Brazilian Literacy Movement. On occasion, she has been criticized in much the way as was Freire.

Opponents of the government point to the fate of Freire to argue that the military dictatorship smothered experimentation. Supporters of the government say the very survival of MEB is proof that innovation is encouraged.

What follows is a description of these experimenters, who did not pretend to answer all of Brazil's awesome education needs but did offer some unusual proposals.

CONSCIENCE BUILDING

In 1963, Freire was working in cultural extension for the federal University of Pernambuco in the utterly poor Northeast, the region long foresaken by man and nature. He was attempting to combine literacy training with social development—to create political and economic awareness in the passing peasantry. He called it *conscientizacion* (actually, that is the Spanish version: the Portuguese is even harder on the English tongue).

One tool that Freire used was the slide projector, offering images meaningful to Northeasterners. During one session which I witnessed, he showed on the slide projector a crude painting of a peasant cutting wood. In a simple progression, he raised concepts of the relationship of the peasant to modern technology (the ax), to the economics of production (ownership of the tree and the land), to social organization (the concept of a tree-cropping cooperative).

The vocabulary was simple and key words linked the concepts. There was no doubt that subject matter was chosen to trigger introspection by the student. He would be encouraged to discuss his state and how to improve it. To the extent that he acted for his betterment, the peasant could in fact be considered revolutionary, a revolution widely held to be necessary in much of rural Latin America.

Freire's method had a serious drawback. It required highly skilled instructors, a scarcity in Brazil. Miss Bandeira had been working along similar lines, but with a method—to be described below—that required fewer expensive instructors.

MILITARY CRACKDOWN

In 1964, people from the two groups began an experiment in combining their approaches. They selected Aracaju, capital of the northeast state of Sergipe, as the site. Then came the increasing conflict between President Joao Goulart and the military, and on April 1, 1964, the military takeover. Among many reasons for the coup was Goulart's sympathy with experimenters on the left, such as Freire.

A participant in the Aracaju experiment described what happened there after the coup:

"About that time, Paulo Freire's shipment of slide projectors arrived for the experiment. The soldiers broke open the boxes, believing they had intercepted machineguns for the revolution. Freire was arrested."

Freire had incurred the hate of the military in the Northeast, who saw him as a Communist. One piece of evidence cited was what was described as a revolutionary textbook. Actually, Freire did not believe in textbooks and used none.

Released from jail, he left for Chile, where he applied his method as head of the literacy training program of then President Eduardo Frei's agrarian reform program. More recently he has joined the World Council of Churches in Geneva.

The *conscientizacion* concept is now part of social development programs in many parts of Latin America, and the word itself is a must for real or would-be revolutionaries of whatever ideology. But the concrete effects of Freire's own work, in Brazil or Chile, have not been measured systematically. Advocates and

critics both profess to see his influence in a considerable swing of peasant votes to Marxist Salvador Allende in the recent Chilean presidential election.

At the time when Freire was jailed in 1964, the radios of Rio were announcing that Marina Banderia had fled with the funds of the Basic Education Movement. Actually, both she and the money remained on the job.

"The people in the rural areas were still there. What other avenues were open to them?" she commented recently at her office in Rio "I decided to stay."

MEB, too, dealt with *conscientizacion*, but the medium was the radio. MEB technicians worked through existing institutions, such as the churches, to reach illiterates in a selected area. But the key subject matter was broadcast over radio transmitters owned by the Catholic Church.

When pressures rose to dissolve MEB as subversive, the bishops went to then President Castelo Branco and asked that if he objected to the program he should specify why. The government investigated, and concluded that MEB should continue.

MEB depends on requests from bishops to carry the broadcasts. Miss Bandeira said that of 1,000 commercial radio stations in Brazil, 140 belong to the Catholic Church. Seventeen bishoprics presently carry the one-hour daily MEB broadcasts.

In these areas, specialists have visited the communities, designed a program to fit their needs and taught how to use the broadcasts.

The typical broadcast will take a theme, such as harvest, or occupational accidents. The broadcaster might discuss pay scales, trade union benefits, employment problems peculiar to the zone. Listeners learn to spell the new words.

"We are not really that concerned with literacy itself. We are afraid of regression," she said. The program might continue for three months or longer, spreading to adjacent areas.

Whereas MEB was reaching 75,000 people in 13 states in 1963, she said, today it has 19,000 organized listeners in eight states. One problem is air time. The MEB hour is 6-7 p.m., though many workers have not returned home by then. All stations are required to carry a government news program from 7 to 8 p.m.

Budget crises have forced MEB to lay off trained people and government subsidy has decreased steadily. Church participation involves contributions from abroad, but not from Brazil.

Miss Bandeira said her people are being contracted to teach the teachers for the new Brazilian Literacy Movement. MEB has 250 employees and 2,000 volunteers.

THE FEARLESS BEGGAR

Miss Bandeira became interested in what she calls "organized reception" after working in Rio television and spending three years with the BBC in London. Asked to describe the achievements of MEB, she offered two case histories in roughly these words:

"Ten years ago, in Sergipe, the bishop brought us a beggar from the streets and asked us to employ him. We did, first as an errand boy. Soon he was typing. He took part in the discussions of the MEB broadcasts. He came to Rio and is 22 now. He will graduate soon as an accountant. He is not afraid of anybody—he's not afraid of me."

"This man was 60 when he learned to read and write with MEB in the interior of Pernambuco state. He led the discussions and he had supervised 26 radio schools in that zone when they were closed in 1966 during a dispute with sugar plantation owners.

"When the bishop's conference met and sought a representative to speak for the area, he was selected. He expressed himself in so clear and eloquent a way that the bishops applauded.

"Is he a wealthy man? No. That he is alive is an accomplishment."

The future of MEB is uncertain, particularly since the government decided to begin anew in its main effort to overcome illiteracy. One problem was that ruling conservatives feared socialism in MEB, and certainly it was a spur in the social field. Another problem may be that its accomplishments are difficult to measure, except for specific cases.

That it is alive—though Paulo Freire's program succumbed—is an accomplishment, and a partial refutation of those who say that life under Brazil's military government is totalitarian.

PAN-BASQUE STIRRINGS IN AMERICA AND FRANCE

Mr. CHURCH. Mr. President, ever since the Burgos trial of 16 Basque separatists was held last month in Spain and harsh sentences were handed down by a military tribunal, there has been a surge of strong Pan-Basque feeling in many parts of the world.

One of the largest Basque communities anywhere is in my own State of Idaho. Mr. Jack Waugh, in a sensitive Christian Science Monitor article from Boise, describes the feeling of unity among Idaho Basques as well as other Basques settled in the Western part of the United States in reaction to the trial.

Mr. Richard Eder of the New York Times, after covering the infamous episode at Burgos, crossed the Pyrenees into France to see for himself the life of the 250,000 Basques in that country. In marked contrast, the Basques in France enjoy the freedom and liberating spirit of an open society.

I recommend these articles concerning one of the most vigorous, decent, and productive people anywhere in the world. I ask unanimous consent that Mr. Waugh's article, "On Budding Basque Unity," of January 18, 1971, and Mr. Eder's, "French Basque Life is Peaceful," of January 11, 1971, be printed in the RECORD.

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

[From the Christian Science Monitor, Jan. 18, 1971]

ON BUILDING BASQUE UNITY

(By Jack Waugh)

BOISE, IDAHO.—They take pleasure in simple things—a flock of sheep in a silent meadow, the quiet cathedral of a mountain draw.

They tap strength from the individual self-reliance of a life alone. Even when they collect at festivals at Elko, Nev., or Boise, Idaho, what makes them shout and sing, dance and laugh are the events of the single skill: Who can lift the heaviest stone or the biggest weight, who can wield the quickest ax, or who can play the most poker-faced game of muz, the Basque country cousin to draw poker?

Which couple can dance most furiously to the throb of the stringed instruments? Which girl can whirl the fastest and smile the widest, which boy can kick the highest and shout the lustiest, which wooden hoop slapped against a partner's rings the loudest?

TRIAL PRODUCED AGONY

The Basques are that kind of people. And when 16 Basque nationalists laid their lives on the line in the dramatic court-martial in Burgos, Spain, last month it was an individual agony for every American-migrated Basque from Elko to Meridian, Idaho.

The Basques came to America in ghostly ways and disappeared back up into the mountains with their flocks of sheep, where their presence was felt but rarely seen.

Now 50,000 to 100,000 Basques live in the American West. It is hard to pinpoint it any closer because Basque is not in the vocabulary of the census taker. To him second-generation Basques are just plain Americans. And the first generation that migrated from the Basque country astraddle the Pyrénées are simply entered as French or Spanish.

Two and a half million Basques still live in Basque country along the spine of the Pyrénées, most of them in four provinces of Spain and three provinces of France. But 2 million more live in enclaves big and little around the world, the biggest—250,000—in Argentina.

They began to leave the Iberian slope because by Basque tradition only one son inherits all of a father's land. Since the Basques are predominantly Roman Catholic and run to big families, this often left half a dozen other sons as prime candidates for migration.

GOLD RUSH BECKONED

Some were drawn to the United States in the fever of the Gold Rush in the middle of the 1800's. When the Gold Rush lost its glitter they began to push back up into the Rockies to herd sheep, and Boise became the United States to most Basques from the Old World.

They excelled with the shepherd's staff. It was a glove fit for their innate patience—which is like the cattle on a thousand hills—and for their seamless dependability.

The big sheep owners of the West did—and still do—draw heavily on Basques, not hesitating to entrust whole herds to their keeping, never fearing that at shearing or selling time 1 in 100 lambs will be lost.

Many Basques have long since splintered from the shepherd's staff. Paul Laxalt, a full-blooded Basque descended from the French side, has just ended a term as governor of Nevada. Pete Cenarrusa, of the Spanish side, is Idaho's Secretary of State and one of its most successful politicians.

The Basques, with their language full of k's, x's, and z's and related to no other, and with their democratic form of self-government that goes back at least 10 centuries, which the Constitution drafters at Philadelphia drew on to shape American political forms, have never had a nation of their own.

They have existed in states of semiautonomy within Spain and France, maintaining their uniqueness of speech and custom and their self-reliant style of the life alone.

KINSHIP REKINDLED

At one time they sought a separate state carved out of Spain and France. But there was no hope for that. Now, under the restrictive lacing of the Franco political fabric, some young Basques have become outgoing nationalists, separatists, and revolutionaries. And when the 16 went on trial in Burgos a worldwide Basque kinship was rekindled.

Their self-reliant life has kept Basques scattered and disunited. In the United States 15 Basque clubs, mostly in the West, have held a loose tie for some. And a Basque-studies program at the University of Nevada has tried to keep the thread of mutual tradition and history intact.

Now, partly because of the trial in Burgos, a pan-Basque countercurrent to the scattering on a thousand hills is stirring. It has been, halfheartedly, for 30 years. But suddenly a new Basque yearning for ties of kinship is in flower. A new source of strength is being reached for. And from Burgos to Buenos Aires to Boise a new unity is quietly knitting Basque to Basque.

[From the New York Times, Jan. 11, 1971]

FRENCH BASQUE LIFE IS PEACEFUL

(By Henry Giniger)

HENDAYE, FRANCE, January 6.—"The French repression is nice," a pharmacist here in this small Basque region in the southwestern corner of France says of the national attitude toward Basques.

The French, remarked the pharmacist, Ximun Haran, have been especially nice in the last few weeks, as if to mark a difference with Franco Spain, where the trial of 15 Basques attracted worldwide attention. Though closely watched, Enbata, a Basque nationalist organization with members in the area of Hendaye, Bayonne, St. Jean-de-Luz and Biarritz, is a legal organization here. By contrast, the Basque nationalist groups in Spain are forced to operate underground.

"If you and I walk down the street with a Basque flag, people will just look at us curiously," said Telesforo de Monzón, a 66-year-old Basque of Spanish origin who lives in St. Jean-de-Luz. "In Spain, we'd wind up in jail."

THEY FEEL FRENCH

Some Basques complain about the lack of militancy among the 250,000 Basques who live in France and who consider themselves French. This peaceful attitude, they say, comes from the quiet economic life of the region, devoted almost entirely to fishing, tourism and agriculture.

The Rev. Pierre Larzabal, one of the most prominent Basque militants, who include several Roman Catholic priests, charged that the Government had deliberately held down industry to preserve the attractiveness of the area for tourists. But tourism is active only three months of the year and a visitor at this season sees mostly boarded-up hotels, cafes, and beach facilities.

"Two thousand young people leave every year," Father Larzabal said. "The others are reduced to the status of servants—waiters, maids, concierges."

The Basque minority is one of several in France and the separatist movements that have existed in such widely differing regions as Alsace, Brittany and Corsica have always been regarded with hostility by French Governments.

In Spain, there are 10 times as many Basques as in France living in an area incomparably more powerful economically. But they are also living under a much more repressive political system, and consequently, Basques here agree, have more aggressive reactions.

For the last seven years, Enbata has been trying to awaken Basque consciousness here. It publishes a weekly Basque, but its circulation is limited to about 1,000.

DEMONSTRATIONS ALLOWED

In the Basque country, as elsewhere in France, the authorities permitted anti-Spanish street demonstrations during the court-martial last month of the 15 Basques in Burgos, Spain. When six death sentences were announced Dec. 28, Bayonne had one of its biggest demonstrations in years, a fact that nationalists looked upon as a sign that Basque consciousness was being awakened in France.

"We gained 20 years by this trial," exulted Mr. de Monzón, who was Minister of the Interior in the short-lived autonomous Basque Government in northern Spain in 1936. He acknowledged, however, that while Basque sentiment here was very deep, the feeling of belonging to a Basque nation was much less so.

The French authorities were relieved when Generalissimo Francisco Franco commuted the death sentences to 30-year prison terms. Some official pressure was brought to bear on the Spanish Government partly because of concern over possible repercussions on this ordinarily quiet strip of French coast.

There are other differences in attitudes between the two sides of the frontier that go back into history. The villages of the French Basque country all have war memorials indicating the blood that Basques shed to defend France in two world wars. The wars that Spanish Basques have fought have tended to be against Spanish Governments.

Mr. Haran, the pharmacist, said that until a few years ago, children would be punished in French schools if they were heard to be speaking Basque. This effort to discourage cultural separateness led some Basques to a kind of diffidence about their culture. One young militant complained that his mother would speak only in French when she came to visit in Bayonne from the countryside "because she was ashamed."

In the countryside, the typical peasant humility also inhibits aggressive action.

"We Basques are poor," an old peasant woman said in Itxassou, a village of neat white houses and red roofs in the green rolling foothills of the Pyrenees. "Poor people should be quiet and should not speak out."

The pressure of younger Basques in the coastal towns have changed some of this attitude. The French Government has also responded to the pressure: an hour of Basque a week can be taught now in private schools; in the public schools Basque is accepted now as a second language for secondary school diplomas.

HEALTH CARE

Mr. JAVITS. Mr. President, this week, two extraordinary initiatives have been taken in respect to the health of the people of the United States. I have joined in both. I am the ranking minority member of the committee which deals with health, and because other developments on health care are impending, I believe it important that both these matters should be called to the attention of the Senate in this framework.

First, I joined with Senator KENNEDY in a bill which would implement the recommendations of the National Panel of Consultants on the Conquest of Cancer, whose appointment was authorized by Senate Resolution 376.

It was the unanimous view of the distinguished panel, with Benno C. Schmidt, of New York, as chairman, and Dr. Sidney Farber as cochairman, that—

The conquest of cancer is a realistic goal if an effective national program along the lines recommended in the report is promptly initiated and relentlessly pursued.

Based on these recommendations, the bill would:

First. Establish an independent agency to be known as the National Cancer Authority. This agency would be directed by an Administrator and Deputy Administrator appointed by the President, with the advice and consent of the Senate, for terms of 5 years.

Second. Transfer to the National Cancer Authority all of the functions of the National Cancer Institute.

Third. Charge the National Cancer Authority with the responsibilities of conducting research and utilizing existing research facilities in the search for a cure for cancer, encouraging and coordinating career research conducted by industrial concerns, giving support to scientific projects being conducted by recognized foreign experts in the field of cancer research centers and establishing new ones, collecting, analyzing, and disseminating to the scientific community and the general public all current information regarding the prevention, diagnosis, and treatment of cancer and establishing and supporting the production of biological research materials.

Fourth. Establish a National Cancer Advisory Board of 18 members, nine scientists or physicians, and nine representatives of the general public appointed by the President, with advice and consent of the Senate. This Board will be responsible for submitting to the President and the Congress a yearly report on the progress and accomplishments of the National Cancer Authority.

We know that of the 204 million people presently living in America, over 51 million will develop some form of cancer and of this group, more than 34 million will die unless a cure is soon discovered. The National Cancer Institute and American Cancer Society estimate that about 330,000 Americans will die from cancer during this year. Cancer kills more children between the ages of 1 and 15 years of age than any other disease known to mankind. In short, cancer causes approximately 16 percent of all the deaths in America, thus making it the Nation's second most deadly killer.

The Panel's report makes clear that to conquer cancer it is imperative that our Government undertake a national coordinating program. The Panel recognized that the National Cancer Institute had done a great deal of vital work with very limited budget but that it was not structured to carry out a program of the magnitude that is needed to accomplish the job. Therefore, the Panel has recommended the establishment of a new independent agency which would be responsible for development and administration of a systematic attack on cancer and which would be adequately funded by the Congress.

Although the funding levels in the bill are "such sums as may be necessary," it is clear from the "funding" recommendations of the Panel—"an appropriation in fiscal 1972 of approximately $400 million. Thereafter, the cost of the program would increase at the rate of approximately $100 to $150 million per year, reaching a level of $800 million to $1 billion in 1976"—that we must anticipate a substantial national commitment.

I believe these funding levels are not excessive in terms of our national resources or of the human suffering and economic loss attributable to cancer. A program of the type herein recommended is so important to the American people and to the world that the amounts called for should be provided even if this necessitates the raising of additional revenues. In addition, it is of the utmost importance that the financing of this program not result in cutbacks in other health programs.

This bill is the result of the combined efforts and experience of the distinguished Americans who composed the panel and I commend most highly the dedication of Benno Schmidt as chairman, Dr. Farber as cochairman and the other panel members to my colleagues.

The other panel members are I. W. Abel, William McC. Blair, Jr., Elmer Bobst, Dr. Joseph Burchenal, Dr. R. Lee Clark, Dr. Paul B. Cornely, Emerson Foote, G. Keith Funston, Dr. Solomon Garb, Mrs. Anna Rosenberg Hoffman, Dr. James F. Holland, Dr. William B. Hutchinson, Dr. Henry S. Kaplan, Dr. Mathilde Krim, Mrs. Mary Wells Lawrence, Dr. Joshua Lederberg, Emil Mazey, Michael J. O'Neill, Jubal R. Parten, Laurence S. Rockefeller, Dr. Jonathan E. Rhoads, Dr. Harold P. Rusch, Dr. Wendell G. Scott and Lew Wasserman.

In closing I would note that of such grave concern to all Americans is the need for a substantial national commitment to attack cancer that President Nixon choose to delineate the problem—the conquest of cancer—as a priority item in his state of the Union address and a part of his six great goals, and the President pledged his administration to fund, this year, an additional $100 million for such an attack on cancer.

I really believe that this effort is likely to be promising, and could work.

I recall, when I served in the Army in World War II, my colleague was the former head of the Sloan-Kettering Institute, Dr. C. P. Rhodes, then a colonel in the U.S. Chemical Warfare Service, and he predicted this would be the way we would solve ultimately the main riddle of cancer.

HEALTH INSURANCE

Second, Mr. President, I have joined with many of my distinguished colleagues, in the introduction of the Health Security Act of 1971. I believe it contains important features—similar to those proposed in my National Health Insurance and Health Services Improvement Act, which I introduced in the 91st Congress and will reintroduce again shortly—which can be agreed upon by all who are truly interested in bringing quality health services to the American people at a price the people and the Nation can afford to pay. Those of us who share this goal must join together to achieve passage of a responsible program of national health insurance in the 92d Congress.

It must be recognized, and the experience of private health insurance and the medicare and medicaid programs has shown us that it is futile to increase the medical purchasing power of people without relieving the strain on an already overburdened health care system. The results of such piecemeal solutions are disappointment and fiscal disaster.

Indeed, the Department of Health, Education, and Welfare has recently estimated that if the current rate of medical inflation continues, aggregate expenditures for personal health services will reach $96 to $102 billion in 1974. This is an increase of $50 billion, or almost 100 percent over comparable expenditures in 1969. As the HEW estimates indicate, the strains in the financing of health care are rapidly becoming intolerable. There will be no relief from this relentless escalation until we invest in a program to expand the resources and improve the system for the delivery of health services. It is futile to increase effective demand without simultaneously increasing supply. Worse still, although costs have been going up, steeply, year after year, the 40 million Americans who received no real health services last year and the millions more who are underserved can testify that there has been little improvement in the availability or adequacy of health care.

We must make a national commitment to build a strong foundation upon which existing—and future—programs for the financing of personal health services can securely rest. We must stop indulging in false economics by starving medical education, facilities construction, and support of innovative systems for delivering care. The false savings achieved by these economics are later extracted from our national and personal pocketbooks in the form of vastly inflated costs for publicly supported health programs, skyrocketing private health insurance premiums, and ever-increasing out-of-pocket expenditures for illness and disease. And these invisible taxes are doing nothing to improve the health care system and prevent future inflation. On the contrary, they are making it inevitable. We must begin to face the problem squarely, the Nation cannot afford further delay.

The health security program I join in introducing today and my national health insurance legislative proposal make a national commitment to take the first steps in building a strong health care system. They are plans for a coordinated attack on the underlying causes of our health care crisis:

National shortages of health manpower;

Inadequacy of the health care delivery system;

Lack of effective cost and quality controls.

One of the most innovative and important aspects of the bill I join in introducing today is the establishment of a special "Resources Development Fund" to improve the quantity and quality of health care services. The fund will become operative 2 years in advance of the date benefits are available, providing $200 million and $400 million successively of Federal seed money to prepare the health care system for the demands that will be placed upon it by the benefit program. The fund will remain as an integral part of the health security program, commanding an earmarked percentage of the trust fund revenues—2 percent or $1.2 billion the first year, increasing gradually to 5 percent. A comparable provision, designed to accomplish that end, is proposed by title IV of my National Health Insurance and Health Services Improvement Act. In fact it was introduced as a separate bill, the local Comprehensive Health Services Systems Act, last year and I will reintroduce it again this year.

This money will not take the place of regular appropriations for support of health services, but will be applied as a catalyst to create needed changes within the system. In making this commitment, the Congress will recognize its responsibility to assure the availability of health services, and not merely to pay for them.

The thrust of this continuing investment program will be to support the expansion and development of organized systems for the delivery of health services. It will support the formation of group practices of health care personnel and regional coordination among group practices, hospitals, and related facilities. It will provide significant financial aid for education and training of health professionals.

The investment will take the form of improved technical assistance to providers, increased support for planning on the local and regional levels, massive recruitment drives to educate and retrain health professionals, supporting the initial investment costs and operating losses of group practice plans, underwriting the construction of capital facilities for programs of organized patient care, and investing in the development of new systems to coordinate and link existing providers of care.

The results of such development would be dramatic. Within 3 years, systems could be developed which would be capable of providing comprehensive health services to more than 8 million people who have no access to such care today.

The payoff in future years will be even greater.

The health security program is not a panacea, because there are no quick and easy solutions to our health crisis, but it could be a major contribution to the final product.

I believe that the time has come for decisive congressional action. We cannot afford further delay. Although I have reservations about some aspects of this legislation, for example the role of health insurance carriers, I have joined in cosponsoring the Health Security Act of 1971.

Also, I expect to join in the administration's own omnibus bill for health coverage which will be coming along as assured in the President's state of the Union message. For, all alternatives should be before us which have similar objectives so that we may fashion the final measure from them all.

Thank you, Mr. President.

NEW SYSTEM OF NOTIFICATION TO SENATORS ON ROLLCALL VOTES

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished Senator from Ohio (Mr. SAXBE), I call attention to the notice appearing on the front page of the Senate proceedings in the CONGRESSIONAL RECORD this morning on page 528, which is a consequence of one of the suggestions put forward by the Senators from California (Mr. CRANSTON), from Ohio (Mr. SAXBE), from Iowa (Mr. HUGHES), and from Pennsylvania (Mr. SCHWEIKER) and which has had the concurrence of the joint leadership.

A new system of notification will be initiated on rollcall votes. Beginning on Thursday, January 28, on a yea-and-nay vote, the one-bell one-light notice that a vote is in progress will be given as in the past. However, a five-bell signal and a five-light signal will replace the one-bell and one-light signal when there are but 5 minutes remaining on the vote. Senators will then be on notice that they have 5 minutes to reach the floor if they

expect to be recorded. The five lights will remain lit until the result of the rollcall has been announced from the Chair.

All offices will be notified of this procedure individually today, but I think it best to make this statement now in advance of any such votes which might result later in the week.

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

Mr. MANSFIELD. I yield.

Mr. SAXBE. I was delighted and continue to be delighted at the attitude of the leadership in regard to some of these minor, suggested changes that we came up with.

In regard to this one, it was not so easy as it might appear. It shows a lot of pulling and hauling in regard to getting a reasonable approach to a simple matter such as bell ringing.

For instance, it was suggested that no roll call vote should last more than 20 minutes, which is certainly a reasonable time for all Members to get to the floor. But there are times, when all Senators are in the Chamber, having just completed a vote, that it would seem to be perhaps unreasonably long. However, a suggestion has been made, which I understand will be followed, whereby it will be contemplated that 5 minutes remain when the names have all been called. In other words, when they reach the last name "Mr. YOUNG" the first time around. Then we will go to the 5 lights and everyone will be on notice that the 5 minutes begins at that time.

I certainly want to compliment the distinguished majority leader as well as the distinguished minority leader for their attitude on this matter. They have shown an interest which is admirable. I know that we will all work with them in any way possible to expedite the day-to-day business of this session of Congress.

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

Mr. SAXBE. Mr. President, I ask unanimous consent to proceed for another 3 minutes.

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

Mr. SAXBE. Mr. President, I also want to comment on the actions of the majority whip, the distinguished Senator from West Virginia (Mr. BYRD), in regard to seeing that these changes be followed. It is easy now, when there is no press of business, to fall into bad habits which will embarrass us later on; but the distinguished Senator from West Virginia has seen to it that we start now on rules which are simple and easy and will, I believe, do us a great service when the pressure of business becomes great.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Ohio yield?

Mr. SAXBE. I yield.

Mr. BYRD of West Virginia. I want to congratulate the Senator from Ohio, and the other Senators who have worked with him in helping to bring about these changes. I hope that he and other Senators will see to it that there is no relaxing of these rules and that we will make them work.

Mr. SAXBE. The Senator from West Virginia can be assured that we will.

SENATOR MANSFIELD APPEARS ON FACE THE NATION PROGRAM

Mr. MANSFIELD. Mr. President, on last Sunday, January 24, I appeared on the CBS network in the "Face the Nation" program. The three nimble correspondents who appeared with me, George Herman, CBS News, Samuel Shaffer, Newsweek, and Bruce Morton, posed a great number of questions on current issues and other matters of public interest which I tried to answer as best I could within the brief period of the interview.

During the course of the program, I made the comment that the rate of inflation during 1970 was 7 percent. The figure was in error. It should have been stated at about 5 percent. I regret this error. Otherwise, I will stand on what was said during the half hour and I ask unanimous consent that the transcript of the meeting be printed at this point in the RECORD.

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

FACE THE NATION

(As broadcast over the CBS television network and the CBS radio network, January 24, 1971, Washington, D.C.)

Guest: Senator MIKE MANSFIELD (Democrat, Montana) Senate majority leader.

Reporters: George Herman, CBS News; Samuel Shaffer, Newsweek; and Bruce Morton, CBS News.

Producers: Sylvia Westerman and Prentiss Childs.

GEORGE HERMAN. Senator Mansfield, President Nixon has proposed a package of governmental changes which he says amount to a new American revolution. Do you think by election day of 1972, this new American revolution will be a fact of politics, or will it be an issue?

Senator MANSFIELD. It could be both. I anticipate that it may be partially completed by that time, but it's so far-sweeping, so far-reaching, that it's going to take more than one session of Congress to face up to that responsibility.

ANNOUNCER. From CBS Washington, Face the Nation, a spontaneous and unrehearsed news interview with Senate Majority Leader Mike Mansfield, Democrat of Montana. Senator Mansfield will be questioned by CBS News correspondent Bruce Morton, Samuel Shaffer, Chief Congressional correspondent of Newsweek Magazine, and CBS News correspondent George Herman.

GEORGE HERMAN. Senator Mansfield, some of the issues, the changes proposed by President Nixon in this new American revolution, seem to me likely to curtail some of the responsibilites and powers of Congress. Will Congress give up those powers?

Senator MANSFIELD. No, I don't think so, because that is one of the things that we'll have to consider in the consideration of the proposals being made by the President. And if, for example, under the revenue sharing plan you give too much to states with no responsibilities attached, then it means you're creating a situation which is quite dangerous, in my opinion.

SAMUEL SHAFFER. Senator Mansfield, I want to use a technical term, categorical grants, because we're going to hear those two words a lot in the next year or two. Now I'm speaking now of specifically authorized programs in health, education and so forth. Now do you think that Congress is about to turn over these billions to the states without any strings?—because that would mean the ending of categorical grants.

Senator MANSFIELD. That's right. That's why the legislation has to be considered most carefully. We have no specifics, no details. We want to be very sure what we're going into, and the Congress will take its time and make certain that it does not relinquish its power, even though it recognizes the needs of the states and the cities.

BRUCE MORTON. I suppose that same question could be asked about the President's government reorganization plan, which would certainly involve some shifting in congressional committees, the giving up of power by at least some committee chairmen. That historically has not happened very frequently on the Hill. Is it likely to with this?

Senator MANSFIELD. It very well could, because in this question of reorganization of cabinet departments and the like, it means that you're going to have a combination of lobbies, I think, the like of which the Congress and the nation has not seen, each trying to protect its own respective preserve.

MORTON. Well, so you come out, then, probably with no change, if there is all this pressure?

Senator MANSFIELD. Well, there will be all that pressure, but I hope we'll come out with some change, because there is a need to do what the President has advocated, but there has to be a best way found to do it.

HERMAN. A need to do what? Which of the things that the President has advocated?

Senator MANSFIELD. All of the things which he's advocated, I think, are steps in the right direction, and they should be given the most serious consideration by the Congress, because the times are of such a nature that we are becoming a deficit-spending nation. The conditions in the states and the cities are—is becoming quite grave, and so something must be done; and the President has at least stepped out—offered proposals which should be given every consideration.

SHAFFER. Senator, isn't revenue sharing based upon the idea that local communities are better equipped to handle this money? Do you think that they are?

Senator MANSFIELD. No, I do not. I think the federal government is better equipped. And getting back to the question of funds being distributed to states and localities, it would appear to me that the possibility for greater waste and inefficiency and ineffectiveness would result.

MORTON. Is it fair to say that if there's a consensus for any of these things—reorganization, revenue sharing and so on—that perhaps there's more agreement over the need to reform welfare than anything else?

Senator MANSFIELD. Yes, that's a fair statement, though there are questions about the President's proposal which must be answered, and hopefully, it may have come down this year, or it may come down this year in—with some differences.

MORTON. What sort of difference would you be looking for?

Senator MANSFIELD. Well, just to make sure that—that there is better administration; for example, fewer personnel, greater application of funds to the people who are in need, a greater desire on the part of people to contribute towards their own welfare and less dependence on the government, and less in the number of dynasties which welfare unfortunately has created in a familiar sense down through the decades.

SHAFFER. Senator, you've spoken about reform. How about Congress reforming itself? You yourself on the floor of the Senate, toward the end of the last session, expressed concern about the congressional image, or the senatorial image I think was what you said. What are you going to do about the much-criticized seniority system and the filibuster rule?

Senator MANSFIELD. Well, we're in need of reform, no question about that. The filibuster rule will be taken up, and I have better hopes this year than previously that we might be able to do something in bring-

ing about a reduction from two-thirds of those present and voting to three-fifths. As far as the seniority system is concerned, I can give you no information at this time. It will be brought up by the Democrats at their caucus next Tuesday. We'll have to see what happens then. There is no question but the corrections, reforms could be made and should be made, and if they're reasonable I'll be for them.

SHAFFER. Well, I was just going to say, what do you feel about the seniority system? You're one of the beneficiaries——

Senator MANSFIELD. Well, I have a lot of seniority.

SHAFFER. I know. But how do you feel about it?

Senator MANSFIELD. I think it could be changed somewhat. How, though, I do not know, but I do not think we should rush into it on a happenstance basis because strangely enough, the seniority system, by and large down through the history of the republic, has worked, all things considered, effectively and well.

HERMAN. Well then, how about the filibuster problem? Traditionally when you start out to tackle the filibuster, what you get is a filibuster against a change in the rules. Isn't the Senate going to begin with a filibuster this term?

Senator MANSFIELD. Well, a mini filibuster to start with, then we'll see what happens. And I would point out that when we use the word filibuster we should not apply it just to the south alone, because the liberals are becoming pretty effective in using the filibuster, especially toward the end of a session.

MORTON. Why are you more optimistic this time? Are you going to have the same people talking against change who've been there before?

Senator MANSFIELD. Well, I think the way things went at the end of the last session, will be conducive to a possible change, and I think also that some members who have been adamant on the question of cloture are showing signs of softening at this time; at least that's the results I see on the basis of conversations with various members from different parts of the country.

HERMAN. Is that a regional thing, Senator?

Senator MANSFIELD. No, it is from various parts of the country.

HERMAN. What accounts for it?

Senator MANSFIELD. Maybe a recognition of the fact that times have changed, that we spend too much time on certain subjects, and that the main subjects on which most of the filibuster in the years past had been spent have now become less significant.

HERMAN. Time is not the only thing that's changed. You now have a new Democratic whip. Does the election of Senator Byrd indicate that the Senate is—the Senate Democrats are moving to the right?

Senator MANSFIELD. No, not at all. I think that the Senate Democrats will operate in the future as they have in the past. And in Senator Byrd we have a first class floor technician, and the business will be continued and furthered.

HERMAN. You have not always agreed with him. I remember that when the Byrd-Griffin proposal on Cambodia came up, you said it was another Gulf of Tonkin Resolution. You thoroughly disagreed with it. Will you have any trouble working with a man with whom you occasionally thoroughly disagree?

Senator MANSFIELD. Oh, no, not at all. I'll have no trouble whatsoever; and furthermore, there isn't a senator on the floor that I haven't disagreed with at some time or another. So that's part of the job.

MORTON. Senator, you said that ideology wasn't the issue in the Byrd-Kennedy race. So what was? Why do you think Senator Byrd won?

Senator MANSFIELD. Well, I don't know. It came as a surprise to me, to be frank about it. I thought it would be much closer, and the only thing I can figure is that Senator Byrd paid a great deal of attention to the needs of the Senate and senators, and maybe this was helpful.

SHAFFER. Does this end Senator Kennedy's chances for the presidency in 1972 or in any of the subsequent presidential years?

Senator MANSFIELD. I don't think he was ever seriously a contender for 1972, and that was his own wish. But Senator Kennedy is a young man, an effective man, an efficient senator, and he has a long way to go. He will be heard from in the years to come.

SHAFFER. I'd like to ask you another question, if I may, about the President's speech. He spoke about the desire to restore and enhance our natural environment. He said nothing about the SST. What do you think's going to happen on the SST? Congress has got to act again after March 30.

Senator MANSFIELD. That's right and I imagine that we'll probably get to it about March the 15th, and my guess is that the situation will remain as it has been in the Senate, that the Senate will be opposed to the SST. What will happen in the House is anybody's guess.

MORTON. Senator, you were talking about Senator Kennedy's presidential prospects a minute ago. You said in July of last year to a group of reporters here, that the Democrats have not yet come forward with a candidate of sufficient stature to defeat Richard Nixon. Is that still true?

Senator MANSFIELD. No, I would say since that time Senator Muskie has made great strides, has become more recognizable throughout the country, and is now the front runner as far as the Democratic nomination is concerned, as of now.

HERMAN. How about Senator McGovern?

Senator MANSFIELD. He has just entered the race. He will come up; he will be a contender to consider. But I would say he is trailing at the moment.

MORTON. You said at that same breakfast that Senator Muskie was the best man we have, but that he needed to develop charm and charisma. Do you find him more charming these days?

Senator MANSFIELD. Well, he's always been charming. What I really meant was that he had to become more known—more recognizable, get around the country, visit the states he hadn't been in. And since that time, he's done that.

SHAFFER. Senator, since we're on politics, tell me, in your judgment, will this nomination be decided in the primaries, or will it go right up to the convention? Will it be brokered?

Senator MANSFIELD. Too far ahead.

HERMAN. You also said—to milk that June or July news conference a little further—you also said at that time that you believed President Nixon's promise to be out of Viet Nam by the end of his term. Presumably that meant by 1972. Do you still think that we will be out of Viet Nam by 1972?

Senator MANSFIELD. Well, I still think that the President intends to do all he can to get out of Viet Nam by the end of 1972, and so far he's kept up with his promises of withdrawal, even exceeded them in some instances. But now you have other difficulties arising, and I think that those troubles may well increase as the time decreases.

HERMAN. By other troubles you mean Cambodia?

Senator MANSFIELD. I mean Cambodia, Laos.

HERMAN. Well now, what is your position on the moves that the administration has made to give air support to the Cambodians in recent weeks?

Senator MANSFIELD. I'm not in favor of them. I'm more interested in the release of American prisoners of war and the withdrawal of American troops, and not in the interests of another country.

HERMAN. Do you feel that this violated what the administration—?

Senator MANSFIELD. Well, at the best I can say, it draws a very fine line. I think it goes contrary to the intent and the spirit of Cooper-Church.

MORTON. Both senators have urged new hearings by the Foreign Relations Committee, with an eye presumably to some new legislative restriction on U.S. involvement in Cambodia. Would you support the hearings, and would you support some more language to redefine the U.S. role there?

Senator MANSFIELD. Yes, if necessary. And if the full committee doesn't hold hearings, there's no reason why the Subcommittee on Asian Affairs, which I happen to be the chairman of, will not hold hearings.

SHAFFER. Senator, what can we really do about the expansion of that war effort in Cambodia?

Senator MANSFIELD. Not a great deal——

SHAFFER. By we, I mean Congress or the Senate.

Senator MANSFIELD. Not a great deal at the present time, because the Senate has made its decision known. It certainly is being heard down in the administration at the present time. I understand that Secretary Rogers is meeting with various senators from time to time to explain the situation. I have received an invitation which I'd like to accept, but unfortunately I've been engaged in organizational affairs in the Senate and have been unable to do so.

SHAFFER. Well, let me ask you this, then. Senator McGovern, you know, has announced his intention of reintroducing his proposal which was defeated last June 30, I think, to set a specific timetable for the funding of our combat activities in Indochina. I think he would cut off all funds for combat troops as of December 31. Will you support that proposal or any time-certain proposal?

Senator MANSFIELD. December 31 this year?

SHAFFER. That's right.

Senator MANSFIELD. It's an impossibility. I wish it could be done even before that time. That's one of the difficulties you have with a time limit, but I did vote for the McGovern-Hatfield amendment. I would vote for it again and it would have a time limitation.

HERMAN. Senator, do you think the administration has changed its own position on Cambodia? I noticed, for example, last June Secretary Rogers said on this program that if the government of Cambodia came into Communist hands, it would be an unfavorable development, but not unacceptable in the sense that they'd use American forces to try to keep Cambodia out of Communist hands. Do you think they are now shifting away from that position?

Senator MANSFIELD. Yes, I do, and probably because of the force of circumstances. But I would recall to you that on June the 30th the President, in his statement on our withdrawal from Cambodia, said there would be no logistic or air support for South Vietnamese troops.

HERMAN. But now there is.

Senator MANSFIELD. Now there is.

HERMAN. But Secretary Laird, as you know, says that this is not a change in policy.

Senator MANSFIELD. Well, it certainly is more than a change in semantics.

MORTON. Can Congress really do anything about that? It's an awfully tedious process to try to write lines into appropriations bills, as was done last year.

Senator MANSFIELD. I think it can, and I think one of the good things which the Senate did in the last Congress was to stand up on its hind feet for a change, bring about the passage of the National Commitments Resolution, the passage of the Cooper-

Church Resolution, and in that way try to bring about a restoration of the equality which should exist between the executive and the legislative branches in the field of foreign policy.

MORTON. Would you now vote for language which would restrict or would prohibit the use of American air power to support the Cambodian government or South Vietnamese troops in Cambodia?

Senator MANSFIELD. I would.

SHAFFER. Senator, you speak of Congress standing up on its hind feet. Do you think that something like the McGovern time-certain resolution would pass this time? It was pretty badly beaten last time.

Senator MANSFIELD. That's right. But then, if you don't succeed at first, the saying is try and try again. I would rather see it done privately, without the date being specified, because the administration does have a point in saying that if you do this there will be a certain reaction on the part of North Viet Nam. But the point is this—that can be done both ways, because if we don't do something then our friends in Saigon can continue to use us as they see fit, so we're caught in the middle. So we'd better fish or cut bait.

SHAFFER. On another aspect of foreign policy, Senator, you know, you have long proposed that we cut back on our troop commitments in Europe.

Senator MANSFIELD. Yes, indeed.

SHAFFER. And Senator Muskie, who had supported you, now says he has second thoughts about it after talking it over with the German leaders. Are you having any second thoughts?

Senator MANSFIELD. None at all. I think that we ought to cut out the fat which we have in Europe, reduce the 525,000 troops, and military dependents who are over there, bring about a cutdown in the number of generals and admirals, do away with some of these headquarters which are piled on headquarters on headquarters, and I would say that we could cut our forces in Europe by 50 per cent. Cut the fat and the 50 per cent remaining would still be just as effective, perhaps more so, than the total now.

SHAFFER. How are you going to do it—by a sense of the Senate resolution as you originally proposed, or by the power of the purse?

Senator MANSFIELD. Either by a sense of the Senate resolution or an amendment to an appropriate bill. And the point—the amendment, the resolution would not call for precipitate reduction, but a substantial reduction on a gradual basis.

HERMAN. How can the Senate stand up on its hind feet, to use the phrase that's been pushed around here a little bit? The President has assured us, the Vice President has assured us, that Mr. Nixon now has a working ideological majority in the Senate.

Senator MANSFIELD. Well, time will tell. This Senate has just gotten underway. We haven't had a chance to draw lines. There will be a desire to cooperate and it'll be my intention, if possible, to keep politics as much as possible out of debate and issues; but only time will tell. My guess would be that the Senate this year would be just about of the same stripe as it was in the last Congress.

MORTON. Senator, one of the other deadlines you're going to face this year involves the draft, which runs out the middle of this year. What do you think ought to be done with it?

Senator MANSFIELD. Well, I think it ought to be abolished. I didn't vote for its extension. I don't intend to vote for its extension. I think we ought to get down to the idea of a volunteer army, which the administration advocates, which the Gates Commission recommended and which a number of senators have fought for.

MORTON. Well, the administration advocates that, but always says at the same time that it's impractical as long as they need an army in Viet Nam.

Senator MANSFIELD. Yes, but we're withdrawing that army in Viet Nam and we're reducing our forces throughout the world.

HERMAN. Does an all-volunteer army give you no pause, nothing to worry about in view of some of the things we've now heard about the Army spying on civilians, checking up on their politics and their activities? Doesn't the thought of a professional army give you some pause in a democracy?

Senator MANSFIELD. No, the incidents which you've raised do give me pause, great pause, and I'm delighted that Senator Sam Ervin of North Carolina is conducting an investigation into that type of intelligence activity by the uniformed part of our government on civilian personnel. But I think that a volunteer army might best be the answer. There may be bugs, difficulties; I think they can be ironed out. But I think you'll have greater esprit de corps; you'll have greater morale. And I think that while it might cost more in the beginning, it will cost a good deal less in many other ways in the end.

MORTON. What about the argument that you'll get an army of the poor, an army of the black, and you will not get an army with the kind of technical skills that an army needs these days?

Senator MANSFIELD. Well, I wouldn't think that that would be the case. And furthermore, I would expect the ROTC units to continue at the universities and the colleges and to be able in that fashion to furnish an officer cadre as well as officers being brought up from the ranks. The draft is not the answer, because it's unfair, inequitable; it allows too many people to get out of it and the poor and the blacks are the ones who find it most difficult to get out of the draft.

SHAFFER. Senator, but to be realistic about this, the chairmen of the Armed Services Committee of both houses are against a volunteer army.

Senator MANSFIELD. That's right.

SHAFFER. They want the draft extended, and don't the odds favor extension of the draft at this time?

Senator MANSFIELD. I would say yes, but that doesn't mean we shouldn't try to end it and substitute something more equitable for it.

SHAFFER. And should that happen, what is your position on student deferments, because I think there are a lot of students who are watching this program and are interested in their fate.

Senator MANSFIELD. Oh, I think they've been treated more than fairly, and it's because of that in part that you get the poor elements within our population being called up under the draft process. I think if you're going to have a system of draft or universal service, or selective service, that it ought to be equitable, apply fairly to all, and operate on the same basis that it did during the Second World War.

SHAFFER. Then you would end student deferments?

Senator MANSFIELD. I would.

HERMAN. Last summer, when the question of the economy came up in a statement by the President—the state of the economy message—you were sharply critical. You said that all the rhetoric of radiant futures is not going to take away the fact that we're now in a recession. Do you consider that the President's new message, his new policies, show a better understanding, that he is really now grappling with the recession?

Senator MANSFIELD. No, if you're referring to his State of the Union Message, he did not refer to that. Maybe that was in the back of his mind, but questions of unemployment, recession, high interest rates and the like were not brought out. I would anticipate that that may be mentioned at the time he sends up his budget message to the Congress.

HERMAN. Do you think he is showing greater awareness in his economic policies, in his actions and those of the rest of his government in handling inflation and wage increases?

Senator MANSFIELD. Yes, I think he's very much aware of it, and I think he finally recognized that it is to the nation's advantage for him to speak to people like big steel when they ask for outrageous increases in their products.

HERMAN. Do you think he is truly grappling within inflation, that it is coming under control, slowing down?

Senator MANSFIELD. Well, it's hard to say. It's about 7.1 per cent at the present time. Unemployment is about 6 per cent. But prime interest rates have been going down steadily for over two months, and even the mortgage interest rates are beginning to show a decline. So maybe a turn has taken place; I'm not an economist, I can't tell. But you have to balance that on the one hand against 6 per cent unemployment and 7.1 per cent inflation.

HERMAN. Seven point one per cent yearly inflation at the moment, do you say?

Senator MANSFIELD. That's right.

SHAFFER. Senator, let's try to hit a few specifics that the President touched on, although admittedly the speech wasn't too specific in content. How about revenue sharing? What do you think will happen? Will it pass or not?

Senator MANSFIELD. Hard to say, but it should be—there should be hearings, and if the bill's reported out there should, and as far as the Senate is concerned, there will be debate and consideration one way or the other.

SHAFFER. Welfare reform?

Senator MANSFIELD. Something has to be done. As I've indicated earlier, this may not be the answer, because there are grave questions which must be faced up to. But something has to be done to revise the present system.

SHAFFER. Thirdly, government reorganization? By that I mean reducing twelve cabinet posts to eight—to four, I think it is.

Senator MANSFIELD. An interesting idea. We'll see how the lobbies react to it, and then I'll let you know.

MORTON. Senator, there's one other issue that was left over from last year. The President vetoed a bill which would have limited broadcast campaign spending. Do you foresee a new effort in that direction this year?

Senator MANSFIELD. Yes, and I would like to see—see any legislation which is being considered apply, if possible, not only to TV and radio, but through some means to the news media. How that can be done, I do not know, because there is a difference in the exercise of the franchise on the one hand and private individual ownership on the other.

MORTON. Would you like to see a limit on total campaign spending?

Senator MANSFIELD. Yes, both as far as candidates are concerned and parties as well.

SHAFFER. How about tax credits for financing campaign?

Senator MANSFIELD. That's worthwhile. If the federal government can't finance, maybe that's one of the ways in which the slack can be taken up.

HERMAN. The President said, I believe, that there were 35 pieces of unfinished legislation left over from the last Congress.

Senator MANSFIELD. I noticed that.

HERMAN. Do you agree, and how many of them do you think are likely to be finished in this session?

Senator MANSFIELD. No, I can't recall 35 pieces of major legislation. If you put in all the dribs and drabs, maybe he could dredge up 35 or 37.

HERMAN. How many would you say?

Senator MANSFIELD. Oh, I would say maybe 10 or 15 at the most.

HERMAN. Would you include, for example, the amendment for the direct election of the presidency as one of the majors?

Senator MANSFIELD. Yes, that would be one, and also—

HERMAN. Equal rights for women?

Senator MANSFIELD. I don't know that the administration recommended that, but the welfare bill would be included.

HERMAN. Consumer legislation?

Senator MANSFIELD. No, because we had legislation down there—some which we passed, some which we were ready to pass, but because of administration opposition it was futile to take it up.

HERMAN. Anti-pollution bills?

Senator MANSFIELD. Well, I was glad to see President Nixon and Senator Muskie get together and on a bipartisan basis advocate control of pollution and protection of the environment.

HERMAN. And trade quotas?

Senator MANSFIELD. Trade quotas? Well, I think the less said about that the better.

HERMAN. Will less be said about it?

Senator MANSFIELD. As far as the House is concerned, Congressman Mills has introduced a bill, I understand. No action has been taken in the Senate as yet. I would hope that something would be done, especially with Japan, to bring about a rectification of the—of the difficulty without having to resort to legislation, because when you go to legislation, then you can expect expansion and the inclusion of other products.

SHAFFER. Senator, in his State of the Union Message, the President said this can be the Congress that helped us end the longest war in the nation's history, and in a way it'll give us a genuine chance for a full generation of peace.

Senator MANSFIELD. We'll be more than happy to meet him more than halfway to bring an end to this war and an era of peace.

SHAFFER. But the question is, how are you going to help us end the longest war in our history?

Senator MANSFIELD. By doing what I've been doing ever since—well, since before the war in Viet Nam started, because I think the war is a tragedy, a mistake. I cannot find any solace in 400—343,000 dead and wounded, well over a hundred billion dollars of our money spent and all these problems at home to face up to.

HERMAN. Who's leading? We have very few seconds—who's leading in the struggle to end the war, the presidency or the Congress?

Senator MANSFIELD. I think we're both working in the same direction. We both have the same objective, and we'll both work together to that end.

HERMAN. Thank you very much, Senator Mansfield, and we'll have a word about next week's guest in a minute.

ANNOUNCER. Today on Face the Nation, Senate Majority Leader Mike Mansfield, Democrat of Montana, was interviewed by CBS News correspondent Bruce Morton; Samuel Shaffer, Chief Congressional correspondent of Newsweek Magazine; and CBS News correspondent George Herman.

THE RULE CHANGES

Mr. JAVITS. Mr. President, I would like to have the attention of the Senator from Ohio, if I could, concerning this matter of revising our procedure. I have mentioned this matter before and I would like to get the Senator's view as long as we are discussing it.

Does not the Senator agree with me that the same group ought to zero in on the question of unanimous-consent agreements for voting on bills, amendments, and resolutions, and so forth, and that we ought to have a little better balanced procedure to touch all the bases, as we say around here, and be sure that all Members really have an opportunity to decide whether they are ready for a unanimous-consent agreement on any measure, rather than leave it as we have now with the great possibility of omitting someone in the rather informal effort of reaching everyone.

I suggest as a possibility that 15 minutes notice be given by telephone to all Members of a prospective unanimous-consent request to vote on any resolution, bill, or measure.

Mr. SAXBE. Mr. President, in response to the Senator from New York I do not see any problem in that matter. I do not think we need any rule changes. It is a matter for the majority and minority staffs. I refer that to the Senator from West Virginia. However, I believe it requires nothing but a notification by the one who is handling the action on the floor to the majority or minority staff to put the notice out. Would that not be the belief of the Senator from West Virginia?

Mr. JAVITS. Mr. President, if the Senator would permit me to continue, the difficulty is that they do not know themselves when someone makes a unanimous-consent request unless the leadership does what was done with the other informal rules. If they give notice that it will be objected to after 15 minutes notice to the Senate, then anyone can come here to object. We would not then have the situation where a Senator who was interested would not know of the agreement because he does not let the leadership know he is interested or does not have a measure at the desk.

Mr. SAXBE. Mr. President, in that regard, after we get down to continuing business there will be two categories of business that will be taken up in the extension of the morning hour in which a time limit agreement has been reached. In other words, this would have been reached on the previous day. Perhaps there would be adequate time for notice.

The PRESIDING OFFICER (Mr. CHILES). The time of the Senator has expired.

Mr. SAXBE. Mr. President, I ask unanimous consent that I be permitted to continue for 3 additional minutes.

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

Mr. SAXBE. In those situations which will come up during the consideration of pending business, there would be no notice. It would be on those occasions that notice should be sent out by direct wire to all offices that the matter is going to come up. I would be very happy to support such an effort.

Mr. BYRD of West Virginia. Mr. President, would the Senator yield?

Mr. SAXBE. I yield.

Mr. BYRD of West Virginia. Mr. President, I recognize the reasoning behind the proposal made by the very able Senator from New York (Mr. JAVITS). But I think we ought to be very careful and go very slow before we agree to this.

Under rule XII, paragraph 3, the Chair is required to ascertain the presence of a quorum before any unanimous-consent request for a final vote on a bill or joint resolution is submitted to the Senate.

We have been waiving that rule. However, I would be very hesitant to agree to the proposition that we give 15 minutes notice to all Members of the Senate because it is difficult to do so. They are all around town or in far away places at a given moment. Moreover, we would delay rather than speed the transaction of business.

I think that every Senator having an interest in a particular subject ought to make it his business to be here. I know that all Senators cannot be here at a given moment. I say this very respectfully. However, every Senator ought to make it a point to see that the majority and minority leaders or their assistants know of his interest in the matter so that they might keep in touch with him before proceeding to a unanimous-consent agreement with respect to a vote on an amendment, bill, or resolution, or some such matter.

Mr. President, how much time does the Senator from Ohio have remaining?

The PRESIDING OFFICER. The Senator from Ohio has 1 minute remaining.

Mr. BYRD of West Virginia. Mr. President, if the Senator would yield further, briefly, I would also hope that every Senator on both sides of the aisle will bend over backward in an effort to cooperate with the leadership in getting unanimous-consent agreements from time to time to limit the time on matters as they come up.

I think that will help us as much as anything, if Senators will try to lean over backwards to give the leadership some indication of what they will be willing to agree to with respect to a time limitation on amendments, bills, resolutions, et cetera, in which they have a direct and vital interest.

If we can do this and all Senators cooperate in this matter, I think we will be able to move the business along more expeditiously. I make that plea to all Senators.

I assure the able Senator from New York that every effort will be made to assure Senators that their interest will always be protected as much as possible.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I be recognized for 3 minutes.

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

Mr. GRIFFIN. Mr. President, I wish to associate myself with what has been said by the assistant majority leader. However, let me first add my note of commendation for the work done by the distinguished Senator from Ohio (Mr. SAXBE), the distinguished Senator from California (Mr. CRANSTON), the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), the distinguished Senator from Iowa (Mr. HUGHES), who have initiated and followed through on an effort to make some minor but very important procedural changes in the procedures of the Senate.

In this day and age when there is considerable dissatisfaction indicated on campuses and in other places with the

workings of the government in general and of the Congress in particular, it should be noted that more reforms have taken place in this institution of the Senate within the last few weeks than have taken place in many long years.

I refer, for example, to the amplification system which was talked about for many, many years but now is actually in being.

Mr. JAVITS. Mr. President, if the Senator will yield, I put in a bill to that effect when I first came here. I cannot tell the Senator how gratified I am to see it in existence now.

Mr. GRIFFIN. Unfortunately, I am not now even using the amplification system. I hope that all Senators will get used to it and will actually use it. But the other reforms are important, too.

I wish to say, speaking for the minority leader as well, that I very much appreciate the interest and the work the named Senators have done.

Now, I wish to associate myself with what was said earlier by the distinguished assistant majority leader. I hope we will not take any steps backward—any steps that would make it more difficult to accomplish the business of the Senate. We all know, because of some of our rules, that a great deal must be done by unanimous consent. While we would not want to block anyone out who really has an objection to a unanimous-consent request, yet I see no point in encouraging objections to consent agreements which are necessary. I hope the Senator from Ohio (Mr. SAXBE) would agree with this approach. We want to make it easier—not harder—to get unanimous-consent agreements.

I appreciate the opportunity to add my comments.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended an additional 10 minutes and that the limitation on speeches be continued throughout that period.

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

CONTINUATION FOR 1 MONTH OF CERTAIN AUTHORITY FOR INVESTIGATIONS BY THE COMMITTEE ON GOVERNMENT OPERATIONS INTO EFFICIENCY AND ECONOMY OF OPERATIONS OF ALL BRANCHES OF GOVERNMENT

Mr. BYRD of West Virginia. Mr. President, I have been requested by the able senior Senator from Connecticut (Mr. RIBICOFF) to submit a resolution in his behalf and ask for its immediate consideration. However, before I do that I wish to explain the matter. Senate Resolution 504 of the 91st Congress, second session, was intended by the Senate to extend the authority of the Senate Permanent Subcommittee on Investigations 1 month, through February 1971. The second line of that resolution contains the date "January 31, 1970" rather than "January 31, 1971" which was intended.

For all intents and purposes, the resolution upon its enactment was worthless. It is for the purpose of correcting the date that I have been asked to submit the resolution, and I have been authorized to do so by the majority leader. The matter has been cleared on both sides of the aisle.

Mr. President, I submit the resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 13

Resolved, That the authority to make investigations conferred upon the Committee on Government Operations by Senate Resolution 308, Ninety-first Congress, agreed to February 16, 1970, together with any authority contained in section 7 of such resolution, is extended until March 15, 1971. In carrying out investigations, holding hearings, and reporting such hearings under the authority of such resolution and this resolution, the Committee on Government Operations is authorized to expend any part of the amount specified in section 8 of such Senate Resolution 308 which remains unexpended on January 31, 1971.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that Senate rule XIV be waived and that the resolution be agreed to.

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

Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 13) was considered and agreed to.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXTENSION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended by not to exceed an additional 10 minutes.

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

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian tomorrow.

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

(Later in the day, this order was changed to provide for the Senate to recess until 11:30 a.m. tomorrow.)

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer, the able Senator from the great State of Florida (Mr. CHILES), who is presently presiding over this august body with a degree of grace, efficiency, and skill that is as rare as a day in June.

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

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

THE PRESIDENT'S COMMANDER IN CHIEF POWERS EXAMINED

Mr. DOLE. Mr. President, during the 91st Congress, the Senate devoted considerable time and energy to debate over the roles of the Congress and the President in the fields of foreign policy and military affairs. Some in this body urged approval of various legislative proposals which they claimed would reassert the proper position of Congress vis-a-vis the executive branch, especially in the conduct of U.S. military operations in Southeast Asia.

Throughout the debates there seemed to be a notable lack of solid legal scholarship on many of the principal issues raised. Often debate was clouded by admissions on both sides that we were dealing with a relatively murky and unsettled realm, so debate frequently was reduced to statements of faith and conviction on this or that point.

I was thus heartened to discover in the January 1971 edition of the Journal of the American Bar Association an article which goes to the very crux of the dispute we dealt with last year and which is likely to arise again in this Congress. Eberhard P. Deutsch's article "The President as Commander in Chief" is a clear, concise, and persuasive statement which draws together one of the most comprehensive range of precedents and sources I have seen in this area. I believe it will serve as a valuable guide to Members of Congress, the bar, and the American public as we continue to assess the functions of our constitutional branches of government.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

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

THE PRESIDENT AS COMMANDER IN CHIEF

(By Eberhard P. Deutsch)

Recent extended debate in the Senate on the Cooper-Church Amendment to the Foreign Military Sales Act, the Hatfield-McGovern Amendment to military procurement legislation and the deployment, not long ago, of segments of the Armed Forces into Cambodia in the course of the war in South Vietnam, with widespread public discussion, have accentuated the question as to the powers under the Constitution of the President of the United States as commander in chief of these forces vis-à-vis those of the Congress.

While all United States forces have since been withdrawn from Cambodia and such legislation as sought to restrict Presidential authority over the Armed Forces has either been defeated or is in limbo, the over-all military necessities of the situation in Southeast Asia, as well as possible exigencies of other restless areas in a troubled world, require careful consideration of the constitutional issues involved in what may be the need for prompt action to protect important interests of the United States.

That the United States is "at war" in Vietnam can hardly be disputed, despite repeated recent assertions that there can be no war in the absence of an unequivocal declaration thereof by the Congress.

FORMAL DECLARATIONS ARE NOT ALWAYS USED

Historically, Presidents of the United States, in their constitutional capacity as commanders in chief of our Armed Forces, have, on innumerable occasions, deployed those forces into troubled areas involving armed conflict in combat conditions without any Congressional declarations of war,[1] and the Supreme and other courts of the United States have recognized the existence of a "state of war" under the Constitution in such cases.

For instance, hostilities were conducted against France in 1798, and troops were deployed in recent years to Santo Domingo, without any declaration of war in support thereof.

In 1945, President Truman, in an unprecedented move—one of the most significant war measures ever taken by a commander in chief—ordered, without Congressional sanction or even knowledge, the dropping of the terrifying atom bomb on Hiroshima.

In 1962, President Kennedy established a blockade of Cuba against the importation and installation of Russian missiles without Congressional authority, and more recently, both the Korean and Vietnam Wars have been conducted without formal declarations.[2]

In Tucker on *The Constitution*, it is stated that "in Greece and Rome, and even in the European countries in the Middle Ages, public declaration of war was uniformly made and was obligatory, but since the middle of the 18th Century formal declarations have not been universal and have fallen into disuse."[3]

As early as 1800, the Supreme Court had occasion to pass on the question as to whether the United States was actually involved "in war" without a formal declaration thereof. Congress had, by two statutes enacted in 1798 and 1799 respectively, provided salvage allowances for recapture of vessels of the United States which had been taken "from the enemy" (France).

All of the Justices concurred in the holding by the Court, each in a separate opinion, to the effect that the United States was actually "at war", as recognized by the Congress through the statutes in question, despite the fact that there had been no declaration of war against France.

Footnotes at end of article.

One of the opinions was written by Mr. Justice Washington (nephew of the President). He stated that the question before the Court was whether "there subsisted a state of war between the two nations. . . . If it be declared in form it is called *solemn* . . . but hostilities may subsist . . . limited as to places, persons and things; and this is more properly termed *imperfect* war. . . . Still, however, it is public war, because it is an external contention by force." And Justice Washington concluded his opinion on this point with the statement that "as to *America*, the degree of hostility meant to be carried on, was sufficiently described without declaring war, or declaring that we were at war. . . . In fact and in law, we are at war."[4]

Four years later the Supreme Court had occasion to rule on a related point, the opinion being written by Chief Justice Marshall. The statute involved in that case authorized the seizure of vessels of the United States proceeding *to* embargoed French ports. Such a vessel was seized en route *from* such a French port. The Court held that the statute had to be construed strictly and did not authorize the seizure of the vessel in question.

However, in the course of his opinion, the great Chief Justice had occasion to say: "It is by no means clear that the President of the United States, whose high duty it is to 'take care that the laws be faithfully executed', and who is Commander-in-Chief of the Army and Navy of the United States, might not, without any special authority for that purpose, in the then-existing state of the times, have empowered the officers commanding the armed vessels of the United States to seize and send into port for adjudication, American vessels which were forfeited by being engaged in this illicit commerce."[5]

In December, 1900, while troops of the United States were stationed in China, having been deployed for the protection of American and other interests in the course of the Boxer uprising there, an American soldier was tried and convicted by court martial for the murder of another soldier. The conviction was under an Article of War covering such an offense when committed "in time of war".

It was contended that because the American forces had been deployed to China without a declaration of war, the offense had not been committed "in time of war" and that the judgment of the court martial was accordingly invalid. The case came before a circuit court of the United States in the District of Kansas, which held expressly that a formal declaration of war "is unnecessary to constitute a condition of war."[6]

The court pointed out that extensive military forces, both of the United States and of other nations, had been deployed into China and that "many engagements resulting in considerable loss of life" had taken place; "military zones were formed" and "by act of Congress the pay of the officers and men in the military service of this country during the time they were occupied in China was increased to the amount paid in time of actual war . . . notwithstanding the further fact that at no time was there any declaration of war on the part of this government against the government of China".

The court accordingly concluded that "at the time the homicide in question was committed there prevailed in China a condition of war. . . .".[7]

CONGRESS HAS APPROVED PRESIDENTIAL ACTION

The point here under discussion has already been adjudicated several times directly as to the war in Vietnam. In the first of these cases, a man convicted of willful failure to report for induction into the Army claimed "that with respect to the War in Viet Nam the Universal Military and Service Training Act is being unconstitutionally applied, because Congress has not declared war; [and] that the Executive, in effect, has declared war . . .".

The court held that "while Congress has not formally declared war with respect to the military action in Vietnam, nor did it in Korea, it has given its wholehearted approval to the action of the President by appropriations and other implementing help. The President, as Commander-in-Chief, has always exercised the power to begin hostilities. . . . Unquestionably the President can start the guns at home or abroad to meet forces with force; he is not only authorized, but bound to do so."[8]

The same point was raised in defense of the recall of some soldiers to active duty and the court held again "that the United States of America has the right to, and may, make war under the Constitution without the necessity of a formal declaration of the Congress".[9]

Shortly after the outbreak of hostilities in Korea, Senator Paul Douglas of Illinois, in an address on "The Constitutional and Legal Basis for the President's Action in Using Armed Forces To Repel the Invasion of South Korea", stated: "The acts of the President in helping to protect Southern Korea from Communist aggression were in thorough harmony with the legislative intent of the framers of the Constitution, in line with sound historical precedent, in conformity with international law and the rules of the United Nations, and in the best interests of our own ultimate security and the peace of the world."[10]

PRESIDENT IS BOUND TO RESIST FORCE BY FORCE

In the *Prize Cases*, decided by the Supreme Court early during the War Between the States, the question was whether, since there had been no Congressional declaration of war, it could be said that the United States were actually "at war" in the sense that seizures of vessels as prize for blockade running could be justified under international law.

Speaking for the Supreme Court, Mr. Justice Grier held that "if a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any legislative authority. . . ."

The conflict, the learned Justice, went on "sprung forth suddenly from the parent brain, a Minerva in the full panoply of *war*. The President was bound to meet it in the shape it presented itself, without waiting for Congress to baptize it with a name. . . ."[11]

It can hardly be contended, in light of the foregoing authorities, so clearly recognizing that a state of war may exist under the Constitution without a formal declaration thereof by the Congress, that the United States have not been at war in Vietnam since 1965. The Presidents who have been in office during that time have acted accordingly, and Congress has invariably supported the action of the President in his conduct of the Vietnamese conflict.[12]

CONSTITUTIONAL AUTHORITY: DEPLOYMENT OF TROOPS

The next—and perhaps the more interesting—question at issue is as to the division of constitutional authority in the matter of the deployment of troops, once a state of war—declared or undeclared—has come into being, as it has in Indochina.

When the Constitution was being framed, there was no objection whatever to the provision that the President, even though he was likely to come generally from civilian life, was to be commander in chief of the Armed Forces. This provision grew out of the difficulties which Washington had experienced with the Continental Congress during the Revolution:

"This action of the Convention was probably due to some particular consideration, and none seems more reasonable than the fact that during the Revolution, Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during the period which was attributable to the absence of centralized authority or command. The members of the Convention knew this, and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy." [13]

The original intent of the framers of the Constitution as to its detailed provisions can best be gained from contemporaneous writings, largely pamphlets circulated while the instrument was being considered by the states for ratification. Thus, Alexander Hamilton, writing with reference to the power and authority of the President as Commander in Chief under the Constitution, said:

"Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority." [14]

In another of his essays Hamilton expounded somewhat more fully on the principle underlying this provision of the Constitution, which places broad power in the hands of the President as Commander in Chief:

"In the legislature, promptitude of decisions is often more an evil than a benefit. The differences of opinion, and the joinings of parties in that department of the government, though they may sometimes obscure salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority. . . . But no favorable circumstances palliate or atone for the disadvantages of dissension in the executive department. . . . They constantly counteract those qualities in the Executive which are the most necessary ingredients in its composition,—vigor and expedition, and this without any counterbalancing good. In the conduct of war, in which the energy of the Executive is the bulwark of the national security, everything (hurtful?) would be to be apprehended from its plurality." [15]

Some years later, in his renowned *Commentaries on the Constitution,* Justice Joseph Story, in part at least, in the identical words used a half century earlier by Alexander Hamilton, gave expression to the same principle:

"Of all the cares and concerns of government, the direction of war most peculiarly demands those qualities, which distinguish the exercise of power by a single hand. Unity of plan, promptitude, activity and decision, are indispensable to success; and these can scarcely exist, except when a single magistrate is entrusted exclusively with the power. Even the coupling of the authority of an executive council with him in the exercise of such powers, enfeebles the system, divides the responsibility, and not unfrequently defeats every energetic measure. Timidity, indecision, obstinacy and pride of opinion, must mingle in all such councils, and infuse a torpor and sluggishness, destructive of all military operations." [16]

The foregoing principle, so strongly emphasized by these eminent authorities, will be found stated and restated in various forms in practically all works on the Constitution. For instance, in his *Commentaries,* Judge Kent wrote:

"The command and application of the public force to execute law, maintain peace, and resist foreign invasion, are powers so obviously of an executive nature, and require the exercise of qualities so characteristical of this department, that they have always been exclusively appropriated to it, in every well-organized government upon earth." [17]

"WAR POWER" IS INVESTED IN THE PRESIDENT

Again, in Watson on *The Constitution,* it is stated:

"The power of the President under this clause is commonly called the "War Power" of the President. It is an immense power to exercise and might be used in a most dangerous manner by an unwise Executive, as there does not seem to be any limitation prescribed by the Constitution to the exercise of the power by the President in the field of military operations.

"By this clause he is made commander of the military and naval forces of the United States, for the whole time that he is President. No other department of the government, and no other officer of the government can exercise this power or assume to command either the Army or the Navy, unless designated by the President to do so. Congress can legislate relative in the number of the Army or the Navy, the compensation of the officers and men, and the term of their service, as well as many other matters, but the command of the Army and Navy is vested in the President, and Congress can neither command them or take that power from the President.

"The power is vested in the President to dispose of or arrange the component parts of the Army and Navy at his pleasure. In practice he does this through the military and naval departments of the government, but their action is his action. While Congress can make rules for the Army and Navy, it can not interfere with the President's power as commander of such forces. The line between the exercise of his power as commander and that of Congress is plain, and neither can rightfully or legally invade the other." [18]

At this point in his treatise, Watson quotes from the opinion of the Supreme Court of the United States in the famous case of *Ex parte Milligan,* involving the constitutional validity of a military commission sitting in Indiana during the War Between the States, in which it was stated in the opinion of the Chief Justice:

"Congress has the power not only to raise and support and govern armies but to declare war. It has, therefore, the power to provide by law for carrying on war. This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and the conduct of campaigns. That power and duty belong to the President as commander-in-chief. Both these powers are derived from the Constitution, but neither is defined by that instrument. Their extent must be determined by their nature, and by the principles of our institutions.

"The power to make the necessary laws is in Congress; the power to execute in the President. Both powers imply many subordinate and auxiliary powers. Each includes all authorities essential to its due exercise. But neither can the President, in war more than in peace, intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President." [19]

POWERS OF PRESIDENT AND CONGRESS ARE SEPARATE

Watson, in his notable work, then goes on to state:

"The power of Congress, and that of the President over the Army and Navy are separate and distinct, neither can impair or invade the authority of the other. The powers of the President under this clause are only those which may be called "military". He can direct the movements of the Army and Navy so as to injure the enemy in the most effective way, and to do this may order an invasion of the enemy's country, and if possible establish the authority of the United States over it." [20]

The language of the Supreme Court of the United States in *Fleming* v. *Page,* involving a question of import duties dependent on the national status of Tampico while under occupation by military forces of the United States in the Mexican (undeclared) War, parallels Watson's foregoing dictum:

"As Commander-in-Chief, [the President] is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy. He may invade the hostile country, and subject it to the sovereignty and authority of the United States." [21]

Quite recently, the United States Court of Appeals for the District of Columbia Circuit had occasion to express itself forcefully on this point. The case involved an action against the Secretary of Defense to compel him to permit "the use of newsstand facilities of military post-exchanges in the Far East" for the sale of certain newspapers whose character had been put in question. In the course of its opinion, the court said:

"With respect to this first category, we note that we deal here with a matter far removed from what is ordinarily subsumed under the head of military operations. It is—and must be—true that the Executive should be accorded wide and normally unassailable discretion with respect to the conduct of the national defense and the prosecution of national objectives through military means. The power of the armed services to make their disposition of men and materiel, and to take measures for the safeguarding of each does not admit of fragmentation." [22]

Swaim v. *United States* involved an action by a Judge Advocate General of the Army who had been sentenced by a court martial convened by the President of the United States to forfeiture of half of his pay for a period of years on being found guilty of "conduct prejudicial to good order and military discipline". General Swaim sued in the Court of Claims for restoration of his pay on the ground, *inter alia,* that the President had no authority, under the Constitution, to convene the court.

COURT UPHOLDS PRESIDENTIAL POWER

In the course of its opinion upholding the Presidential power, the Court said:

"Congress may increase the Army, or reduce the Army, or abolish it altogether; but so long as we have a military force, Congress can not take away from the President the supreme command. It is true that the Constitution has conferred upon Congress the exclusive power "to make rules for the government of the land and naval forces;" but the two powers are distinct; neither can trench upon the other; the President can not, under the disguise of military orders, evade the legislative regulations by which he in common with the Army must be governed; and Congress can not in the disguise of "rules for the government" of the Army impair the authority of the President as commander in chief." [23]

This decision was expressly and unanimously affirmed by the Supreme Court, which held: "We approve the opinion of the Court of Claims. . . ." [24]

In *Ex parte Quirin,* 317 U.S. 1, 28 (1942), it was held that the order of the President creating a military commission to try the German saboteurs who landed by submarine on Long Island and Florida beaches was a proper exercise of "such authority as the Constitution itself gives the Commander in

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Footnotes at end of article.

Chief, to direct the performance of those functions which may constitutionally be performed by the military arm of the nation in time of war."

A decade later, Mr. Justice Jackson, concurring in the *Steel Seizure* case, and agreeing with Mr. Justice Douglas that "our history and tradition rebel at the thought that the grant of military power carries with it authority over civilian affairs", nevertheless felt constrained to concede that he "should indulge the widest latitude of interpretation to sustain" the power of the President as commander in chief, in "his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society".[25]

A tremendously significant statement is found in a note sent in 1861 to Lord Lyons, British Minister to the United States, by William H. Seward, then Secretary of State. In that note, Seward clearly, concisely and emphatically defines this phase of the power of the President as Commander in Chief:

"It seems necessary to state that Congress is by the Constitution invested with no executive power or responsibility whatver, but on the contrary the President of the United States is, by the Constitution and laws, invested with the whole executive power of the government, and charged with the supreme direction of all ministerial agents as well as of the whole land and naval forces of the United States. . . .

"If it be said that these acts of the President in time of war are unconstitutional, the answer is, that as Commander-in-Chief of the Army and Navy the President has the constitutional power to employ the means recognized by the laws of war as necessary to conquer the enemy.

"Congress can pass no law which can deprive the President of the power conferred in creating him Commander-in-Chief."[26]

In the course of a debate on the floor of the Senate in 1922, Senator Reed of Missouri suggested that Congress had constitutional authority to compel the President to withdraw American forces stationed in Europe. To that suggestion, Senator Borah of Idaho replied:

"We could not make the President do it. He is Commander-in-Chief of the Army and Navy of the United States; and if in the discharge of his duty he wants to assign them there, I do not know of any power that we can exert to compel him to bring them home. We may refuse to create an Army, but when it is created he is the Commander."[27]

Some question has at times been raised as to the authority of the President, as commander in chief of the country's Armed Forces, to deploy them into foreign combat areas pursuant to treaties by which the United States have assumed the obligation, in advance, to come to the aid of another country if attacked, without the express consent of Congress as a whole.

Under Section 2 of Article II of the Constitution, the President is not only designated as commander in chief of the Army and Navy, but he is also given "Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur".

Then, under Article VI of the Constitution, that instrument, the laws made "in Pursuance thereof" and "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land".

Finally, under Section 3 of Article II, the President is charged to "take care that the Laws [presumably including treaties as 'the supreme Law of the Land' under Article VI] be faithfully executed".

When, therefore, a treaty, duly approved by the Senate, which has thus become "the supreme Law of the Land", requires the United States to come to the military aid of a foreign country under attack, the President, as constitutional commander in chief, must, without awaiting Congressional sanction, deploy the Armed Forces of the United States into the foreign combat area in compliance with his constitutional obligation, as President, to "take Care that the Laws be faithfully executed".[28]

Following consideration of the United Nations Participation Act[29] by the Senate Foreign Relations Committee, it reported its conviction "that any reservation to the Charter, or any subsequent congressional limitation, designed to provide, for example, that employment of the Armed Forces of the United States to be made available to the Security Council under special agreements referred to in Article 43 could be authorized only after the Congress had passed on each individual case would . . . violate the spirit of the United States Constitution under which the President has well-established powers and obligations to use our Armed Forces without specific approval of Congress."[30]

When the bill reached the floor of the Senate, Senator Wheeler of Montana insisted that it sought to override the exclusive constitutional power of Congress to declare war, and he offered an amendment to preserve that Congressional authority unimpaired, as follows:

"Nothing in such agreement or agreements shall authorize the President, and the President shall have no authority, to make available to the Security Council any armed forces to enable the Security Council to take action under Article 42 of said Charter, unless the Congress has by appropriate act or joint resolution authorized the President to make such forces available. . . ."[31]

Senator Taft opposed Senator Wheeler's amendment on the ground that in his view the President already had the power under the Constitution to use troops without Congressional sanction. The amendment was defeated, 65 to 9.[32]

This constitutional drama was repeated less than four years later, when the North Atlantic Treaty was submitted to the Senate for its advice and consent. Following consideration of the treaty, the Senate Foreign Relations Committee reported that nothing in it, "including the provision that an attack against one shall be considered an attack against all, increases or decreases the constitutionl powers of either the President or the Congress or changes the relationship between them".[33]

On the floor of the Senate, Senator Watkins of Utah introduced a proposed reservation to the treaty to the effect that "the United States assumes no obligation to . . . employ" its Armed Forces "unless in any particular case the Congress which, under the Constitution, has the sole power to declare war or authorize the employment of" those forces, "shall by act or joint resolution so provide".[34]

The reservation was rejected by a vote of 84 to 11, and the treaty was approved without the reservation, by 82 to 13.[35]

It is interesting to note, in this connection, that the constitutional powers of the President under the first section of Article II, which provides simply that the "executive Power shall be vested" in him, are far broader than those of the Congress under Section 1 of Article I, which restricts its "legislative Powers" only to those "herein granted".

From all of the foregoing, it certainly seems abundantly clear that whenever a state of war exists—whether declared or undeclared—the President of the United States has, under the Constitution, as commander in chief, full and plenary power to conduct military operations in prosecution of the war, unhampered by anything in the nature of strategic legislative restrictions.

Any other construction of the Constitution would so hamper the conduct of a war as to portend ultimate military defeat. The Constitution of the United States was never meant to be construed as a suicide pact.

FOOTNOTES

[1] "The occupation of Iceland was but one of 'at least 125 incidents' in our history in which Presidents, 'without Congressional authorization, and in the absence of a declaration of war [have] ordered the armed forces to take action or maintain positions abroad'." Vinson, C.J., dissenting in *Youngstown Company* v. *Sawyer*, 343 U.S. 579 at 694 (1952).

[2] "Of course, a state of war may in fact exist without a formal declaration." Jackson, J., concurring in *Youngtown Company* v. *Sawyer*, 342 U.S. 579 at 642 (1952). "Neither in the language of the Constitution, the intent of the framers, the available historical and judicial precedents, nor the purposes behind the clause" giving Congress the exclusive authority to "declare war", is support to be found for the claim that "nothing short of a formal declaration of war will satisfy the Constitution's demand for congressional control of the war power." Note, *Congress, The President, and the Power To Commit Forces to Combat*, 81 HARV. L. REV. 1711, 1801-1802 *passim* (1968).

[3] 2 TUCKER, THE CONSTITUTION 576 (1899). "Use of the Congressional power to declare war, for example, has fallen into abeyance because wars are no longer declared in advance." EXECUTIVE DEPARTMENT REPORT PREPARED FOR USE OF JOINT COMMITTEE ON SENATE COMMITTEE ON FOREIGN RELATIONS AND HOUSE COMMITTEE ON ARMED SERVICES, 82d CONG., 1ST SESS., POWERS OF THE PRESIDENT TO SEND THE ARMED FORCES OUTSIDE THE UNITED STATES 27 (Comm. Print 1951).

[4] *The Eliza*, 4 Dall. 307, 340–341, 342 (1800).

[5] *Little* v. *Barreme*, 2 Cranch. 170 at 177 (1804).

[6] Early in our constitutional history, Alexander Hamilton, while recognizing the exclusive power of Congress under the Constitution "to declare war", submitted that nevertheless, "when a foreign nation declares, or openly and avowedly makes war upon the United States, they are then by the very fact *already at war*, and any declaration on the part of Congress is nugatory; it is at least unnecessary." HAMILTON, WORKS 747 (J. Hamilton ed. 1851).

[7] *Hamilton* v. *McClaughry*, 136 Fed. 445 at 450–451 (C.C. Kan. 1905). The Senate Foreign Relations Committee has itself recently said that "it does not believe that formal declarations of war are the only available means by which Congress can authorize the President to initiate limited or general hostilities." S. REP. No. 797, 90th Cong. 1st Sess. 25 (1967).

[8] *United States* v. *Mitchell*, 246 F. Supp. 874 at 897, 898 (1965); *aff'd*, 369 F. 2d 323 (3d Cir. 1966). Former President and Chief Justice William Howard Taft, in the course of a lecture in 1916 at Columbia University, said that while "under the Constitution, only Congress has the power to declare war", the President can, as commander in chief under the same instrument, "order the Army and Navy anywhere he will", and thus "can take action such as to involve the country in war and to leave Congress no option but to declare or to recognize its existence". TAFT, OUR CHIEF MAGISTRATE AND HIS POWER 94–95 (1916).

[9] *Ali* v. *United States*, 289 F. Supp. 530, 531 (D.C. C.D. Cal. 1968). Two very recent opinions in the Eastern District of New York are to the same effect: *Orlando* v. *Laird*, 39 Law Week 2069 (July 1, 1970), and *Berk* v. *Laird*, 39 Law Week 2201 (September 16, 1970). And see *Weissman* v. *Metropolitan Life Insurance Company*, 112 F. Supp. 420 (D.C. S.D. Cal. 1953).

[10] 96 CONG. REC. 9647, 9649 (1950).

[11] *Prize Cases*, 2 Black 635, 668–669 (1862). "As long as the United States is not the initial aggressor, the President's actions will remain 'defensive' requiring no further Con-

gressional action to enable him to wage war thrust on the country." Note, *Congress, The President and the Power To Commit Forces to Combat, supra* note 2 at 1779–1780.

[12] It has recently been suggested that a "formal declaration of war in the modern context is often deliberately avoided precisely because of the apparent commitment to total victory and the general hardening of attitudes likely to result". Note. *Congress, The President and the Power To Commit Forces to Combat, supra* note 2 at 1772–1773.

[13] 2 WATSON, THE CONSTITUTION 912.

[14] THE FEDERALIST No. 74 (Hamilton).

[15] *Id.*, No. 70.

[16] STORY, COMMENTARIES ON THE CONSTITUTION 546–547.

[17] 1 KENT, COMMENTARIES 295.

[18] 2 WATSON, THE CONSTITUTION 913–914.

[19] 4 Wall. 2, 139 (1866).

[20] 2 WATSON. THE CONSTITUTION 915–916.

[21] 9 How. 603, 615 (1850).

[22] *Overseas Media Corporation* v. *McNamara*, 385 F. 2d 308 at 314. See also *Ex parte Quirin*, 317 U.S. 1 at 26 (1942).

[23] *Swaim* v. *United States*, 28 Ct. Cl. 173 at 221 (1893).

[24] *Swaim* v. *United States*, 165 U.S. 553 at 558 (1897).

[25] *Youngstown Company* v. *Sawyer*, 342 U.S. 579 at 632 and 645 (1952).

[26] Quoted in WOODBURN, AMERICAN REPUBLIC 181.

[27] CONG. REC. 933 (1922). "It is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movement of the Army and Navy. Taft, *The Boundaries Between the Executive, the Legislative and the Judiciary Branches of the Government*, 25 YALE L. J. 599 at 606 (1916).

[28] EXECUTIVE DEPARTMENT REPORT PREPARED FOR USE OF JOINT COMMITTEE OF SENATE COMMITTEE ON FOREIGN RELATIONS AND HOUSE COMMITTEE ON ARMED SERVICES, 82D CONG., 1ST SESS., POWERS OF THE PRESIDENT TO SEND THE ARMED FORCES OUTSIDE THE UNITED STATES 2 (Comm. Print 1951).

[29] 59 Stat. 621, 22 U.S.C. § 287 (1945).

[30] S. REP. No. 717, 91st Cong., 2d Sess. 8 (1945). The House Foreign Affairs Committee expressly concurred in the report of the Senate Foreign Relations Committee.

[31] 91 CONG. REC. 11,392 (1945).

[32] *Ibid.*

[33] S. EXEC. DOC. No. 8, 81st Cong., 1st Sess. 14 (1949).

[34] 95 CONG. REC. 9898 (1949).

[35] *Id.* at 9916.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended an additional 2 minutes.

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

LEVY OF DISTRICT OF COLUMBIA INCOME TAXES AGAINST ALL INCOME EARNED IN THE CITY

Mr. BYRD of Virginia. Mr. President, Mayor Walter Washington of the District of Columbia has proposed that the District's graduated income tax be levied against all income earned in the city.

This would mean taxation of the wages of Virginia and Maryland residents.

It is just another form of the "commuter tax" proposal which has been advanced in the past by the government of the District.

Such a tax would be grossly unfair.

Virginia and Maryland residents who commute to Washington, like all other American taxpayers, help support the District of Columbia through Federal taxation. Each year, the Federal Government makes a sizable contribution to the budget of the District.

Furthermore, residents of Maryland and Virginia suburbs pay sales taxes on items they purchase when they shop in the District of Columbia.

Those who support taxation of the income of commuters point out that other cities impose this kind of tax. But they fail to mention that other cities do not receive a direct subsidy from the Federal Government.

I opposed the "commuter tax" proposal when it was advanced in 1967.

I opposed it again in 1969.

I am vigorously opposed to the new proposal now put forward by Mayor Washington.

The tax he advocates would be an unjustifiable burden on the thousands of Maryland and Virginia residents who must come to work in the District of Columbia.

Mayor Washington, for whom I have a high regard, wrote me in advance of his intention to propose this tax and asked that I keep it in confidence until he made it public. I complied and I appreciate Mayor Washington's courtesy. But I must strongly oppose his proposal.

It would be very harmful to the people of my State—and to the treasury of the State of Virginia. The proposed tax is unfair and wrong.

S. 346—INTRODUCTION OF THE RURAL JOB DEVELOPMENT ACT

Mr. PEARSON. Mr. President, for myself and for the distinguished Senator from Oklahoma (Mr. HARRIS), I today introduce the Rural Job Development Act, together with some 45 other Senators as cosponsors.

The bill I introduce would encourage the development of new job-creating industries in rural areas, thus serving to expand the economic base and more fully and effectively utilize the human and natural resources of our rural communities. The resulting expansion of economic opportunity and thus help to reduce the population pressures of our overcrowded and overburdened metropolitan areas.

Providing a judicious blend of private initiative and public responsibility—the bill, in brief summary, would work as follows:

A series of tax incentives—a 14-percent tax credit on personal property, a 7-percent tax credit on real property, an accelerated depreciation allowance, and a 50-percent tax deduction on wages paid workers given on-the-job training—would be offered to industrial and commercial enterprises locating in counties designated as "rural job development areas." Rural job development areas are counties which have no city of over 50,000 population and where at least 15 percent of the families have incomes of less than $3,000. Indian reservations are also included. To be eligible the enterprise must hire at least 10 people and wherever possible must hire at least 50 percent of the work force from the local area. The bill contains a prohibition against "runaway" firms and recapture provisions for those firms which willfully violate the terms of the program.

Mr. President, the bill introduced today is essentially the same as the Rural Job Development Act of 1969. That bill was well received, with 39 Senators joining as cosponsors.

I am very pleased to have the senior Senator from Oklahoma (Mr. HARRIS) again join in cosponsoring this bill with me. Senator HARRIS is deeply interested in rural development and has done a great deal to advance the objectives of this great cause. In addition to Senator HARRIS I am pleased to announce that the following Senators have joined in cosponsoring the Rural Job Development Act of 1971:

Mr. AIKEN of Vermont, Mr. ALLEN of Alabama, Mr. BEALL of Maryland, Mr. BENNETT of Utah, Mr. BENTSEN of Texas, Mr. BIBLE of Nevada, Mr. CANNON of Nevada, Mr. CHURCH of Idaho, Mr. COOPER of Kentucky, Mr. CURTIS of Nebraska, Mr. DOLE of Kansas, Mr. DOMINICK of Colorado, Mr. EAGLETON of Missouri, Mr. GRAVEL of Alaska, Mr. GURNEY of Florida, Mr. HART of Michigan, Mr. HARTKE of Indiana, Mr. HATFIELD of Oregon, Mr. HOLLINGS of South Carolina, Mr. HRUSKA of of Nebraska, Mr. HUMPHREY of Minnesota, Mr. INOUYE of Hawaii, Mr. MANSFIELD of Montana, Mr. MCGEE of Wyoming, Mr. MCGOVERN of South Dakota, Mr. MILLER of Iowa, Mr. MONDALE of Minnesota, Mr. MONTOYA of New Mexico, Mr. Moss of Utah, Mr. NELSON of Wisconsin, Mr. PACKWOOD of Oregon, Mr. PERCY of Illinois, Mr. PROUTY of Vermont, Mr. RANDOLPH of West Virginia, Mr. RIBICOFF of Connecticut, Mr. SCHWEIKER of Pennsylvania, Mr. SCOTT of Pennsylvania, Mr. SPONG of Virginia, Mr. STEVENS of Alaska, Mr. TALMADGE of Georgia, Mr. THURMOND of South Carolina, Mr. TOWER of Texas, and Mr. YOUNG of North Dakota.

The principle of using tax incentives for the purpose of bringing new business and industry into our rural communities also has been endorsed by a wide variety of groups and individuals around the country.

Mr. President, the support for the Rural Job Development Act is but one manifestation of the great interest in the overall theme of rural development, which has also been variously referred to as rural revitalization, rural urban balance, balanced urbanization, and balanced national growth. But whatever label we use we are all talking about the urgent necessity of expanding economic and social opportunities in our smaller communities.

As we all know, major portions of rural America are economically underdeveloped and lacking in the full range of public services. Millions of people each year are forced to leave our smaller communities because of the lack of economic opportunities there. These conditions in and of themselves justify and, indeed, demand major new efforts to improve and expand economic and social opportunities available in rural communities.

But the objectives of the rural development movement are truly national, not sectional. For, in fact, the rural development movement represents a new and vi-

tal part of our growing effort to deal with the crisis of the cities.

We have finally been forced to recognize that many of the problems which constitute the crisis of the cities can be traced to the overcrowding of people and the excessive concentration of industry. Thus the rural development movement, which ultimately seeks to slow down the great rural-to-urban migration, if successful, will be of benefit not only to our rural communities but to our cities as well.

We are coming to realize that rural development is not simply a desirable objective but, indeed, a national necessity.

Mr. President, many of our old notions about urbanization and rural migration simply are no longer valid.

Into the cities have come the unskilled rural poor attracted by the lure of economic advancement. Many gain, but a tragically high number do not. Instead of economic salvation too many of the rural poor, both white and black, find tenements, unemployment, welfare, and the depersonalized, demoralized environment of the slum-ghetto.

Into the cities also come the young, the educated, and the talented. They often do much better materially, but for this economic gain they pay the social costs of the loneliness of the crowd, the frustrations of congested streets and crowded stores, the stultifying sameness of the bedroom suburbs, and the loss of community identity.

Into the cities comes industry and for the most part it has prospered. But increasing numbers are now finding that the cost of doing business in the city is unprofitably high.

And as the urban resident breathes the fouled air of industrial smog, he comes to understand the hazards as well as the benefits of industrial concentration.

In short, too many of our rural communities are underdeveloped. Too many of our metropolitan areas are over crowded. This maldistribution of population and economic activity will surely worsen, unless we take strong, positive, action.

The task ahead is clear. We must expand the quantity and quality of economic and social opportunities in rural America so that those who choose to do so will have the freedom to remain where they are and not be forced to move to the already overcrowded and overburdened metropolitan areas.

This task will not be easily or quickly accomplished. And we do not yet fully know all the needs which must be met nor all the policy alternatives which must be considered. But I think it is clear to all that new jobs lie at the heart of the rural development effort. For unless we can create upwards of 1 million new and better jobs each year in our rural communities, nothing else we will do will have any meaningful or lasting effect.

Mr. President, the bill I introduce today aims precisely at this goal of creating new jobs. It applies a proven principle to a particular need. The principle is that tax policy does in fact influence the course of business investment. The particular need is that special incentives are necessary to encourage a substantial increase of private investment in rural areas in order to overcome some of the factors which otherwise discourage business expansion into these areas. The tax incentives provided by this bill are as follows:

First, a 7-percent tax credit on personal—machinery and equipment—and real property—land and buildings. And if the rural job development area has a population density of less than 25 persons per square mile—the national average is 51—the credit is increased to 10 percent. This incentive recognizes that the normal factors which often work against expanded rural investment are magnified in the more sparsely populated areas. These areas are often quite far removed from major industrial and commercial centers thus adding to transportation costs for example. Certainly we believe that these additional incentives are consistent with the objective of promoting the maximum feasible geographical distribution of new job-creating industries.

Second, an accelerated depreciation of two-thirds of normal, useful, or class life for machinery, equipment, and buildings;

Third, a tax deduction equal to 50 percent of the wages paid to workers for whom the enterprise must provide on-the-job training.

This special deduction, which would be in effect during the training period, is intended to encourage the enterprise to hire and train local people who lack the required labor skills. The U.S. Employment Service would certify the length of the training period.

Fourth, all credits and deductions can be carried backward 3 years or forward for a maximum of 10 years, or if the business is a corporate subsidiary, utilized against other outside income of the parent corporation.

Business enterprises would receive these tax benefits under the following conditions:

First, the enterprise must be located in a "rural job development area" designated by the Secretary of Agriculture and defined as follows: A county, no part of which contains a standard metropolitan statistical area and which has no city with a population in excess of 50,000, and where at least 15 percent of the families have incomes under $3,000 or where employment has declined at a rate of more than 5 percent during the previous 5-year period; or where the closing or curtailing of operations of an installation of the Department of Defense is likely to cause a substantial migration of persons residing in the area. The Secretary of Agriculture, after consulting with the Secretary of the Interior may also certify Indian reservations.

Second, to receive an eligibility certificate, the enterprise must demonstrate that it has not discontinued a comparable enterprise in any other area and will not reduce the employment in any other area.

Third, the enterprise must create at least 10 new jobs at the beginning of the operation.

Fourth, to assure benefits to a local community, at least 50 percent of the original working force must be residents of the rural job development area. However, the Secretary can waive this requirement if the labor requirements of the enterprise exceed the local labor supply, and if the Secretary determines that the establishment of the enterprise in the area will promote economic benefits consistent with the purposes of this act.

Fifth, to continue to qualify, the enterprise must maintain the same working force unless circumstances beyond its control prevent it from doing so. The bill also provides an effective recapture provision in those cases where a firm willfully violates the eligibility requirements.

Sixth, before the enterprise is given an eligibility certificate, the Secretary must have written notice from the local governmental unit responsible for zoning requirements to the effect that the proposed enterprise meets the existing regulations and that there are no immediate plans for altering those regulations. This will assure that the local community is aware that the enterprise anticipates locating there, thus giving the community a chance to prevent the move should it choose to do so.

Seventh, the enterprise must be engaged in industrial or commercial production—manufacturing, producing, processing, assembling, wholesale operations, or the construction of buildings and facilities in the authorized area. This precludes benefits to retail and service enterprises which might be competitive with local establishments. Recreational enterprises may be certified provided they would not be competitive with existing enterprises in the area.

Mr. President, in addition to the tax incentives the bill would authorize $500,000 for the Department of Agriculture so that the Secretary may collect and disseminate relevant economic data and to serve as an information clearing house for local communities and businesses considering establishing job-creating enterprises in job development areas.

Mr. President, as indicated, this bill would be administered by the Secretary of Agriculture. It may well be that this provision should be changed. Quite possibly it would be better to vest this authority elsewhere, possibly in the Secretary of Commerce. This is one of the points that certainly should be discussed in committee. The administration's view on this would be particularly important.

There are also other parts of the bill which are subject to debate. For my own part. I am not wedded to each and every provision. I fully recognize that adjustments may be necessary in several areas. However, I do believe very strongly in the basic principles of this bill.

Mr. President, the tax encentives approach is based on the proposition that the new economic activity which will thereby be generated will bring broad economic gains to the whole rural community.

This is not a reversion to the old dogma that whatever is good for business necessarily has to be good for the country. Rather it is a pragmatic recognition, on the one hand, that Government cannot do everything and, on the other hand, an

acceptance of the fact that through a more judicious stimulus and control of the private sector we can ease many of our economic and social problems.

Mr. President, it is also important to note that most rural areas, not just the poverty-stricken ones, would be covered under the area eligibility definitions of the bill.

This follows from the fact that the purpose of this bill is to encourage rural development in general. Thus we wanted to make sure that it would be broadly applied to all rural areas and not be limited to such poverty stricken regions. Although we believe it will complement existing rural poverty programs, this is not a rural poverty bill as such. Of equal or greater importance, it will help prevent the further spread of poverty and eventually generate new heights of prosperity throughout much of rural America.

Some have suggested that the bill should be more precisely tailored to potential rural growth centers. I am aware, of course, that not all rural areas have the potential for growth. But the problem is that of reliably identifying those which have the potential for growth and those which do not.

The birth of new types of industry, the continued improvements in transportation and communication, and the changing tastes of the American consumer make it extremely difficult to predict with any certainty the economic potential of any given area. Moreover it is important to keep in mind that the unpredictable quality and spirit of local leadership and the pure coincidence of other noneconomic factors often have a major effect on whether a given community will grow, hold its own, or decline. By making the incentives in this bill broadly available, all the factors which effect economic growth, many of which we do not know with precision, will be allowed to operate freely.

Mr. President, the enactment of this bill would result in an initial drain on the Treasury to the extent that businessmen take advantage of tax incentives. But at the same time, the new economic activity thus stimulated would generate an increased flow of revenue to the Treasury. Precise predictions are impossible, but I believe that over the intermediate and long run the benefits will more than offset the losses; that the total tax revenue flow will be expanded, rather than decreased.

But beyond the tax losses and gains directly attributable to this program one must also consider its indirect influence. I believe that a more extensive geographical distribution of our industrial and commercial capacities will strengthen the overall national economy. I believe that strengthening of rural communities will result in substantial social benefits. I believe that the slowing of the flow of rural people to the urban slums will reduce the public costs of unemployment and welfare payments and also ultimately, the costs for other public services in those areas such as those for law enforcement.

Mr. President, the passage of the Rural Job Development Act will not solve all the problems of rural America. Its adoption would, I believe, do a great deal to create the type of new job opportunities which rural America so urgently needs. And because of this its enactment constitutes, I believe, the necessary first step toward the attainment of a more reasonable and healthy rural-urban balance.

Mr. President, I ask unanimous consent that the text of the Rural Job Development Act of 1971 be printed in the RECORD at the conclusion of my remarks.

Mr. President, as I indicated earlier, a number of interested groups have endorsed the concept of using tax incentives to encourage new job-creating industries to locate in rural areas. One such group is the National Federation of Independent Business. The membership of this group, which by the way constitutes the largest business organization in the Nation, has voted overwhelmingly in support of the Rural Job Development Act.

But the National Federation of Independent Business is doing much more than endorsing proposed legislation. The federation has launched a campaign called Operation Build America to make the public aware of the fact that the solution to many of the Nation's problems can be accomplished by the redevelopment of the rural areas. The federation is sponsoring a program of special messages to be used by radio stations throughout the country appealing to the public to help make rural America a better place to live, and a place where people can find satisfactory employment. I want to commend the federation for undertaking this program. It will do a great deal to promote the cause of rural development. Mr. President I ask unanimous consent that the National Federation of Independent Business press release announcing the "Operation Build America" be printed in the RECORD at this point.

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

OPERATION BUILD AMERICA

A campaign entitled, "Operation Build America" has been launched by the National Federation of Independent Business to make the public aware of the fact that the solution to many of the nation's problems can be accomplished by the redevelopment of the rural areas.

Senator James Pearson of Kansas has reintroduced into the Congress his bill which would encourage the development of job producing industry and commerce in the underdeveloped areas of the country which is heavily backed by the nation's independent businessmen voting through the Federation.

To bring the message home to all, well known personalities from the entertainment world are supporting the stand of Senator Pearson and the Federation. Radio stations throughout the nation are receiving special messages from such well known performers as Ken Berry, star of the top rated CBS show, "Mayberry RFD," from Lorne Green of NBC's "Bonanza" and Michael Constantine from ABC's "Room 222." In addition Jerry Van Dyke, Lloyd Nolan, Richard Long, Dennis Weaver, Clu Gullager and Shirley Jones are making appeals to the public to make rural America a better place to live, and a place where people can find employment.

The objective of the project "Operation Build America" is to make it possible for job producing enterprises to be launched in the economical under-developed areas of the country to provide jobs for the young people of these communities, to check the migration of job seekers to the already swollen population of the big metropolitan areas which creates almost unsurmountable problems of welfare, transportation, pollution and crime.

Although Senator Pearson has long promoted the principle that the American economy cannot move forward until there is a full economic development of the nation, it is now believed by the Federation that the slowdown in the economy, the growth of unemployment, and the ever increasing welfare burdens has created a desire on the part of the public for some concrete action.

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

Mr. PEARSON. I shall be glad to yield in just a minute.

The PRESIDING OFFICER. Under the previous order, the time for the transaction of morning business has expired.

Mr. MANSFIELD. Mr. President, in view of the situation which has developed, and due to the fact that the Senator has been waiting patiently, I ask unanimous consent that the time be extended for 3 minutes.

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

Mr. PEARSON. I thank the majority leader. I ask that the bill be received and appropriately referred, and I yield to the Senator from Oklahoma.

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

The bill (S. 346) to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas, introduced by Mr. PEARSON (for himself and other Senators) was received, read twice by its title, referred to the Committee on Finance and ordered to be printed in the RECORD as follows:

S. 346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Job Development Act of 1971".

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to increase the effective use of the human and natural resources of rural America; to slow the migration from rural areas due to lack of economic opportunity; and to reduce population pressures in urban centers resulting from such forced migration.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "rural job development areas" means any area which the Secretary of Agriculture determines is—

(A) a county—

(i) no part of which is within an area designated as a standard metropolitan statistical area by the Bureau of the Budget,

(ii) does not contain a city whose population exceeds fifty thousand, and

(iii) in which more than 15 per centum of the families residing therein have incomes under $3,000 per annum; or

(B) a county defined in paragraph (A) (i) and (ii) in which for the most recent five years employment has declined at an annual rate of more than 5 per centum; or

(C) an Indian reservation or a native community designated by the Secretary after consultation with the Secretary of the Interior; or

(D) a county defined in paragraph (A) (i) and (ii) and is undergoing or is likely to undergo a substantial emigration of persons residing therein (other than military personnel and their dependents) as a consequence of the closing, or curtailing of operations, of an installation of the Department of Defense.

The Secretary's findings under this subsection shall be made on the basis of the most recent satisfactory data available to him.

(3) The term "person" means an individual, a trust, estate, partnership, association, company, or corporation.

(4) The term "industrial or commercial enterprise" means any of the following types of business enaged in, by any person, through an industrial or commercial facility—

(A) the manufacture, production, processing, or assembling of personal property—

(i) for sale to customers in the ordinary course of business excluding any part of the activities of such business consisting of retail sales and leases, or (ii) for use in such person's business,

(B) the distribution of personal property as principal or agent, including, but not limited to, the sale, leasing, storage, handling, and transportation on thereof but excluding any part of the activities of such business consisting of retail sales and leases, or

(C) the construction of any building in a rural job development area as contractor for, or for sale to, any customer, but only in the case of a person engaged in the business of constructing such buildings as a contractor for, or for sale to, customers.

The term "industrial or commercial enterprise" does not include the activities of selling, leasing, or renting out of real property including the selling or leasing or renting out of a factory, workshop, office, warehouse, sales outlet, apartment house, hotel, motel, or other residence, or the lending of money or extending of credit.

(5) The term "industrial or commercial facility" means a fixed place of business, in which an industrial or commercial enterprise is wholly or partly carried on, including but not limited to—

(A) a place of management or office,

(B) a factory, processing facility, plant, or other workshop,

(C) a warehouse or sales outlet,

(D) a center for the transportation, shipping, or handling of property,

(E) a recreation facility, including guest accommodations constructed as part of such a facility, providing recreation to the public for a charge or fee which is (i) not inconsistent with State recreation plans, approved by the Bureau of Outdoor Recreation, (ii) other recreation facilities consistent with local economic development plans, but no benefit shall be granted for recreation facilities where the tax credit would result in an undue local competitive advantage.

The term "industrial or commercial facility" does not include any store, or other premises, or portion of premises used as a retail facility.

(6) The term "retail sale or lease" means a sale or lease made to a party whose payments therefor do not constitute the expenses or costs of a business.

(7) The term "retail facility" means a store, premises, or portion of premises in which a substantial percentage of the sales or leases are retail sales or leases.

TITLE I—ELIGIBILITY FOR ASSISTANCE CERTIFICATION

SEC. 101. (a) The Secretary shall issue a certificate of eligibility for benefits under this Act to any person who is engaged in an industry or commercial enterprise, through a new industrial or commercial facility (or a new portion of such a facility) located in a rural job development area, if—

(1) such facility has been approved by local authority as consistent with local zoning ordinances and economic and physical planning;

(2) such facility (or new portion thereof) was placed in service by the person to whom the certificate is to be issued in a rural job development area in the first taxable year of the certification period;

(3) placing such facility (or new portion thereof) in service has resulted in regular, full-time employment by such person of at least ten additional persons;

(4) at least 50 per centum of the persons employed at such facility (including the existing portion of an expanded facility) in such first taxable year are (A) persons who reside within such rural job development area or any other rural job development area within reasonable commuting distance of such facility, or (B) persons who within the three years preceding the commencement of their employment (i) have served at least one year on active duty in the Armed Forces of the United States, or (ii) have been enrolled for at least one year in the Job Corps;

(5) the Secretary determines that the industrial or commercial enterprise was not relocated from one area to another except that he may waive this requirement if (A) the establishment of such industrial or commercial facility will not result in an increase in unemployment in the area of original location (or in any other area where such enterprise conducts business operations), or (B) such industrial or commercial facility is not being established with any intention of closing down the operations of such enterprise in the area of its original location or in any other area where it conducts such operations;

(6) the person to whom the certificate is to be issued agrees, in such form and manner as the Secretary may prescribe, to maintain records listing the names and residences of all full-time employees at the industrial or commercial facility for which the certificate is being issued, the date on which they were hired, their employment, their residences and economic situation at the time of hiring, and any other information reasonably required by the Secretary for the purposes of this title; and

(7) the Secretary determines that the expected benefits to employment and to other aspects of the economic and social welfare of such rural job development area warrant the granting of the income tax incentives under title II of this Act as to the capital investment in such industrial or commercial facility.

(b) The Secretary shall issue a separate certificate of eligibility with regard to each industrial or commercial facility (or new portion thereof) which meets the requirements of subsection (a) regardless of whether such facility is operated by any person as part of a single industrial or commercial enterprise.

(c) The Secretary shall issue a certificate of eligibility for benefits under this Act to any person who is a successor in interest to any person operating an industrial or commercial enterprise which has established an industrial or commercial facility in a rural job development area and with respect to which facility a certificate of eligibility was issued under subsection (a), if—

(1) such person agrees to continue to use the facility as an industrial or commercial facility, and to conform to the requirements of subsection (a); and

(2) the issuance of such certificate is in accordance, as determined by the Secretary, with the policy set forth in subsection (a) (5) respecting the relocation of industry.

(d) The Secretary shall terminate a certificate of eligibility issued to any person under this section to operate an industrial or commercial facility whenever he determines, after an appropriate hearing, that the person to whom such certificate was issued has failed, after due notice and a reasonable opportunity to correct the failure at such facility, to carry out its agreement under subsection (a) (4). In making a determination under this subsection, the Secretary shall be guided by, but not limited to, the following criteria:

(1) A reduction in the number of qualified jobs provided by any such enterprise below the minimums specified in subsection (a) (4) shall not be grounds for termination of a certificate of eligibility issued to such enterprise, if the Secretary determines that (i) such reduction results from business or economic factors beyond the control of such enterprise, and (ii) not less than two-thirds of all the persons employed full time in such jobs by such enterprise to meet the requirements of subsection (a) (4) continue to meet those requirements.

(2) A change in the residence of any person employed by such enterprise, after his employment has commenced, shall not affect his status for purposes of applying section (a) (4).

(e) The Secretary may waive all or part of the requirements specified in subsection (a) (4) if he finds that the operation of a facility requires skills that are not available within the rural job development area and that the expected benefits to other aspects of the economic and social welfare of the rural job development area warrant the granting of tax incentives under title II of this Act.

(f) Each certificate of eligibility issued under this section shall describe the industrial or commercial enterprise and the industrial or commercial facility (or the portion thereof) with respect to which it is issued in such detail as may be necessary for purposes of administering the income tax incentives under title II of this Act.

(g) The Secretary shall keep interested and participating Federal, State, and local agencies fully apprised of any action taken by him under this section.

(h) No certificate of eligibility shall be issued under this section to any person, unless application therefor is received by the Secretary prior to the expiration of ten years after the date of enactment of this Act.

REPORTS

SEC. 102. (a) The Secretary may by regulation require any person to whom a certificate of eligibility is issued under section 101 to file such reports from time to time as he may deem necessary in order to carry out his functions under this title.

(b) Whoever, in any report required to be filed under this section, knowingly makes a false statement of a material fact, shall be fined not more than $———— or imprisoned for not more than ——— years, or both.

TITLE II—TAX INCENTIVES

INCOME TAX CREDIT FOR INVESTMENT IN DEPRECIABLE PROPERTY IN RURAL JOB DEVELOPMENT AREAS

SEC. 201. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 40 as 41, and by inserting after section 39 the following new section:

"SEC. 40. INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY IN RURAL JOB DEVELOPMENT AREAS.

"(a) GENERAL RULE.—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart C of this part.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart C."

(b) Part IV of subchapter A of chapter 1 of such Code (relating to credits against tax) is amended by adding at the end thereof the following new subpart:

"Subpart C—Rules for Computing Credit for Investment in Certain Depreciable Property in Rural Job Development Areas

"Sec. 51. Amount of credit.
"Sec. 52. Certain dispositions, etc., of section 40 property.
"Sec. 53. Definitions; special rules.

Sec. 51. Amount of Credit.

"(a) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to:

"(A) 7 percent of the qualified expenditures (as defined in section 53(b)) made during the taxable year in regard to section 40 property (as defined in section 53(a)(2)), or

"(B) in the case of qualified expenditures made with respect to a section 40 facility (as defined in section 53(a)(5)) which is located in a rural development area (as defined in section 3(2) of the Rural Job Development Act of 1971) which has a population density of less than 25 persons per square mile, 10 percent of such qualified expenditures.

"(2) LIMITATION.—Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed the taxpayer's liability for tax for such year.

"(3) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 35 (relating to partially tax-exempt interest),

"(C) section 37 (relating to retirement income), and

"(D) section 38 (relating to investment in certain depreciable property).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—

"(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the taxpayer's liability for tax for such taxable year (hereafter in this subsection referred to as the 'unused credit year'), such excess shall be—

"(A) a section 40 credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a section 40 credit carryover to each of the 10 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year ending after the date of the enactment of the Rural Job Development Act of 1971. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 13 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried and then to each of the other 12 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the taxpayer's liability for tax for such taxable year exceeds the sum of—

"(A) the credit allowable under subsection (a)(1) for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

"Sec. 52. Certain Dispositions, etc., of Section 40 Property.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate—

"(1) EARLY DISPOSITIONS.—If section 40 property (as defined in section 53(a)(2)) is disposed of, or otherwise ceases to qualify as section 40 property with respect to the taxpayer, the tax under this chapter for the taxable year in which the disposition occurs shall be increased by an amount equal to the credits allowed under section 40 for prior taxable years for qualified expenditures (as defined in section 53(b)) which were made—

"(A) in the case of section 40 real property (as defined in section 53(a)(3)) within 10 years before the date of the disposition, or

"(B) in the case of section 40 personal property (as defined in section 53(a)(4)) within 4 years before the date of the disposition.

This paragraph shall not apply to any qualified expenditures with respect to which there has been an increase of tax under paragraph (2).

"(2) TERMINATION OF CERTIFICATE.—If the section 40 certificate (as defined in section 53(a)(1)) is terminated under section 101(d) of the Rural Job Development Act of 1971, with respect to a section 40 facility of the taxpayer—

"(A) the taxpayer's tax under this chapter for the taxable year in which the termination occurs shall be increased by an amount equal to the credits allowed under section 40 for prior taxable years for qualified expenditures which were made in accordance with section 53(b)(3) within 3 years before the date of the termination with respect to all section 40 property used at, or in connection with, such facility, and

"(B) the taxpayers gross income for the taxable year in which the termination occurs shall be increased by an amount equal to the deductions allowed to the taxpayer under section 188 in such taxable year and the 2 preceding taxable years with respect to employees employed at such facility.

"(3) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any disposition described in paragraph (1) or any termination described in paragraph (2), the carrybacks and carryovers under section 51(b) shall be adjusted.

"(b) SECTION NOT TO APPLY IN CERTAIN CASES.—Subsection (a) shall not apply to—

"(1) a disposition by reason of death,

"(2) a disposition to which section 381(a) applies,

"(3) a disposition necessitated by the cessation of the operation of a section 40 facility where the Secretary of Agriculture certifies that such cessation results from economic factors beyond the control of the section 40 business (as defined in section 53(a)(6)), or

"(4) a disposition on account of the destruction or damage of section 40 property by fire, storm, shipwreck, or other casualty, or by reason of its theft.

For purposes of subsection (a), property shall not be treated as ceasing to be section 40 property with respect to the taxpayer by reason of a mere change in the form of conducting the section 40 business so long as the property is retained in such business as section 40 property and the taxpayer retains a substantial interest in such business.

"Sec. 53. Definitions; Special Rules.

"(a) SECTION 40 CERTIFICATE, ETC.—For purposes of this chapter—

"(1) SECTION 40 CERTIFICATE.—The term 'section 40 certificate' means a certificate of eligibility issued by the Secretary of Agriculture under section 101 of the Rural Job Development Act of 1971.

"(2) SECTION 40 PROPERTY.—The term 'section 40 property' means property which, in regard to a taxpayer conducting a section 40 business—

"(A) is of a character which is subject to the allowance for depreciation provided in section 167 and which is not property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year or which is not property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business,

"(B) will be used by such taxpayer (i) as a section 40 facility, (ii) as an integral part of, or in the operation of, any such facility, or (iii) in furnishing transportation, communications, electrical energy, gas, water, or sewage disposal primarily to any such facility, and

"(C) has at the time it is first used by such taxpayer after such taxpayer has been issued a section 40 certificate in regard to the section 40 facility at, or in connection with which, such property is used, a useful life of at least (i) 4 years in the case of section 40 personal property, (ii) 10 years in the case of section 40 real property.

Property shall not be treated as section 40 property if, after its acquisition by the taxpayer, it is used by a person who used such property before such acquisition (or by a person who bears a relationship described in section 179(d)(2)(A) or (B) to a person who used such property before such acquisition).

"(3) SECTION 40 REAL PROPERTY.—The term 'section 40 real property' means section 40 property which is section 1250 property (within the meaning of section 1250(c)).

"(4) SECTION 40 PERSONAL PROPERTY.—The term 'section 40 personal property' means section 40 property which is section 1245 property (within the meaning of section 1245(a)(3)).

"(5) SECTION 40 FACILITY.—The term 'section 40 facility' means an industrial or commercial facility (as defined in section 3(5) of the Rural Job Development Act of 1971) which is specified by the Secretary of Agriculture in a section 40 certificate.

"(6) SECTION 40 BUSINESS.—The term 'section 40 business' means an industrial or commercial enterprise (as defined in section 3(4) of the Rural Job Development Act of 1971) with respect to which a section 40 certificate has been issued which has not been terminated under section 101(d) of such Act.

"(b) QUALIFIED EXPENDITURES.—

"(1) IN GENERAL.—The term 'qualified expenditures' means, with respect to each taxable year, expenditures by the taxpayer—

"(A) properly chargeable to capital account,

"(B) paid or accrued for—

"(i) the manufacture, production, construction, or erection of section 40 property,

"(ii) the acquisition of section 40 property by a purchase (as defined in section 179(d)(2) and subsection (d) of this section), or

"(iii) the reconstruction, permanent improvement, or betterment of section 40 property, and

"(C) made before the close of the 10-year period beginning with the date on which a section 40 certificate is first issued to any person with respect to the section 40 facility, at, or in connection with which, such property is used.

"(2) LIMITATION.—Expenditures in regard to section 40 real property shall be treated as qualified expenditures only if the construction, erection, acquisition, reconstruction, permanent improvement, or betterment for which such expenditures are made, conforms to the standards prescribed by the Secretary of Agriculture.

"(3) YEAR OF QUALIFIED EXPENDITURES.—All qualified expenditures shall be deemed made in the taxable year in which—

"(A) in the case of qualified expenditures for the manufacture, production, construction, erection, or acquisition by purchase of section 40 property, the year in which the section 40 property is placed in service, and

"(B) in the case of qualified expenditures for the reconstruction, permanent improvement, or betterment of section 40 property, the year in which the section 40 property as reconstructed, improved, or bettered as a result of the qualified expenditure is placed in service.

For purposes of this paragraph, any manufactured, produced, constructed, erected, or acquired section 40 property, or any reconstructed, improved, or bettered section 40 property, shall be deemed placed in service in the taxable year in which such manufactured, produced, constructed, erected, or acquired section 40 property, or such section 40 property as reconstructed, improved, or bettered, first becomes subject to depreciation by a taxpayer computing depreciation on a daily basis.

"(4) REPLACEMENT PROPERTY.— If section 40 property is manufactured, produced, constructed, erected, reconstructed, or acquired to replace property which was destroyed or damaged by fire, storm, shipwreck, or other casualty, or was stolen, the qualified expenditures with respect to such section 40 property which would (but for this paragraph) be taken into account for purposes of section 51(a) shall be reduced by an amount equal to the amount received by the taxpayer as compensation, by insurance or otherwise, for the property so destroyed, damaged, or stolen, or to the adjusted basis of such property, whichever is the lesser.

"(c) CERTAIN LEASED PROPERTY.—A person who is a lessor of property, which in the hands of the lessee constitutes section 40 property, may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to any section 40 property, as to which no prior credit under section 40 has previously been taken, to treat the lessee as having purchased such property for an amount equal to—

"(1) except as provided in paragraph (2), the fair market value of such property, or

"(2) if such property is leased by a corporation which is a member of a controlled group (within the meaning of section 46(a)(5)) to another corporation which is a member of the same controlled group, the basis of such property to the lessor. If a lessor makes the election provided by this subsection with respect to any property, the lessee shall be treated for all purposes of this subpart as having acquired such property. For purposes of this subpart, the useful life of property in the hands of the lessee is the useful life of such property in the hands of the lessor.

"(d) SUBCHAPTER S CORPORATION.—In the case of an electing small business corporation (as defined in section 1371)—

"(1) the qualified expenditures for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

"(2) any person to whom any expenditures have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenditures, and such expenditures shall not (by reason of such apportionment) lose their character as qualified expenditures.

"(e) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the qualified expenditures for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

"(2) any beneficiary to whom any expenditures have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenditures, and such expenditures shall not (by reason of such apportionment) lose their character as qualified expenditures.

"(f) CROSS REFERENCE.—

"For application of this subpart to certain acquiring corporations, see section 381(c)(24)."

(c) Section 381(c) of such Code (relating to carryovers in certain corporate acquisitions) is amended by adding at the end thereof the following new paragraph:

"(24) CREDIT UNDER SECTION 40 FOR INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY IN RURAL JOB DEVELOPMENT AREAS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 40, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 40 in respect to the distributor or transferor corporation."

(d)(1) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Subpart C—Rules for computing credit for investment in certain depreciable property in rural job development areas."

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 40. Investment in certain depreciable property in rural job development areas.

"Sec. 41. Overpayment of tax."

DEPRECIATION DEDUCTION

SEC. 202. Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by redesignating subsection (m) as (n) and by inserting after subsection (l) the following new subsection:

"(m) SECTION 40 PROPERTY.—

"(1) USEFUL LIFE.—At the election of the taxpayer—

"(A) the useful life of any property which is section 40 property (as defined in section 53(a)(2)) shall, for purposes of this section, be 66⅔ percent of the useful life of such property determined without regard to this paragraph; and

"(B) the guideline class lives and asset depreciation ranges prescribed by the Secretary or his delegate which are applicable to any property which is section 40 property shall, for purposes of this section, be 66⅔ percent of the guideline class lives and asset depreciation ranges applicable to such property determined without regard to this paragraph.

An election under this paragraph shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(2) NEAREST FULL YEAR.—If the useful life, guideline class life, or asset depreciation range of any property as determined under paragraph (1) includes a fraction of a year, such useful life shall be deemed the nearest half year.

"(3) EXCEPTION.—No election may be made under paragraph (1) with respect to any section 40 property which is placed in service after the expiration of the 10-year period beginning on the date on which a section 40 certificate (as defined in section 53(a)(1)) is first issued to any person for the section 40 facility (as defined in section 53(a)(5)) at, or in connection with which, such section 40 property is used."

NET OPERATING LOSS CARRYOVERS

SEC. 203. Section 172 of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended—

(1) by striking out "(D), and (E)" in subsection (b)(1)(B) and inserting in lieu thereof "(D), (E), and (H)";

(2) by adding at the end of subsection (b)(1) the following new subparagraph:

"(H) The portion of a net operating loss for any taxable year to which (under subsection (l)) this subparagraph applies which is allocable to the operation of a section 40 business (as defined in section 53(a)(6)) through a section 40 facility (as defined in section 53(a)(5)) shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss."

(3) by redesignating subsection (l) as (m), and by inserting after subsection (k) the following new subsection:

"(l) CARRYOVER OF NET OPERATING LOSSES OF SECTION 40 BUSINESSES.—Subsection (b)(1)(H) shall apply, with respect to the operation of a section 40 business through a section 40 facility, only to a net operating loss for (A) the taxable year in which the operation of such facility is begun by any section 40 business under a section 40 certificate (as defined in section 53(a)(1)), or (B) any of the 9 succeeding taxable years."

SPECIAL DEDUCTION FOR COMPENSATION PAID DURING TRAINING OF EMPLOYEES

SEC. 204. (a) Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"Sec. 188. Special Deduction for Certain Businesses Operating in Rural Job Development Areas.

"(a) GENERAL RULE.—In the case of any person engaged in a section 40 business (as defined in section 53(a)(6)), there shall be allowed as a deduction for the taxable year (in addition to any deduction under section 162) an amount equal to 50 percent of the compensation paid or incurred in money during the taxable year to each employee who—

"(1) satisfies the requirements of section 101(a)(4)(A) or (B) of the Rural Job Development Act of 1971.

"(2) perform substantially all of his services as an employee at a section 40 facility (as defined in section 53(a)(5)) through which such section 40 business is conducted, and

"(3) is receiving training to acquire the skills necessary to perform (A) the position or job in which he is employed or (B) another position or job as an employee of such section 40 facility.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The deduction under subsection (a) shall be allowed with respect to the compensation of an employee only—

"(A) if the Secretary of Labor certifies that such employee requires training to acquire the skills in order to perform satisfactorily the position or job in which he is employed or for which he is being trained, and

"(B) for the period that the Secretary of Labor certifies that such training is so required.

"(2) DELEGATION OF DUTIES.—The Secretary of Labor may perform his duties under paragraph (1) through the United States Employment Service or through such State agencies as he may prescribe."

(b) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 188. Special deduction for certain businesses operating in rural job development areas."

EFFECTIVE DATE

SEC. 205. The amendments made by this title shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

ECONOMIC AND BUSINESS DATA

SEC. 301. The Secretary may collect, analyze, and publish data pertaining to investments in various types of enterprises in relation to employment, inventories of resources, unemployment and underemployment, suitability of potential locations for various types of enterprises, qualifications, and skills and training needs of the labor force in various areas, market information, and other economic subjects, for use in carrying out the purposes of this Act and for the information and guidance of businessmen who may seek to establish job-creating enterprises in rural job development areas. In the collection of such data, existing sources and facilities shall be utilized to the maximum extent feasible.

NATIONAL ADVISORY COMMITTEE

SEC. 302. The Secretary may appoint a National Advisory Committee on Rural Industrialization which shall consist of twenty-five members and shall be composed of representatives of business, industry, labor, agriculture, State, and local governments, and the general public. The Secretary shall designate a Chairman from the members appointed to such Committee. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this Act. Such Committee shall hold not less than two meetings during each calendar year.

ANNUAL REPORT

SEC. 303. The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this Act for each fiscal year beginning with the fiscal year ending after the date of enactment of this Act. Such report shall be transmitted to the Congress not later than January 3 of the year following the fiscal year with respect to which such report is made.

APPROPRIATIONS AUTHORIZED FOR INFORMATION PROGRAM

SEC. 304. (a) The Secretary is authorized to collect and disseminate relevant economic data and to serve as an information clearinghouse for local communities and businesses considering establishing job-creating enterprises in job-development areas. Information programs under this section shall include—

(1) telling businessmen of the advantages of locating plants in rural America;

(2) providing a site location and analysis service; and

(3) assisting in the coordination of community, State, and Federal programs for industrial and community development.

(b) There is authorized to be appropriated $500,000 for each fiscal year to carry out the provisions of this section.

Mr. HARRIS. Mr. President, one of the seemingly inescapable trends in our society today is the continuing concentration of people in the urban areas of our Nation. Since the end of World War II, the United States has undergone an enormous shift of population, until now 70 percent of all Americans live on only 2 percent of our land. Major concentrations have developed in "strip areas," reaching from Boston to Washington; from Buffalo to Chicago; from San Francisco to San Diego, and a developing area along the eastern coast of Florida.

We are, as a nation, beginning to seriously examine the causes and effects of this increasing population shift, which has severely aggravated so many of the problems with which our cites are now vexed. Despite increased effort and investment in multiplying programs to assist our cities, each year the problems are greater. The war on urban poverty, slums, substandard housing, air and water pollution, crime and delinquency, drug abuse, overcrowded schools and transportation facilities is made more difficult by the continued influx of people to the cities.

The economic decline of rural America can be traced almost exclusively to the lack of private jobs. The search for better economic opportunity has forced the migration of our rural population to our already overburdened, overcrowded cities. This has also been a prime cause in the shift in Indian population.

The Congress is becoming increasingly more aware of the necessity for achieving a proper rural-urban balance. The overall aim of Congress was expressed in title IX of the Farm Act of 1970, passed by the last session of Congress. As an overriding principle, the following statement of intent was included in the act:

The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity and welfare of all our citizens that the highest priorities must be given to the revitalization and development of rural areas.

Provisions are made in title IX to direct that new Government offices and facilities be located, insofar as practicable, in areas of low population density. Reports are required from the Department of Housing and Urban Development as to assistance given States planning development of rural multicounty areas. Reports are also required from the Secretary of Agriculture as to technical assistance given in regard to rural development; from the President as to the availability of utility, educational, medical, and other governmental services to rural areas, and of the possible utilization of the Farm Credit Administration and other agencies to fulfill rural financial assistance.

Expanded opportunity for self-sufficiency and employment is in many ways more difficult to foster in rural areas and small towns than it is in the urban centers. For example, technical skills training, necessary for employment in modern industry, is not so readily available in the rural area. Further, even if training is available and utilized, trainees must often move to the larger cities to find employment.

The moment has come to take positive measures to alleviate the imbalance in opportunity between rural and urban areas.

I am, therefore, pleased to join with my distinguished colleague, the senior Senator from Kansas (Mr. PEARSON), in introducing today the Rural Job Development Act of 1971. The purpose of this bill is to attract and help build new job-producing industrial and commercial establishments in rural areas in order to give people a chance and a choice to decide for themselves where they will work and live.

Although the rush to the cities would indicate a preference for city living, a Gallup poll taken in 1968 indicated that 56 percent of people prefer a rural setting, 25 percent suburban, and 18 percent the city. The search for jobs is the crucial factor.

In order to stabilize our rural area and small town population, we must foster, if we can, a rethinking of national policy. Job opportunity is the central need.

The Rural Job Development Act would make available the following tax incentives to new job-creating business enterprises locating in rural job development areas: a 7-percent tax credit on personal property—including machinery and equipment—and a similar 7 percent credit on real property—land and buildings—the tax credit on real and personal property is increased to 10 percent if the job development area has a population density of less than 25 persons per square mile—this is a population density of one-half the national average. An accelerated depreciation of two-thirds of normal, useful or class life for machinery, equipment, and buildings; a tax deduction equal to 50 percent of the wages paid to workers for whom the business must provide on-the-job training. This deduction would be available during the training period, and would encourage the hiring and training of local persons who would otherwise lack the required skills.

The administration of this program is vested in the Department of Agriculture. The Secretary of Agriculture is authorized to issue a certificate of eligibility to an industry which would locate in a "rural job development area," defined as:

First, a county no part of which is within a standard metropolitan statistical area and does not have a city with a population in excess of 50,000. Second, at least 15 percent of the families have incomes of under $3,000, or employment in the county has declined at an annual rate of more than 5 percent during the last 5-year period, or, the closing or curtailing of an installation of the Department of Defense in the county is likely to cause a substantial outmigration of nonmilitary residents in the area. Third, after consultation with the Secretary of the Interior, the Secretary of Agriculture may also certify the eligibility of an Indian reservation.

In order to qualify for these tax incentives, an enterprise must create at least 10 new jobs at the beginning of its operation, and must show a reasonable ratio between capital invested and jobs created. At least 50 percent of the original working force must be residents of the area, or live within convenient daily commuting distance. This requirement may be waived if the local labor force is not sufficient to meet the demands of the business, and if the Secretary determines that the establishment of the enterprise in the area will be consistent with the purposes of the act.

This act does not envision the seeking of "runaway" industry. The employer must demonstrate that he has

not discontinued a comparable enterprise in any other area as a result of the establishment and operation of the new facility, nor will his employment in any other area be reduced, directly or indirectly. The new enterprise must be engaged in commercial or industrial production and must meet zoning requirements and regulations of local governmental units. Recreational enterprises may be certified, provided they would not be competitive with existing enterprises in the area.

Industrial development in rural America has been slow, due to a lack in transportation facilities, adequate buildings, and most important of all, an adequately trained labor force. People in rural America are willing to work, but many lack the skills required in today's technical industries. The provisions of this act encourage on-the-job training through tax incentives, and should provide adequate training assistance to enterprises locating in rural areas.

Most of the problems of rural America would be more manageable if there were private jobs in sufficient number and the skills to perform those jobs. This bill would be a long step toward filling both needs.

As recognized in the Agriculture Act of 1970, a commitment has been made to the revitalization and development of rural areas. The details of this bill and the criteria involved are not intended as the final answers. They are meant to open the debate and discussion on this subject of broad national policy and will be altered as better suggestions are made.

Any policy adopted must not lose sight of the national need to slow down and reverse, if possible, the process of urbanization, which is at the very core of so many increasingly acute urban problems.

This bill was introduced in the last session of Congress by Senator PEARSON and myself and some 34 cosponsors. Hearings on the bill were held by the Senate Finance Committee on May 21 and 22, 1969. Witnesses appearing at that time were encouraging as to the likely effect the act would have on stimulating investment in rural areas. We are now reaching a new stage of awareness with relation to the environmental problems caused by our urban patterns of growth. A new sense of emergency confronts the Nation. I believe that today, more than in 1969, the revitalizing of rural America should be one of our top legislative goals.

Mr. MANSFIELD. Mr. President, has the Senator joined the Senator from Montana as a cosponsor this year, as he did last year?

Mr. PEARSON. I am quite sure that the majority leader is so listed.

Mr. MANSFIELD. If I am not, I would like my name added as a cosponsor.

The PRESIDING OFFICER. Is there further morning business?

Mr. PEARSON. Mr. President, I ask unanimous consent that the name of the distinguished junior Senator from Kansas (Mr. DOLE) be added as a cosponsor.

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

NOTICE OF MOTION TO AMEND CERTAIN SENATE RULES

Mr. MILLER. Mr. President, in accordance with the provisions of rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to amend rule XXII of the standing rules in the following particulars:

Resolved, That rule XXII of the Standing Rules of the Senate is amended by striking out the third paragraph of section 2 and by substituting in place thereof the following:

"And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting and also by a majority of the Senators affiliated with each of the two major political parties present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

The purpose of the proposed amendment is to provide for bringing debate to a close under certain circumstances by vote of three-fifths of the Senators present and voting and a majority of the Senators affiliated with each of the two major political parties present and voting.

The PRESIDING OFFICER. The notice will be received.

ADDITIONAL STATEMENTS OF SENATORS

ORDER OF THE PRESIDENT PRO TEMPORE IMPLEMENTING THE PROVISIONS OF THE FEDERAL PAY COMPARABILITY ACT OF 1970

Mr. ELLENDER. Mr. President, pursuant to the Federal Pay Comparability Act of 1970, the President of the United States raised the salaries of classified employees of the United States by approximately 6 percent.

Under section 4 of the same act the President pro tempore of the Senate was authorized to:

(1) (A) adjust the rates of pay of personnel whose pay is disbursed by the Secretary of the Senate, and any minimum or maximum rate applicable to any such personnel; or

(B) in the case of such personnel whose rates of pay are fixed by or pursuant to law at specific rates, adjust such rates (including the adjustment of such specific rates to maximum pay rates) and, in the case of all other personnel whose pay is disbursed by the Secretary of the Senate, adjust only the minimum or maximum rates applicable to such other personnel; and

(2) adjust any limitation or allowance applicable to such personnel;

by percentages which are equal or equivalent, insofar as practicable and with such exceptions as may be necessary to provide for appropriate pay relationships between positions, to the percentages of the adjustments made by the President under such section 5305 for corresponding rates of pay for employees subject to the General Schedule contained in section 5332 of such title. Such rates, limitations, and allowances adjusted by the President pro tempore shall become effective on the first day of the first pay period which begins on or after the day on which any adjustment becomes effective under such section 5305 or section 3(c) of this Act.

Pursuant to that authorization, on January 15, 1971, the late Senator Richard B. Russell, President pro tempore of the Senate, signed an order implementing this pay increase for the Senate, as follows:

ORDER, U.S. SENATE, OFFICE OF THE PRESIDENT PRO TEMPORE

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to the lowest multiple of $246 which is not lower than the rate such employee was receiving immediately prior to February 1, 1971.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a Senator; and

(2) "annual rate of compensation" shall not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms, the Legislative Counsel, and the Comptroller of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid, by reason of the promulgation of this Order, an annual rate of compensation in excess of the annual rate of basic pay, which is now or may hereafter be in effect, for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The annual rates of compensation of the Secretary for the Majority (other than the present incumbent), the Secretary for the Minority, and the four Senior Counsels in the Office of the Legislative Counsel (as such rates were increased by prior Orders of the President pro tempore) are further increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. Notwithstanding the provisions of this subsection, each individual occupying a position whose rate of compensation is determined under this subsection shall be paid by reason of the promulgation of this Order, only $35,916 per annum until the annual rate of basic pay for positions at such level V is increased to $38,000 or more.

(c) The maximum annual rates of compensation of the Secretary for the Majority (as long as that position is occupied by the present incumbent), the Chief Clerk, the Parliamentarian, the Financial Clerk, and the Chief Reporter of Debates are increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. Notwithstanding the provisions of this subsection, an individual occupying any such position shall not have his compensation fixed by reason of the promulgation of this Order, at an annual rate in excess of $35,916 until the annual rate of basic pay for positions at such level V is increased to $38,000 or more.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain is adjusted to that multiple of $246 which is nearest to the annual rate of compensation he was receiving immediately prior to February 1, 1971. The maximum annual rate of compensation for the position of secretary to the Chaplain is the maximum rate in effect immediately prior to February 1, 1971, adjusted to the nearest multiple of $246.

OFFICES OF THE SENATE

SEC. 4. (a) Any specific rate of compensation established by law, as such rate has been increased by or pursuant to law, for any position under the jurisdiction of the Sergeant at Arms shall be considered as the maximum annual rate of compensation for that position. Each such maximum annual rate is increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. The Sergeant at Arms is hereafter authorized to adjust the rate of compensation of an individual occupying any such position to a rate not exceeding such maximum rate as authorized by this Order or hereafter changed by or pursuant to law.

(b) The maximum annual rates of compensation for positions, or classes of positions, under the jurisdictions of the Majority and Minority Leaders, the Majority and Minority Whips, the Secretary of the Senate, the Secretary for the Majority, the Secretary for the Minority, and the Comptroller of the Senate are increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246.

(c) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 6 percent, and as so increased, adjusted to the nearest multiple of $246:

(1) the Vice President, for any employee under his jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction (other than the Comptroller of the Senate);

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under the jurisdiction of that Leader or Whip;

(4) The Majority Leader, for the Secretary for the Majority so long as the position is occupied by the present incumbent (subject to the provisions of section 2(c) of this Order);

(5) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of section 2(c) of this Order);

(6) the Sergeant at Arms, for any employee under his jurisdiction;

(7) the Comptroller of the Senate, for his secretary;

(8) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee in that Office (other than the four Senior Counsel); and

(9) the Secretary for the Majority and the Secretary for the Minority, for any employee under the jurisdiction of that Secretary.

(d) The figure "$696", appearing in the first sentence of section 106(b) of the Legislative Branch Appropriation Act, 1963, as amended (as increased by prior Orders of the President pro tempore), shall be deemed to refer to the figure "$738".

(e) The limitation on the rate per hour per person provided by applicable law immediately prior to February 1, 1971, with respect to the folding of speeches and pamphlets for the Senate, is increased by 6 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, the chairman of any standing or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate are each authorized to increase the annual rate of compensation of any employee of the committee, or subcommittee thereof, of which he is chairman, by 6 percent, and as so increased, adjusted to the nearest multiple of $246.

(b)(1) The figures "$7,888", "$13,688", "$13,920", "$18,328", "$20,184", and "$20,416", appearing in section 105(e) of the Legislative Branch Appropriation Act, as amended, shall be deemed to refer to the figures "$8,118", "$14,514", "$14,022", "$18,450", "$21,402", and "$20,418", respectively.

(2) The maximum annual rates of $32,712, $34,104, and $35,496 appearing in such section are each increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. Notwithstanding the provisions of this paragraph, any individual occupying a position to which any such rate applies shall not have his compensation fixed at a rate exceeding $32,718, $34,194, of $35,670 per annum, respectively, until the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is increased to $38,000 or more.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 6 percent, and as so increased, adjusted to the nearest multiple of $246.

(b) The table contained in section 105(d)(1) of such Act shall be deemed to read as follows:

"$295,938 if the population of his State is less than 3,000,000;

"$313,158 if such population is 3,000,000 but less than 4,000,000;

"$327,918 if such population is 4,000,000 but less than 5,000,000;

$341,448 if such population is 5,000,000 but less than 7,000,000;

"356,208 if such population is 7,000,000 but less than 9,000,000;

"$373,428 if such population is 9,000,000 but less than 10,000,000;

"$390,648 if such population is 10,000,000 but less than 11,000,000;

"$407,868 if such population is 11,000,000 but less than 12,000,000;

"$425,088 if such population is 12,000,000 but less than 13,000,000;

"$442,308 if such population is 13,000,000 but less than 15,000,000;

"$459,528 if such population is 15,000,000 but less than 17,000,000;

"$477,978 if such population is 17,000,000 or more.".

(c) The second sentence of paragraph (2) of such section shall be deemed to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,230 per annum or in excess of $19,680 per annum, except that (i) the salary of two employees may be fixed at rates of not more than $26,568 per annum, (ii) the salary of one employee may be fixed at a rate of not more than $32,226 per annum, (iii) the salaries of two employees may be fixed at rates of not more than $33,702 per annum, and (iv) the salary of one employee may be fixed at a rate of not more than $35,178 per annum.".

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,160" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended, shall be deemed to read "$1,230".

(b) The maximum annual rate of compensation of $35,496 appearing in such section is increased by 6 percent, and as so increased, adjusted to the nearest multiple of $246. Notwithstanding the provisions of this subsection, any individual occupying a position to which such rate applies shall not have his compensation fixed at a rate exceeding $35,670 per annum until the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is increased to $38,000 or more.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to be paid an increase in the annual rate of his compensation authorized under section 4, 5, or 6 of this Order, the individual designated by such section to authorize an increased rate shall notify the disbursing office of the Senate in writing that he authorizes an increase in such rate for that employee and the date such increase is to be effective.

DUAL COMPENSATION

SEC. 9. The figure "$7,724" contained in section 5533(c)(1) of title 5, United States Code, insofar as such section relates to individuals whose pay is disbursed by the Secretary of the Senate, shall be deemed, insofar as such section relates to such individuals, to refer to the figure "$8,187."

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective on February 1, 1971. This section shall not be construed as prohibiting the filing with the disbursing office of the Senate, on any day earlier than such date, a notice authorizing an increase under this Order in the rate of compensation of an individual if such increase is not effective prior to such date.

RICHARD B. RUSSELL,
President pro tempore.

JANUARY 15, 1971.

THE UKRAINE

Mr. FANNIN. Mr. President, last Friday persons of Ukrainian heritage in the United States and throughout much of the world, held ceremonies marking the 53d anniversary of the short-lived independence of the Ukraine. No such ceremonies were held in the Ukraine, of course. That Republic has suffered from Soviet repression since Red troops overran the Ukraine a half-century ago.

I would like to join Members of Congress who have refocused the spotlight this week on the enslavement of the Ukraine by the U.S.S.R.

During the 1917 revolution in Russia, the Communists declared the rights of people to equality and self-determination Ukrainian leaders took the Red leaders at their word, and on January 22, 1918, at Kiev, they declared the independence of the Ukraine. But Red soldiers soon marched on the Ukraine and erased Ukrainian independence.

This process has been repeated many times by the Communists, the Soviets have subjugated one nation after another in their goal of world domination.

Dates such as January 22 serve as a reminder of just how much trust we can put in Soviet rhetoric, and as an example of how the Communists ruthlessly use their power to crush smaller or weaker nations.

A TRIBUTE TO THE HONORABLE RICHARD BREVARD RUSSELL OF GEORGIA

Mr. STEVENS. Mr. President, today we pause for a few moments to pay tribute to a late Member of this body, the Honorable Richard Brevard Russell of Georgia.

Throughout his life of service to the people of Georgia, the South, and the United States, Richard Russell demonstrated those qualities which have distinguished many southern lawyer-statesmen. Though he has been characterized as a southern conservative, Russell's intelligence and integrity earned him the respect of men from all walks of life and of all political persuasions. He rose to a position of immense power in the Senate, not merely by virtue of his 37 years of seniority, but through his great powers of persuasion, his facile mind, and his capacity for hard work. As evidence of the high esteem in which he was held during his life of public service, the late Senator Russell was chosen time and again to perform very difficult tasks of great importance to this Nation. Thus the Senator was chosen to preside over the joint Senate committee which investigated the controversy surrounding Gen. Douglas MacArthur's dismissal in 1951, was appointed by President Johnson to serve on the Warren Commission, and was selected to lead a five-man committee which undertook a detailed examination of the American war effort during World War II. In addition, Senator Russell served as an informal adviser and confidant to Presidents from both parties and from several points on the political spectrum.

Richard Russell's achievements also earned him the recognized leadership of the southern congressional bloc. In both the 1948 and 1952 Democratic National Conventions, he was nominated as the southern choice for President.

During his life of epic achievement, the late Senator Russell remained a quiet, gentlemanly, almost shy man. He never sought publicity nor attempted to impress his colleagues with flashy rhetoric. But, this is not to say that he was not a forceful advocate and a fierce adversary. In many instances, his beliefs were later translated into the law of the land; in some instances, his views were not accepted. In every instance, he retained the respect of opponents and supporters alike.

Although Richard Brevard Russell is dead, his achievements, his unique abilities, and his outstanding character will long be remembered. I am confident that history will mark him as a consummate statesman who transcended regional boundaries to become a Senator for all of the United States, and as a paragon worth emulating by those who would pursue a life of public service. We in the Senate and the people of this Nation have lost the services of a truly great American.

EDNA FISCHEL GELLHORN

Mr. SYMINGTON. Mr. President, last fall, in my own State of Missouri, a truly great lady departed this life. Prior to her departure, Edna Fischel Gellhorn left a legacy which all those who respected and loved her—and I was proud to be one—knew made her one of the most outstanding private citizens of our time.

Would there were some way a photograph could be reproduced in the RECORD because in the strong but gentle beauty of Edna Gellhorn was portrayed all that is best about our country and its future.

No person could have had more ideals and ambitions for her community; no one ever worked more tirelessly to achieve those goals.

Because I had long believed in the truth of this tribute to a gracious lady who lived to be in her nineties, I was especially impressed with the talk of Irving Dilliard, one of several who spoke at the commemorative service held for Mrs. Gellhorn in Graham Chapel at Washington University. In her proud memory, Mr. Dilliard paraphrased words used in 1939 by Judge Learned Hand in describing the life of Judge Cardozo:

The wise person is one exempt from the handicap of a past that is burdened with frustrations and ambitions and envies and all their corruptions.

Edna Gellhorn was such a woman. Her gentle nature had in it no acquisitiveness; she did not use herself as a measure of value; the secret of her success lay in her ability to get outside of herself, and look back. Yet from this self-effacement came a power greater than the power of him who ruleth a city.

She was wise because her spirit was uncontaminated, because she knew no violence, or hatred, or envy, or jealousy, or ill-will. It was this purity that chiefly made her the private citizen who was also the first lady in our city, the one we so much revere; this even more than her learning, her acuteness, her fabulous industry.

In this America of ours where the passion for publicity is a disease, where swarms of foolish, tawdry moths dash with rapture into its consuming fire, it was a rare good fortune that brought her to live and work tirelessly among us, a woman so unassuming, so gracious to high and low, and so serene.

While the west is lighted with her radiance, it is well for us to pause and take count of our own coarser selves. She has a lesson to teach us if we care to stop and learn; a lesson quite at variance with most that we practice, and much that we profess—

Each of us probably knows or knew someone to whom we believe those words apply. I know they applied to Edna Gellhorn—

For there is still work enough, and to spare, for us all.

I ask unanimous consent that this address by Mr. Dilliard be printed in full at this point in the RECORD.

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

EDNA FISCHEL GELLHORN

We have come together not to mourn a death but to celebrate a life.

We meet not to record an end but to applaud a host of beginnings.

We are here not to intone words of farewell but gladly to declare our gratitude for countless inspirations.

Each one of us honors himself, or herself, the more with a presence that speaks tribute this afternoon to Edna Fischel Gellhorn.

Edna Gellhorn. Mrs. Gellhorn.

I remember when I first heard her name. Not the day or the month or even the exact year. My age was that of a schoolboy and my mother was telling me about women who were doing new things in the world.

She told me about Jane Addams and the work at Hull House for the masses of poor people in the slums of Chicago.

She told me about the Italian educator, Maria Montessori, and her fresh approach to finding out what children could do.

And she told me about a St. Louis homemaker who was in the forefront of the struggle to obtain voting rights for women and in other good causes.

My mother did not, I am sure, tell me about all these pioneering women at the same time. And she probably told me about others. For I rather think that I first heard about Alice Freeman Palmer the same way.

But these three names I do recall clearly after some fifty years. And of the three, the name of Edna Gellhorn made its own special impression that has lasted to this moment.

I have asked myself in recent days why this was so. Perhaps I have found an answer. Might it have impressed a schoolboy because she was not in far off Europe as Maria Montessori? Or even in seemingly remote Chicago as was Jane Addams?

Edna Gellhorn was in St. Louis, nearby, close at hand, and people in our area had personal knowledge of what she was doing.

It never entered the schoolboy's mind that many years later when Edna Gellhorn would reach four score years of service to our community, our region, our country and indeed the world, he would be in a position to lead a round of cheers for her in public print.

But the years passed and her service reached out wider and wider and in time he had just that opportunity. Here is what was written for others to read, on December 14, 1958:

EIGHTY IN ABSENTIA

"Next Thursday, December 18, will be the eightieth birthday of Mrs. George Gellhorn. Although she is en route to England for a Christmas visit with members of her family, the occasion is one that her admirers will gladly celebrate with warmest thoughts.

"As Edna Fischel she married in 1903 a young gynecologist, then recently settled in St. Louis. Along with a full family life, interwoven with the late Dr. Gellhorn's practice, research and teaching, first at St. Louis University and then at Washington University, she has found time to serve so many good causes that no one, least of all she, has ever kept track of them all.

"A young mother of four, she helped lead a campaign for a pure milk ordinance. She worked for free clinics to which the indigent sick could apply for medical service. She became a captain in the woman suffrage fight. When her sex at last won the right to vote, she joined in establishing the League of Women Voters as an educational force.

"In World War I she was Food Administrator Hoover's strong right arm in St. Louis. An early supporter of the League of Nations, she is a generation later organizing chapters of the American Association for the United Nations. Concerned about the effects of atomic explosions on children not yet born, she has joined in advancing the work of the Citizens Committee for Nuclear Information.

"As Edna Gellhorn has helped remove the hobbles that custom put in the way of education of girls and employment of women, so has she struck at prejudice against race. She probably finds as much satisfaction in her participation on the Citizens Committee for Homer G. Phillips Hospital as in any of her efforts.

"Never has she run for public office, although she has been proposed many times as

a candidate. All that she has done has been the unselfish work of one devoted, informed, graceful, charming, ageless, courageous citizen. It is a joy to wish her many happy returns."

Those words appeared in print a dozen years ago and yet the present tense is no less appropriate now than it was then.

Edna Gellhorn made her work an inseparable part of her life and the two go on and on as one, meeting changing situations, new conditions, in her quiet, intelligent, always youthful, resolute way of doing everything that came to her hand.

Any one of her endeavors is worth our examination in more detail. Since the Nation is currently observing the Golden Jubilee of the Woman Suffrage Amendment to the United States Constitution, I select it from so many of her works.

For it is hard for us today, even though we think otherwise, to realize what a fight it was, how much prejudice had to be overcome, how many petitions and marches it took, how many demonstrations were required, how many times traffic had to be blocked, to wake up Washington and our State capitals and to show our male leaders that here was a force that could never be turned back.

Emily Taft Douglas marched in the ranks chronologically behind Edna Gellhorn and it is now Mrs. Douglas' book, "Remember the Ladies," that I share with you:

"Whatever his former doubts, by 1918, President Wilson was the most potent spokesman for suffrage. Appearing in person before a joint session of Congress, he pleaded that Europeans were now looking to the United States to lead the way. 'They think in their logical simplicity,' he said, 'that women shall play their part in affairs alongside men and upon equal footing . . . They have seen their own governments accept that interpretation of democracy . . . seen old governments like that of Great Britain, which did not profess to be democratic, promise readily and take action.'

"For a time the two English-speaking nations had seemed in a race to enfranchise their women, but the Senate gave the victory to Great Britain. Peace brought suffrage to the women of Russia and Germany, to those of African colonies and of new nations where they had not even asked for such rights. In all it brought suffrage to 26 countries before the United States acted. American women had launched the international movement and had worked longer and harder than any others, but American men still resisted.

"During these months while both political parties wooed the ladies, a bipartisan group of 36 senators twice defeated the Amendment by a razor's edge. The Republican noes came largely from the Eastern seaboard, the Democrats' from the solid South. The opposition talked states' rights, but Dixie had just led the fight for national prohibition. The fact was that since the South repudiated the Fifteenth Amendment, ersuring Negro suffrage, it had to oppose the Nineteenth. Besides, since no Southern state had enfranchised its women (as Illinois, New York, California and many other states had done for state elections), it was clear that the South meant to keep male as well as white supremacy.

"After the Lame Duck Congress closed in February of 1919, the President, himself Virginia-born, surprised the opposition by convening the newly elected Congress in a spring session. Fresh from the country, this Congress had the votes to pass the Susan B. Anthony Nineteenth Amendment to the Constitution. And pass it the new Congress did.

"For a last time, the suffragists sprang to action, passing out handbills, canvassing, buttonholing state legislators and staging giant parades. Alongside the old-timers now marched tens of thousands of housewives, students, and factory workers. There was still a group of 'antis', vestigal remains of the past, but now they were out of step.

"Within a month 11 states, with more than half the nation's population and all the major cities, had ratified the Amendment. Then the pace slackened and the opposition hardened. After 35 ratifications, it was still not sure that there would ever be the crucial 36th. It took five months and heroic efforts to overcome the bribes and threats of the last-ditch fight. The Supreme Court had quashed all doubts about the Amendment's constitutionality, before Tennessee, the most southerly state to ratify, did so in August of 1920.

"The deferred success made the final outcome anticlimactic, but not so the last suffrage convention. As they closed an epoch, the delegates celebrated Susan B. Anthony's hundredth anniversary. For three generations women of all political views had worked together for a cause that was larger than their differences. Now, having succeeded, they had to disperse unless, as Carrie Chapman Catt suggested, they were to organize as a non-partisan national league of women voters. Again they could unite on issues greater than politics. They could promote civic education, welfare for the nation's children, civil liberties, social justice and international peace."

And that, as all Edna Gellhorn's friends know, is just what she did. When the National League of Women Voters was founded, almost immediately, she was chosen its first Vice President. Here in Missouri her coworkers in the suffrage battle, by acclamation moved her to the presidency of the new State League of Women Voters and she took her turn at leading the St. Louis League; and the St. Louis merit system was achieved over the opposition of spoils politicians, just as she worked for a state merit system. She directed the Missouri League's campaign for a new Missouri Constitution, and the greatly improved basic state charter of 1945 is one of the milestones she labored to reach and pass. She had attended Mary Institute and a private college, Bryn Mawr, and she helped found a private secondary school, John Burroughs, but she knew the supreme importance of public schools in a self-governing democracy. In St. Louis she contributed to the school system by helping achieve personnel practices based on merit.

All the while she set an example of higher ethical citizenship, a need she learned from her parents who were early leaders in the Ethical Culture Society of St. Louis. She did not go about professing her patriotism, she lived it day by day. She practiced something too many Americans do not know even now, that love of country is not expressed by fitful, impulsive displays, but by what Adlai E. Stevenson called "the slow, steady dedication of a lifetime."

In all this she never found it necessary to stay away long from her native St. Louis. Born here, she found an abundance of work at her door. Her home, then later her apartment at 4961 Laclede Avenue, was a command post for numberless campaigns for human benefit, ranging all the way from skirmishes and quick victories to long, hard-fought struggles that only those with determination and perseverance and indomitable confidence in the right could somehow survive. She loved the St. Louis she distinguished and her Mississippi Valley. One thing about this assembly today of which we can be sure she would have approved is that her friends have gathered in the gold-blue afternoon of Indian Summer at always beautiful Washington University.

When Learned Hand was asked to appraise the life of Justice Cardozo in 1939, he found it in his understanding heart to cite qualities that rise before us now, I paraphrase here and there to suit Judge Hand's words to our occasion:

The wise person is one exempt from the handicap of a past that is burdened with frustrations and ambitions and envies and all their corruptions: Edna Gellhorn was such a woman. Her gentle nature had in it no acquisitiveness; she did not use herself as a measure of value; the secret of her success lay in her ability to get outside of herself, and look back. Yet from this self-effacement came a power greater than the power of him who ruleth a city. She was wise because her spirit was uncontaminated, because she knew no violence, or hatred, or envy, or jealousy, or ill-will. It was this purity that chiefly made her the private citizen who was also the first lady of our city, the one we so much revere; this even more than her learning, her acuteness, her fabulous industry. In this America of ours where the passion for publicity is a disease, and where swarms of foolish, tawdy moths dash with rapture into its consuming fire, it was a rare good fortune that brought her to live and work tirelessly among us, a woman so unassuming, so gracious to high and low, and so serene. While the west is lighted with her radiance, it is well for us to pause and take count of our own coarser selves. She has a lesson to teach us if we care to stop and learn; a lesson quite at variance with most that we practice, and much that we profess.

Yes, Learned Hand's shining thought does apply to the life and achievement of Edna Gellhorn. How can any one of us do other than resolve as this mid-October sky is lighted with her inspiration, to take up some part of her work and go unceasingly forward with it!

"For there is still work enough, and to spare, for us all."

TRIBUTE TO THE LATE SENATOR RUSSELL

Mr. FONG. Mr. President, it was a very sad time for the Senate and for the Nation when death took from us on the opening day of this 92d Congress an esteemed colleague who contributed more than 50 of his 73 years to public service.

Senator Richard B. Russell, quite rightly named the dean of this U.S. Senate, will go down in history as one of our Nation's famous men. He served in the Senate for 37 years, through the terms of six Presidents. All knew him well; all sought his counsel; all respected his judgment.

In the Senate, he carried out his duties with great skill, sincerity, and dedication. He was devoted to his home State of Georgia and to his country.

During my 2 years' service on the Appropriations Committee, I came to value the friendly and knowledgeable advice of Richard Russell, the committee's most able chairman.

To quote from a portion of President Nixon's eulogy to this great man:

He has set an example for all of us as Americans to be proud of, an example for all of us to emulate, a selfless service to America.

PROBLEMS OF CITRUS GROWERS OF CALIFORNIA AND ARIZONA

Mr. CRANSTON. Mr. President, in connection with the Congress concern

over foreign trade, I would like to discuss the problems of the citrus growers of California and Arizona. That problem is, basically, that American citrus exports are being gradually shut out of the market in the countries of the European Economic Community.

This is happening, not by reason of defects in the product, because American growing and packing techniques produce a high-quality citrus product. Nor is it due to a defect in marketing, for American growers have worked diligently since the turn of the century to develop a European market for U.S. citrus. The troubles of American citrus in the European market are due solely to discrimination by EEC, discrimination accomplished by the granting of tariff preferences by the EEC to some of her Mediterranean neighbors. This preferential treatment is a serious violation of the most-favored-nation principle, the basic principle of the General Agreement on Tariffs and Trade, of which all the EEC countries, and the United States are signatories.

The scope of the discriminatory preferences is very broad. The EEC must import 96 percent of its citrus needs, and is the largest citrus importing area in the world. In August of 1969, the EEC signed preferential association agreements with Morocco and Tunisia giving those two countries an 80-percent reduction in the common external tariff on all the citrus they shipped to the EEC. At the same time, but not by treaty, the EEC granted a 40-percent tariff reduction to Spanish and Israel citrus.

The United States, along with the two other major non-Mediterranean citrus exporters, South Africa and Brazil, protested this action to GATT as a clear violation of the most-favored-nation principle. The basis of the principle, as you know, is that if a GATT signatory grants a trade preference to any country, it must grant the same preference to every other country belonging to GATT.

Recognizing that their acts were a clear violation of this rule of equal treatment, the EEC asked for a waiver of the MFN rule. When it became clear no waiver would be granted, they withdrew the request, fearing a negative vote, and promised to withdraw the duty reductions given to Spain and Israel.

The proposed "withdrawal" was announced in January of 1970, but was not effective until May. By that time it had already been in effect for most of the Spanish and Israel shipping season. Thus, the withdrawal was an empty gesture.

Then, in October of 1970, the 40-percent preferences for Spain and Israel were reinstated, this time by treaty.

Therefore, again this year, American citrus shipped to Europe will have to compete with citrus which has paid only 60 or 20 percent of the duties it has paid.

Now we must turn to the question of what the effect of these preferences will be on those California and Arizona growers who export citrus to the EEC and on those men and women who work in the citrus industry. The effect is that growers are losing a large and important market for their products and the jobs of citrus workers are in jeopardy.

The importance of the European market to American growers may be shown by their hard work in developing it. U.S. citrus was first shipped to Europe in 1892, significant volumes were reached in the 1930's, and in the post-World War II years there have been constant efforts to increase the U.S. share of the market.

U.S. citrus has always had two built-in disadvantages in the EEC countries; higher labor costs in America and a much longer shipping distance. These were overcome by superior grading and packing methods, and an aggressive marketing policy.

But even an aggressive marketing and advertising policy cannot overcome the price disparity wrought by the preferential agreements.

For example, the common external tariff is 15 percent from April to October and 20 percent the rest of the year. Thus, a $4 crate of oranges coming into the EEC from the United States in March pays an $0.80 tariff. An identical crate from Israel or Spain pays only $0.48, and a crate from Morocco or Tunisia pays only $0.16, so that a Moroccan grower can undersell his American competitor by $0.64 without cutting his profits by one penny.

Obviously, it is very hard to compete in such a situation, and the figures bear this out. In the Rotterdam auction market, for example, from 1969 to 1970, EEC citrus consumption rose 9 percent, EEC citrus imports from Israel rose 30 percent, imports from Spain rose 45 percent, and from Morocco, 53 percent. But imports from the United States dropped by 34 percent. In fact, each country without a preference lost part of its market share.

Obviously, these preferential trade agreements mean disaster to the American citrus grower, but what do they mean for the rest of us? It is as simple as this:

The very cornerstone of American trade policy since the 1930's has been the most-favored-nation principle. That same principle is the very heart of GATT.

If we allow such a blatant violation as these preferential agreements to be simply ignored, then GATT becomes an empty shell, a mere collection of words, and American trade policy becomes a paper tiger.

If the EEC can ignore GATT with impunity in the case of citrus, there is nothing to stop them from granting similar preferences on other agricultural and industrial commodities. If GATT is to be a meaningful document, if American trade policy is to be viable, then action must be taken to vindicate the most-favored-nation principle and convince the EEC to grant equal treatment to American citrus exporters. This can be accomplished by the executive branch if it has the desire to do so.

Mr. President, I call upon Secretary of State Rogers to use the influence of his office to persuade the EEC to grant equal treatment to American citrus exporters. In a little more than 2 weeks the EEC will meet to present proposals to solve the existing discrimination.

The Secretary must become personally involved in order to insure that the Europeans grant American citrus most-favored-nation treatment.

At stake is the economic health of California's citrus industry which employs 37,000 people and also the continued viability of American trade policies.

RICHARD BREVARD RUSSELL—A TRULY GREAT AMERICAN

Mr. McINTYRE. Mr. President, greatness was chipped from the solid block of the Senate when Richard Brevard Russell died.

It is one of the proudest facts of my life that I am able to say that I knew him, I worked with him, I served with him, and I could call this towering American my friend.

We cannot now make an objective judgment of what Richard Russell has meant to our Nation. We are too close to the time when he was here among us and when he was a major force in our deliberations. Time and history will tell the tremendous impact he had on the Senate and the history of our Nation.

I did not always agree with Richard Russell. There were areas, although not many—but areas such as civil rights where I found myself opposing him. We came from differing backgrounds and we represented different constituencies. But, I never doubted for 1 minute his true dedication to his views. I deeply respected his profound knowledge of Government, of the Congress, of the Senate, and his display and use of that knowledge to plead and accomplish much for the cause in which he so deeply believed.

I came to the Senate Armed Services Committee as the most junior majority member at a time when he was chairman of that powerful committee. I learned, as all who have served under him on the Armed Services Committee have, of the vast understanding he possessed of the enormously complex defense structure and the devotion he displayed to assuring a viable and strong defense for our Nation.

We have lost a leader who will not soon, in all he has meant to the Senate, be replaced. We have lost a truly great American.

THE PRESIDENT'S ACHIEVEMENTS IN THE FIGHT AGAINST HUNGER

Mr. DOLE. Mr. President, the Nixon administration has compiled—in 2 short years—the most impressive record in the campaign against hunger ever seen in this country. Both in terms of concrete improvements in the nutritional levels of disadvantaged and economically depressed people and in firm commitment to achieve greater progress, this administration, under President Nixon's leadership, has been highly impressive and effective.

Last year the President called together concerned individuals from all walks of life and from all areas of expertise concerned with hunger in America. The White House Conference on Food, Nutrition and Health, under the leadership of Dr. Jean Mayer of Harvard, was a milestone in this Nation's efforts to understand and solve the great problems of human needs in our Nation. The report which issued from this Conference has been subjected to close study and evaluation at all levels of the administration, and it has provided valuable suggestions and information for the formulation of future programs and policies.

Recently the President's Domestic Council Subcommittee on Nutrition completed a summary report to review the record in the year since the White House Conference was called. On January 21 the President issued a statement concerning this summary report. It briefly and clearly sets forth the major achievements of the administration in this field. Mr. President, I ask unanimous consent that this summary be printed in the RECORD at this point.

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

WHITE HOUSE CONFERENCE ON FOOD, NUTRITION, AND HEALTH

(Statement by the President on the Summary Report by the Nutrition Subcommittee of the Domestic Council. January 21, 1971)

We have made great strides in improving the incomes and nutrition of millions of Americans.

One year ago, I convened a White House Conference on Food, Nutrition, and Health. I promised the participants that we would review what had actually been accomplished a year later.

The Nutrition Subcommittee of the Domestic Council has prepared a Summary Report of major achievements during this time, and they make an impressive record indeed:

New figures indicate that the Food Stamp Program will assist over 10 million people by the middle of this year, nearly triple the number helped just 18 months earlier.

All but 10 of the Nation's 3,129 counties and independent cities have now moved to implement a family food program. A year ago there were 300 counties with no plans for such a program.

Monthly expenditures on food stamps have quintupled in only 1 year to a current level of more than $125 million per month.

This administration will soon provide free food stamps to the very poorest families under a proposal recently approved by the Congress.

We have committed greatly increased funds to child feeding programs—almost 50 percent more this year than last. The money to assist with free or reduced-price lunches for needy children has been increased eightfold since 1969. We are feeding hundreds of thousands of additional needly children each month.

The Food and Drug Administration is working to establish guidelines which will help Americans become better informed in food selection.

The Federal Trade Commission has created a division of food enforcement to assure that families are fully protected from deceptive or misleading claims or advertisements.

Those who administer our food and nutrition programs can be justly proud of the accomplishments described in this Summary Report.

But this is no time to sit back or to ease off in our efforts. The programs which are now operating must be made to operate even more effectively. More importantly, we must remember that the key to better nutrition in the long run is to provide sufficient income to purchase adequate diets and to meet the other basic day-to-day needs.

I will urge the Congress to enact welfare reform and higher social security benefits to meet this need. These essential reforms should be made promptly—for the good of the poor, the elderly, and the Nation as a whole.

I urge those who will participate in the Follow-up Conference on Food, Nutrition, and Health to study this Summary Report to assist them in evaluating the original recommendations and in gauging our progress in this vital area of national policy.

Mr. DOLE. Mr. President, the President has also announced that he intends to call a follow-up Conference on Food, Nutrition, and Health to give continuing study of the problems and progress in this field. On January 21 the White House released the contents of letters exchanged between the President and Dr. Mayer concerning this followup conference. The Senator from South Carolina (Mr. HOLLINGS) might be particularly interested in this exchange of letters between the President and one of the Nation's foremost experts in the nutritional needs of Americans. The Senator seems to have gained the mistaken impression that this administration has ignored or spurned expert opinion relating to this area of concern and has been reluctant to call the followup conference. Dr. Mayer's words are not those of an individual whose contributions and efforts have been slighted, and the President's actions clearly indicate his recognition and appreciation of the contributions of Dr. Mayer and the conference as well as the personal commitment of Richard Nixon. I ask unanimous consent that the contents of these letters be printed in the RECORD at this point.

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

EXCHANGE OF LETTERS BETWEEN THE PRESIDENT AND DR. JEAN MAYER

THE WHITE HOUSE,
January 19, 1971.

Dr. JEAN MAYER,
School of Public Health,
Harvard University,
Boston, Mass.

DEAR DR. MAYER: It was particularly thoughtful of you to write to me about the Williamsburg meeting. It should be an extremely useful review of the work accomplished over the past year since the original White House Conference. I understand that you have already done a great deal to develop plans for this follow-up conference, and I want you to know how much I appreciate not only your encouraging comments but also your readiness to continue helping us out.

With best wishes,
Sincerely,

RICHARD NIXON.

JANUARY 11, 1971.

The Honorable RICHARD M. NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I would like to congratulate and thank you for calling the follow-up meeting on the Conference on Food, Nutrition, and Health as you indicated you would a year ago. By doing so you have demonstrated that White House conferences can, indeed, become important tools in national planning rather than simple exercises in the listing of desirable reforms.

During the intervening year, I have seen my role as a prodder to try to get members of the administration, officials at the state and local level, industry and voluntary associations to do more to fulfill the national pledge expressed by you to eliminate hunger and malnutrition from America for all time. Let me assure you that while I have constantly pushed for more action, I have been very much impressed with the progress made this year under your leadership. The number of poor children receiving free school lunches has doubled, the number of our poor fellow citizens benefitting from food stamps has tripled. We now have an excellent School Lunch Act and a Food Stamp Act, which, while not perfect, is a definite improvement over what we had before. The F.D.A. and the Department of Agriculture have changed their regulations so as to facilitate improvement of the quality of our food supply by industry. In turn, the leadership of industry has made a serious start toward putting nutrition at the forefront of their preoccupations. Voluntary organizations, particularly the women's organizations and the churches, have been most supportive of these efforts and have often stepped in when local authorities have been less effective than they might have been.

I want to assure you that I will do what I can to make sure that the Williamsburg follow-up meeting takes cognizance of these achievements, and publicizes the fact that under your leadership more has been done in the area of hunger and malnutrition in the past year than had been done in decades before.

Sincerely yours,

JEAN MAYER,
Professor

Mr. DOLE. Mr. President, the Nixon administration has made great progress and is firmly pledged to continue its efforts to improve the nutritional well-being of all Americans. I believe that everyone concerned with this area can take considerable pride in knowing of the President's dedication and his substantial record in the field. I would also suggest that those who have lately come to an awareness of the needs and problems which still exist might first consider that the President's concern and interest have been deep and of long standing and have been translated into real and meaningful progress—not mere words and publicity. It is always easy to become an instant expert on a problem, and it is one thing to criticize the efforts and progress of others. It is quite another matter, however, to bear the actual responsibility for exerting those efforts and for achieving that progress. President Nixon has borne this responsibility, and he has exerted the efforts which have achieved the significant progress of the past 2 years, and I believe the record should be free from self-serving and unsupported criticism by those who neither bear the responsibility nor have a record of their own to display.

DEATH OF W. RAYMOND "RAY" FLICKER

Mr. RIBICOFF. Mr. President, W. Raymond (Ray) Flicker, the publisher of the Bridgeport, Conn., Post, the Tele-

gram and the Sunday Post, died January 8, 1971. He was 73.

I am deeply saddened by Ray's death. He was a good friend and a great newspaperman.

The Bridgeport Sunday Post of January 10, 1971 published a most moving and fitting editorial about Ray Flicker which I ask unanimous consent to have printed in the RECORD at this point.

In addition, I ask unanimous consent to have printed in the RECORD a letter I wrote to the Bridgeport Post and carried in that paper about Ray.

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

RAY FLICKER PRAISED BY SENATOR RIBICOFF

TO THE EDITOR:

On my return from a trip abroad, I was saddened to learn of the death of W. Raymond Flicker.

I knew Ray for many years as a friend and publisher. To visit Bridgeport and chat with him was always a pleasure and an education. Ray always sensed the pulse of Bridgeport and Connecticut. Under his guidance, The Bridgeport Post, The Telegram and The Sunday Post were fair, knowledgeable, and responsible newspapers. Irrespective of his personal politics or attitude toward individuals, every candidate and office holder received fair treatment in the columns of his papers.

I always admired his deep involvement with the Bridgeport Boys' Clubs. He realized the importance of youth and felt a keen responsibility toward their development and citizenship. Many were the occasions when I participated with him in events in behalf of Boys' Clubs.

His death will be a heavy burden indeed to his wife, his children, and his sister. Ruth joins me in extending our deepest sympathy to the members of the family, the employees of the Post Publishing Company, and the people of Bridgeport and Connecticut.

ABRAHAM RIBICOFF,
U.S. Senate, Washington, D.C.

RAY FLICKER

A remarkable man has left this life.

Death came Friday to Ray Flicker, less than a month before his 74th birthday.

He was an uncommon individual in many ways, mostly because he was extravagant in his loyalty and kindness. Beneath the rugged exterior of the man there was genuine warmth and gentleness, a profound feeling for others. These qualities manifested themselves in his love of family, his allegiance to his employes, his devotion to the boys of Bridgeport, and his unwavering faithfulness to his friends.

The beauty of the man was that his goodness was authentic. He listened to the dictates of his heart, then acted with a steely positiveness.

For more than three decades Mr. Flicker was the guiding hand for the newspapers of The Post Publishing Company. He insisted that the good deeds of others be appropriately publicized, not his own.

The same philosophy prevailed in his approach to running the newspapers. Mr. Flicker preferred to do much and say little. Among Connecticut publishers Mr. Flicker was admired as a builder, having launched and directed three major expansion programs at The Post. His final project was the new printing plant on State Street several hundred feet west of the headquarters of The Post. The new press and other equipment were in the final stages of installation when he was stricken last July.

An electrical engineer turned newspaper executive, Mr. Flicker deeply respected the inborn abilities of journalists. He made what he believed to be proper appointments, expecting the assignments to be carried out. He did not superimpose his feeling or judgments on the men and women who specialize in gathering, writing, editing, and interpreting news.

The same held true in all departments of the newspapers. Confidence once placed was not quickly or easily withdrawn. Mr. Flicker held high regard for the ability of others and wanted his people to stand on their own. Always, he was in the background prepared to offer encouragement and provide support.

By some standards Mr. Flicker may have been considered old fashioned in a modern business world which can hadly keep pace with itself. Much to his credit he pleasantly refused to allow computers or any other kind of gadgetry to come between him and the people of Bridgeport he had served over the years.

Advertisers never had a problem getting through to him. For that matter, neither did readers. He listened to all who legitimately had something to say. If there was a condition which should be improved, he made certain it was remedied in quick order.

Ray Flicker had abiding faith in his product. Never would he seek to sell anyone. Rather, with a becoming smile, in a few words he would suggest that a potential new advertiser or reader make his decision on the basis of the facts. The results, the growth in advertising linage and circulation. (The daily Post doubled and The Sunday Post tripled in sales during Mr. Flicker's time) testify eloquently and conclusively to the worth of his calm, reasoned policies.

Though influence was his for the taking, Mr. Flicker stoutly refused to use his prestigious position in the city, the county, and the state for anything other than the most worthy of causes. At the top of his list was the Boys' Club.

It has often been said with good reason that when a Bridgeporter thought of Ray Flicker he would just as quickly associate the name with the Boys' Club as with The Post. Mr. Flicker never indicated which he felt should come first. There are many who suspect the two stood side by side.

For 21 years he served as president of the Boys' Club. Before accepting this office he was a member of the Board of Directors for eight years as he carried on a family tradition started by his father, Edward Flicker, soon after he came to Bridgeport from Cincinnati.

Much like Father Flanagan, the founder of Boys' Town, Ray Flicker positively refused to believe there was a youngster in the world, or at least in Bridgeport, who might be classed as a bad boy.

He had an inspirational and unending faith in young people, maintaining always that a full schedule of wholesome activities would not only keep them out of mischief, but was an integral part of preparation for manhood.

A practical person, Mr. Flicker recognized in the planning of the North End Boys' Club in the late 1940s that one building, if designed properly, could serve both boys and girls. At that time little was being done throughout the country to provide recreational facilities for girls. Subsequently Mr. Flicker was honored by the National Girls' Club for his foresight and other contributions to the program.

The recipient of both the Bronze Keystone Award and the Silver Keystone Award—the latter is the highest honor bestowed on anyone associated with the Boys' Clubs of America—Mr. Flicker was seldom satisfied with his efforts. He constantly sought to do more. During his last active days he was working diligently to develop a program through which another new Boys' Club could be built in Brideport. As one might easily suspect, he had hoped to make this club the best.

Many groups and individuals knew Mr. Flicker as a prudent and resourceful adviser and as a friend who was unflinching and charitable. The United Fund, the Jesuit Fathers at Fairfield University, the Carmelite Sisters at St. Joseph's Manor in Trumbull, are but a few in the wide array of those he assisted. For three decades he shared his financial acumen with the Connecticut National Bank as a director and a willing member of numerous special committees.

A full list of beneficiaries of his wise counsel and personal generosity could never be compiled for he believed the best of good deeds were those known only to himself and the recipient. Whatever he did to help others Mr. Flicker did naturally. He knew no other way.

In many respects, Mr. Flicker was an excellent example of what so many of us should aspire to be: a man of candor, of uncomplicated honesty, a giver of one's self, a generator of love within his own family, a devotee of such simple pursuits as fellowship and sports.

These were among the sterling characteristics of the man, the distinguishing traits that set him apart from and, yes, above the crowd.

Ray Flicker has gone to his eternal reward. It should be rich indeed.

THE CONQUEST OF CANCER IS A HIGH PRIORITY ACT

Mr. McINTYRE. Mr. President, it was a matter of great regret that the Senate, in the closing days of the 91st Congress, was not able to act on the conquest of cancer bill introduced by the distinguished former chairman of the Committee on Labor and Public Welfare, Ralph Yarborough of Texas.

The bill was introduced by Senator Yarborough on December 4 and the reason its introduction came so late in the session was that the group of experts appointed to study the cancer problem by the committee did not finish their work and submit their report until November 25, 1970.

In the short time the bill was alive, 25 additional Members of the Senate joined the author of the bill as cosponsors and there is no doubt that had there been another month or two remaining in the session, a majority of the Senate would have had their names on the legislation.

There is no more dread disease than cancer, no disease more cruel in its ravage of the human body and none with more impact on the emotions of the victims and their loved ones. There is no price too high to pay for a solution to this plague and no means too extreme to call into play. We must marshal whatever resources are necessary and get on with the program to bring the disease to an end.

The conquest of cancer bill came to the Senate the product of 6 months of intensive work and study by 26 of the most knowledgeable and distinguished scientists and laymen in the Nation. This panel of dedicated men and women was brought together by the chairman of the Labor and Public Welfare Committee following the adoption of Senate Resolution 376 authorizing their appointment and declaring their responsibility to set forth the plans and programs to enable our scientific community to discover the causes

and cures of cancer. I joined the chairman in this enterprise as a cosponsor of the resolution.

The individuals who comprised the panel came from many different walks of life and reflected many different segments of our society. There were directors of several of the outstanding cancer centers of the country, eminent basic research figures, distinguished practitioners in surgery, radiology, pathology and other specialties in cancer, and lay leaders from the worlds of advertising, education, publishing, labor, drug manufacture statecraft, films, and finance. These men and women were joined in the belief and faith that we could eliminate cancer if we were willing to devote our enormous resources to achieve such a goal.

Mr. President, I would like to quote from the most revealing speech Ralph Yarborough made when he introduced the "Conquest of Cancer Act" last year:

Since the very beginning of medical history, cancer and its causes have provided the world with a terrible and baffling puzzle. Cancer cannot be neatly classified as a single disease arising from a clearly discernible set of facts and conditions. On the contrary, it is a manyheaded monster that results from a myriad of causes. It recognizes no social distinction. Rather, it strikes indiscriminately at all ages and races, at all economic and social groups.

We know that of the 204 million people presently living in America, over 51 million will develope some form of cancer, and of this group, more than 34 million will die unless a cure is soon discovered. The National Cancer Institute and American Cancer Society estimate that about 330,000 Americans will die from cancer this year. This means that every two minutes cancer takes the life of one of our people. Approximately one-half of cancer's victims are under the age of 65. Cancer kills more children between the ages of one and 15 years of age than any other disease known to mankind. In short, cancer causes approximately 16 percent of all the deaths in America, thus making it the nation's second most deadly killer exceeded only by heart disease.

Despite the threat that cancer poses to our people, an examination of what our government spends on cancer research in comparison to other types of programs, clearly shows a distorted set of priorities. For example, cancer killed 8 times as many of our people last year as were lost in Vietnam War over the past 6 years, yet our government spent on the average of $410 per person for national defense, while spending only 89 cents per person on cancer research. Last year, our government spent $200 million on cancer research which is equal to the amount that Americans spent for ball point pens and far below the $358 million spent on chewing gum.

The conquest of cancer bill would establish an independent agency, the National Cancer Authority to supersede and embrace the existing National Cancer Institute. As the panel of consultants says in its report:

An effective major assault on cancer requires an administrative setup which can efficiently administer the coherent program that is required in this formidable and complex scientific field. Such a setup will not be easy to achieve within the Federal Government. The effective implementation of such a program will require a simplification of organizational arrangements and a drastic reduction in the number of people involved in administrative decisions. This type of straight-line organizational efficiency does not exist today in the National Cancer Institute, the National Institutes of Health, or the Department of Health, Education, and Welfare. Obviously, from many standpoints it can be argued that any cancer program should be in the Department of Health, Education, and Welfare and indeed that it should be in the National Institutes of Health. However, there is real doubt whether the kind of organization that is required for this program can in fact be achieved within the National Institutes of Health or within the Department of Health, Education, and Welfare. Apart from the question of whether it can be done, there is also the question of whether it would be wise to require the Secretary of Health, Education, and Welfare to attempt to give cancer the priority necessary to carry out the congressional mandate in a department charged with the multiple health and other responsibilities of that Department.

In the past when the Federal Government has desired to give top priority to a major scientific project of the magnitude of that involved in the conquest of cancer, it has on occasion, with considerable success, given the responsibility for the project to an independent agency.

The report at a later point addresses itself to the funding of the National Cancer Authority and makes the following judgment of budget needs:

The Committee estimates that a coordinated national program aimed at the conquest of cancer at the earliest possible time, as envisaged by the concurrent resolution of the Congress, would require an appropriation in fiscal 1972 of approximately $400 million. Thereafter, the cost of the program would increase at the rate of approximately $100 to $150 million per year, reaching a level of $800 million to $1 billion in 1976. These sums are not large in terms of our national resources or of the human suffering and economic loss attributable to cancer. A program of the type herein recommended is so important to the American people and to the world that we feel that the amounts called for should be provided even if this necessitates the raising of additional revenues.

This is a brave and bold approach to the timeless challenge of cancer. It is one the people of this country will applaud I am sure, one with which I am in complete agreement. I am joining in support of S. 34 which will provide for the purposes set forth in the Yarborough bill. I trust my colleagues will join me in support of this legislation so that before this session is over we shall have in the books the blueprint for the conquest of cancer.

TRIBUTE TO JACK W. HALL

Mr. FONG. Mr. President, I rise to pay tribute to the greatest labor leader in the history of the State of Hawaii, Jack W. Hall. His untimely death at the age of 55 came on January 2, 1971. I was among the thousands of people in my home State who mourned the passing of this man who did more than most men to shape modern Hawaii.

Mr. President, I knew Jack Hall personally for many years and he had my undying respect. Jack Hall was a man who could be trusted and relied on. He never failed to keep a promise; he never went back on his word. I was proud to have him as a friend.

Jack Hall, during the years I came to know him, was the Hawaii regional director of the International Longshoremen's and Warehousemen's Union. At the time of his death, he was vice president and director for the ILWU's parent body in San Francisco, a post he assumed less than 18 months ago.

Jack Hall was not born in Hawaii. He was a native of Wisconsin, but we claim him as a son. To quote the Honolulu Star-Bulletin in its editorial of January 4, 1971:

Should the time come when monuments are erected to the builders of Hawaii, Jack W. Hall will have a rightful place among those selected.

Jack Hall dedicated his life to improving the lot of the working man, in our State and in the Nation. At the negotiating table he was respected by his management adversaries, though he drove a hard bargain.

But—beyond the economic gains he achieved for working men and women in Hawaii, he also won for them dignity and status in the general community.

In the words of the Honolulu Advertiser's laudatory editorial of January 3, 1971:

His word was always good. His vision was broad. He came to be held in respect and even affection by those who in an earlier period feared and resented him.

He was always a man of controversy, because his concern, especially in the earlier years, involved the very structure of our society. But the record shows that he helped bring Hawaii into the modern world with constructive and far-ranging results that benefit all.

Mr. President, at this time I wish to extend to Jack Hall's widow, Yoshiko, to his son, Eric, and to his daughter, Mrs. Michele Burton, my sincere condolences.

Honolulu's two newspapers, in editorials immediately following Jack Hall's death, paid fine tribute to the memory of this great man. In addition, the Honolulu Star-Bulletin's former business and labor editor, Shurei Hirozawa, wrote a deep and touching tribute to the man he came to know so well during 20 years of reporting on the labor scene. Titled "Social Justice Is Jack Hall's Isle Legacy," Mr. Hirozawa's article shows that he knew Jack Hall better than most; that he knew the affection that sugar and pineapple workers had for Jack Hall; and he knew Jack Hall's philosophies and achievements intimately.

I ask unanimous consent that as part of my own tribute to Jack Hall, the two editorials from the Honolulu Star-Bulletin and the Honolulu Advertiser, and Mr. Hirozawa's article, be printed in the RECORD.

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

[From the Honolulu Sunday Advertiser, Jan. 3, 1971]

JACK HALL'S HERITAGE

Jack Wayne Hall was one of the most influential men in modern Hawaii and his impact on our history and development has been so enormous as to preclude precise measurement.

What is fully evident—as we said in a June, 1969, editorial reprinted elsewhere in today's paper—is that "more than any other man, Hall helped bring industrial democracy to these Islands as they moved from feudal-

ism and paternalism to the sophisticated and broadly affluent society of today."

It was a bare-fisted war in the beginning, with both labor and management holding to opposite ends of a "class struggle" philosophy.

Management was determined to run things in the old way. Jack Hall, Bob McElrath and his other colleagues were militantly determined to bring basic change to a static economic, political and social order.

There were long and rough strikes in sugar and on the waterfront, but the ILWU prevailed and became the strong force it has been in the quarter-century since.

Hall propelled the union into politics, recognizing that government decisions and legislation affected the working man as fundamentally as the pay and conditions he negotiated.

He was a radical product of the Depression and thus feared and hated by the Establishment with which he was contesting. He was charged and found guilty under the Smith Act in Federal Court here, but was cleared when the U.S. Circuit Court of Appeals reversed the conviction.

Jack Hall was one to move with change, often to anticipate it. Under him the ILWU accepted and adjusted to technology, rather than fighting it. It broadened its base of membership and, in the political realm, it fought for a better life for its people and thus for all in the Islands.

The great majority of citizens live a fuller and richer life because of Jack Hall's work. Our legislation is more progressive, our educational system better, our concern with planning wider because of his aims and efforts.

His word was always good. His vision was broad. He came to be held in respect, and even affection, by those who in an earlier period feared and resented him.

He was always a man of controversy, because his concern, especially in earlier years, involved the very structure of our society. But the record shows that he helped bring Hawaii into the modern world with constructive and far-ranging results that benefit all.

[From the Honolulu Star-Bulletin, Jan. 4, 1971]

HE CHANGED HAWAII

Should the time come when monuments are erected to the builders of Hawaii, Jack W. Hall will have a rightful place among those selected.

Hall was controversial and tough.

He also was idealistic and brave—brave morally and brave physically.

Starting as a young man just off a ship from California, Hall dedicated himself to the task of improving the lot of the laboring man in Hawaii.

He gave his lifetime to it and he succeeded so well that he revolutionized life in these Islands.

Hall united working men without regard to racial lines for the first time.

Then he engaged in battles—some of them extremely tough and bitter—that won them economic democracy and with it political and social democracy.

Few people today would deny that, on the balance, the labor movement has been a force for good in Hawaii and that Hall's ILWU was the pioneer that made it so.

Many other unions now operate actively and freely in Hawaii but it was Hall and the ILWU that blazed the trail through the tough forest of resistance.

They challenged a well-intended but paternalistic and semi-feudal plantation system. From it, they won the independence, dignity, power and economic well-being that mark the laboring man's status in Hawaii today.

Hall's place of honor today is disputed by a few who say he was a Communist and see that as reason enough to dishonor him.

At one time he was. The 1950 Smith Act jury delivered a finding to this effect and the later reversal on technical grounds did not dispute the evidence.

Hall never said publicly that he had been a Communist but he did not deny it either. Instead he chose to say that he had not been a Communist since 1950.

The evidence at his trial along with six others suggested that he joined the Communist Party because it offered to help the ILWU at a time when no one else would. He was, in other words, a labor man first and a Communist second.

The late Arnold Wills, the National Labor Relations Board representative in Hawaii after World War II, knew something about Communists. He had been on the fringes of the party himself.

Wills, who liked Hall immensely as did most other people who knew him well, once waved a bony finger at Hall and told him: "You'll never make a good Communist, Jack. You've got a conscience."

Hall also was too bright and too pragmatic to be a Communist zealot. If he had ever believed in a Communist revolution as a means of winning independence and dignity for the American laboring man he certainly abandoned it as he saw what was happening in the totalitarian countries and contrasted it with the progress that he was making for his cause within the American system.

Like many critics before him, Hall wound up by making the American system better. He proved to be one of Hawaii's greatest builders.

No tribute to Hall can ignore his honesty.

He was respected in labor negotiations as a man who kept his word. He sought little for himself and got along on a relatively small salary compared to other labor leaders or to businesmen with far less responsibility. His union remained free of scandal.

When Hall left Hawaii for California in 1969, the round of alohas and goodbyes was overwhelming. Beyond the immediate sadness of the parting and the wide and deep aloha for him was the knowledge that his health was such that he might not be back, at least not in an active leadership position.

It has turned out that way. Hall's life was shorter than average but in Hawaii he will always be remembered and respected as a champion of the common man who was one of the most uncommon men of all.

SOCIAL JUSTICE IS JACK HALL'S ISLE LEGACY

(By Shurei Hirozawa)

Jack W. Hall, whose death Saturday brought to an untimely end the career of a great labor leader, will be remembered for the major role he played in uplifting the lot of Hawaii's masses in this century.

In the history of Hawaii, Hall will be remembered as a visionary, a self-educated leader who, with his union, accomplished important social gains.

It was only a year and a half ago that Hall left Hawaii to fill a new post of vice president in charge of organization for the ILWU. This was after he'd served 25 years as the union's regional director in the Islands.

He had great plans when he left. He believed the ideas he had developed in Hawaii could be applied nationally. But Parkinson's Disease hospitalized him recently, and a massive stroke on New Year's Day claimed his life a day later.

Although he died in San Francisco, he will be remembered with more respect in Hawaii.

From age 21 to 53, Hall dedicated himself to the improvement of the conditions of the working man in the Islands.

Graduated from high school at the height of the Depression, when millions were unemployed, he took the only job he could find at the time—going to sea.

As he often mentioned, the times made a deep impression upon him, making him wonder if there wasn't a better way out of the social problems facing the nation. The answer he found was through trade union action.

He told me once that the 1934 West Coast dock strike taught him that interracial unity was the only way a union could win a strike where the work force consisted of more than one race.

Another tool that he adapted for use in agricultural Hawaii was the Wagner Act of 1935. That law gave unions the right to organize for the first time. This New Deal law gave rise to the great industrial unions of the CIO, led by the late John L. Lewis.

Young as he was, Hall quickly learned the principles laid down by Lewis. And these were to bring him success in his long battle for social justice for workers.

For trade union success, Lewis had preached independent political action and organization along industrial lines.

This is exactly what Hall said he did in the late 1930s on Kauai, which brought him his initial victories in organization and in political action.

He was assigned to help the dock strikers at Port Allen in 1937 and also to help workers organize in that area. Within a year a political action group he had organized was able to upset a highly favored candidate and elect labor-oriented J. B. Fernandes to the Territorial Senate.

In another year, Hall had won labor agreements for workers at McBryde Sugar Co. and Kauai Pineapple Co., the first contracts with agricultural firms in Hawaii, and probably the nation.

Hall forged the winning group out of a loyal nucleus of older Nisei and English-speaking Filipinos and Portuguese in positions of leadership among the workers. When needed, these leaders did the translating into native tongues.

All of his work on Kauai was not without personal danger. He told me once of two attacks on him in Hanapepe in which thugs were sent to get him.

"One night four goons mistook a tall first mate off freighter for me and hurled him into the river," he said. On another occasion, a thug went after him with a .45 caliber pistol in a bar and he was saved only by the quick-witted barmaid who turned off the lights and hid him under the steam table in the kitchen. Hall later escaped out of the building by the back way. He said he was never so frightened in his life.

As a high school student, I used to see Jack Hall at times when my friends and I hiked four miles to Hanapepe to see an occasional Saturday afternoon matinee.

His office, which I never saw, was two doors away from the theater. The times I saw him, the tall figure always appeared to be in a hurry, or busy in conversation with someone.

Not one of my friends or I realized what he was doing to the social fabric of the Islands. It was many years later that I met him for the first time while covering the labor beat for the Star-Bulletin. And it was many years more before I was to understand fully what he was trying to accomplish.

One particular assignment about 10 years or so ago for the Star-Bulletin gave me a pretty good clue to where his thinking pointed. He spoke to a church convention one Sunday morning and told what he saw coming with the containerization of freight.

Matson Navigation Co. had just begun to containerize freight for the Hawaii trade at that time, and great economies and advantages for consumers had been predicted.

But Hall talked about the effect this would have upon dockworkers, especially on the Neighbor Islands where he saw containerization reducing the docks to ghost ports.

Hall was concerned first about the eventual evaporation of work and finding a way to minimize the hardship that he saw coming.

The answer was to come seven years later, in the dock labor negotiations of 1967.

Hall had told me in many different ways during my years on the labor beat about his philosophy of the roles of labor and management in the American economic scene.

Employers under the free enterprise tradition have one major objective, and that is profits.

Unions, in the same context, have fought mainly for improvement in wages and working conditions for workers. In the early years of the ILWU, what seemed like serving its self-interest was actually an act of self-preservation and strengthening so the union could tackle the wider problems on another day, he said.

In this technological age, Hall felt employers have a social responsibility to help ease the problems arising from the shifting demands of today's fast-paced economy.

And unions have the same responsibility to push for solutions to social problems through collective bargaining and other means if it fails at the bargaining table.

Fortuantely, an era of mature labor-management relations began in the early 1950s following the disastrous dock strike of 1949 when the ILWU firmly established itself as a part of Hawaii's economic structure.

Jack Hall and his union saw the changes coming in the labor-heavy sugar plantations and the social casualties that were sure to appear among the older non-English speaking workers who had been brought to Hawaii by the industry.

The union made a decision that it wouldn't waste its strength fighting mechanization, but would demand instead that industry pay workers a share in the benefits business got from the machine.

The fact that industry decided to work with the union toward this goal is a tribute to Hall's innovative thinking and the industry's social consciousness.

Older workers were given cash incentives to take early retirement. Aliens were given special cash incentives to retire and return to their homelands where American dollars expanded their purchasing power.

The union also took smaller wage increases and with the remaining funds purchased pensions for older workers who could then afford to retire earlier. Another incentive the union negotiated was a good medical plan for retired workers and their spouses.

Even with the elimination of thousands of jobs in the sugar industry, there was no reported hardship case or involuntary unemployment.

The union and the pineapple industry followed the same pattern for orderly elimination of workers with the same happy results.

The mechanization of the docks came 10 to 15 years later, and a somewhat similar program was used in easing the elimination of jobs.

Reparation to the country of origin, generous severance allowances to older workers, transfers to docks on the West Coast financed by travel allowances were part of the program to trim the work force without throwing people into the streets.

For the ones who remained, longshoremen were flown to different ports within the State to equalize work opportuinty, and each was guaranteed 38 hours straight time pay a week.

The cost of flying workers to and from their home ports went beyond initial estimates and caused financial problems. But Hall's solutions for the social problems that might have occurred were achieved.

In the hard bargaining with industry, Hall was often able to win unheard of demands. His secret weapon was careful preparation and deep knowledge of the economics of the sugar, pineapple and longshore industries.

Even management people have told me that Hall's grasp of the economics of these industries was better than many on the companies' bargaining committees.

But the industries were rewarded for good-faith bargaining with the ILWU. Hall's leadership brought stability because his word was a bond and he never went back on it. Industry could depend on that.

Hall's honesty more than anything else was the ingredient that improved labor-management relations in Hawaii and the deep respect that management developed for him.

Aside from the bargaining table, Hall built the political influence of his union to such a potent force that the numerous social benefits won in the Legislature covered thousands of other workers as well.

Working with Sens. Fernandes and Clem Gomes whom labor helped elect from Kauai, Hall got the State Wage and Hour law passed in 1940.

In 1945, he was able to get a Little Wagner Act through the Legislature which gave agricultural workers the right to organize, and made it possible for the ILWU to bring sugar and pineapple into its fold.

In later years, the ILWU was instrumental in helping write the most liberal workmen's compensation, unemployment insurance and minimum wage laws of any State. The temporary disability insurance law, passed two years ago, is also a product of ILWU lobbying.

The union's success in creating an interracial membership with a discipline unequaled in Hawaii's labor history gave the ILWU the power it needed to win what it deemed right at the bargaining table or in the Legislature.

And Hall sometimes was not shy about using power when needed even at the expense of criticism from the community. One of his favorite sayings was, "We don't worry about losing our respectability, but we want to be respected."

During his last years in Hawaii, he took the position that government, business and labor working together will best solve the social problems that arise from our ever-changing economy.

He took little credit for bringing Hawaii to this stage where working people take hard-won dignity and human rights for granted.

But that's the way he was. His work was done when he left in June 1969. He said he was grateful for friends and foes for making his life so interesting and meaningful.

And if he was to be remembered for anything, he wanted to be remembered as "a rebel in paradise who struck a flame that was kept burning."

GUIDELINES FOR FULFILLING OUR RESPONSIBILITIES TO OUR VETERANS

Mr. McINTYRE. Mr. President, I have often spoken of the vital need of better care for those brave men who have given not only their time, but their physical well being as well in the armed services of this country. Recent Congresses have done much to meet our responsibilities to these men, but there are still many problems that must be met and solved.

Public pressure to meet our responsibilities to care for these men is very strong, but as the American involvement rapidly comes to an end, as President Nixon, has repeatedly assured us it will, this public pressure will fade, and the veterans organizations will again be the only groups pressing for responsible legislation in this field. I believe that before this happens; while the public is still concerned and interested, we must take action to assure that all men disabled or hospitalized will be provided with adequate medical care. I also believe that we must pass legislation to care for these men if they are unable to provide sufficiently for themselves and their families.

Mr. President, the maze of veteran's legislation is complex but there are certain veterans needs that are still largely going unfulfilled. The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and other organizations all provide information that clearly points to the fact that we are not adequately providing for our veterans and that we need to provide additional benefits.

One pamphlet published by the Veterans of Foreign Wars of the United States entitled VFW Priority Goals—Legislative and Security for 1971 points out, in simple form, these pressing needs.

Mr. President, I ask unanimous consent that the section of this pamphlet setting forth the priority needs for veterans be printed in the RECORD at this point because this gives with great clarity the needs facing veterans which will be guidelines for my veterans activities in the 92d Congress.

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

THE VFW PRIORITY LEGISATIVE PROGRAM FOR 1971

Since the days of George Washington, citizens who have answered their country's call have been provided compensation and other assistance in recognition of the extra contribution made in the national interest by wearing the uniform of the Armed Services during time of war or national emergency. Veterans rights and benefits have been a part of our national heritage since the founding of the Nation in 1776.

Down through the years grateful Congresses have provided a bundle of rights and benefits to veterans, their families, or, if deceased, their surviving widows, children, and dependent parents. It is the most comprehensive veterans benefits program of any nation in the world. It includes compensation for the service connected disabled, pensions for the nonservice connected and elderly veterans, hospital and medical care for the wounded and disabled, readjustment and GI Bill assistance for the returning veteran, preference in Federal and Government employment, and a long list of other rights and benefits.

The V.F.W. is dedicated to keeping and improving this program. Gaining Congressional approval of V.F.W. legislative goals has become much more difficult and complicated in recent years. High Administration policy has been negative in most respects regarding veterans legislation and additional funds for VA hospitals. Inflation has made deep inroads on all veterans programs. The high number of jobless veterans is of deep concern to the V.F.W. These and many other problems are expressed in the hundreds of mandates approved by the delegates to our Miami Beach National Convention.

The following program is a representative list of the problems and recommendations which the V.F.W. believes are of critical importance and must be favorably resolved in behalf of veterans and their dependents during this coming year.

FIRST-CLASS VA BUDGET AND IMPROVED MEDICAL CARE

1. To fill critically needed positions and provide for adequate salaries for all VA hospital personnel.

2. To purchase new and replace worn-out equipment.

3. To take care of deferred maintenance and repair.

4. To reduce backlog of dental care claims for returning Vietnam veterans.

5. To resume 15-year long-range construction and modernization of VA hospitals.

6. To reduce backlog of unfilled mail-order prescriptions in VA pharmacies.

7. Eliminate pauper's oath requirement for admission to VA hospitals.

8. Eliminate restrictive admission policies to insure utilization of Congressionally authorized 125,000 hospital beds for veterans.

THE SERVICE CONNECTED DISABLED

1. Increase compensation payments and statutory awards to service connected disabled veterans and include an escalation clause to reflect the increased cost of living.

2. Increase VA automobile allowance for certain disabled veterans to $3,000.

3. Presumption of service connection for diseases suffered by prisoners of war.

IMPROVED PENSION PROGRAM

1. Substantial increase in income limitations to offset the high cost of food, housing, recreation, and other needs of the elderly.

2. Substantial increase in pension payments to reflect spiraling increases in cost of living.

3. Exclude social security payments and other retirement benefits.

4. Eliminate requirement to file pension income questionnaire at age 65 or older.

GI BILL ASSISTANCE FOR VIETNAM VETERANS

1. Urge Congress and Administration to increase and liberalize education and training assistance and to enact legislation to provide direct home loans by VA in all areas.

2. Remove the limitations on entitlement to GI home loan assistance and extend program to include mobile homes.

VETERANS ADMINISTRATION

1. Keep all veterans' programs under the jurisdiction of the Veterans Administration.

2. Elevate the Veterans Administration to Department status, so that the Veterans Administrator will be a member of the President's Cabinet.

3. Highest priority for veterans' programs to insure that there will be no budgetary or personnel limitations on veterans programs.

4. No VA hospital or domiciliary facility shall be constructed, acquired, or altered, unless such action is first approved by the U.S. House of Representatives.

EXPAND GI INSURANCE COVERAGE

1. Double indemnity for servicemen serving in a combat zone or in extra-hazardous area.

2. Establish GI insurance program for Vietnam veterans, similar to present NSLI program, which VA operates for World War II veterans.

3. Increase coverage for active-duty servicemen from present $15,000 to $30,000.

4. Dismemberment insurance coverage for loss of extremity of eye.

PREFERENCE FOR VETERANS IN FEDERAL CIVIL SERVICE AND EMPLOYMENT

1. Preserve and continue veterans preference for all veterans employed by the Federal Government, as provided in the Veterans Preference Act of 1944, as amended.

NATIONAL CEMETERIES

1. Establish at least one national cemetery in each state.

2. Transfer operation of national cemeteries from Department of Defense to VA.

3. Increase veterans burial allowance to $500.

IMPROVED PROGRAMS FOR MILITARY RETIREES AND THEIR FAMILIES

1. Eliminate inequity which requires a military retiree to forfeit any VA compensation payment to which he might be entitled if he is receiving a greater amount of military retired pay.

2. Establish equitable survivor benefits program for active duty military and those who have served in a career status.

PUBLIC LAND POLICY AND THE ENVIRONMENT

Mr. ALLOTT. Mr. President, for 3 days last November—22 to 24—Denver was the scene of a national conference concerning public land policy and the environment.

Among the interesting documents coming from that conference is a report by Robert R. Nathan of Robert R. Nathan Associates, Inc. This report involves a number of interesting projections about our national needs for the future, including our primary need to think clearly in advance about the emerging demographic facts of life.

The Nathan Associates have been working under contract with the Public Land Law Review Commission, PLLRC, on which I had the privilege to serve. In my capacity on PLLRC I had occasion to study in great detail the pressures that are now being put on the public lands. Obviously these pressures could not be, and were not, studied in isolation from the other aspects of our enveloping environment problems.

Our concern with getting a rounded picture of the needs of our environment led us to ask Nathan Associates to make projections of national and regional economic trends for the last two decades of this century. In his remarks in Denver, Mr. Nathan could do no more than share with the convention his most basic convictions, arrived at after considerable experience with the realities of our situation. It is especially significant that he concludes on this note:

First, I have had enough experience in many less developed countries to conclude that low levels of production and slow economic expansion are by no means compatible with a quality environment. Second, I believe we can achieve the objective I have outlined, without resort to either government ownership of all the means of production or detailed regimentation.

Mr. President, so that all Senators can profit from Mr. Nathan's report, I ask unanimous consent for it to be printed in the RECORD.

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

PUBLIC LAND POLICY AND THE ENVIRONMENT
NATIONAL CONFERENCE

(Statement of Robert R. Nathan)

Under contract with the Public Land Law Review Commission (PLLRC), Robert R. Nathan Associates, Inc., provided the Commission with independent projections of national and regional economic aggregates and of prospective consumption of a sizable list of selected commodities producible on the public lands of the United States and other activities which the public lands can sustain. The purpose of the study was to provide PLLRC with a framework within which the effects of alternative public land policies would be tested and evaluated. The final report of the firm was presented to the Commission in May, 1968.

The terms of reference for the study specified that all projections should be made for the years 1980 and 2000. It was furtner specified that the projections should be confined to foreseeable demand and should not reflect RRNA evaluations of resource supplies. The Commission made clear its intention to rely on other studies in evaluating the supplies of resources available to meet the requirements to be set forth in the RRNA projections. Further, the study was not to concern itself with policies governing public land use or disposition.

The projections of economic aggregates were based on Bureau of the Census population projections, judgment estimates of Gross National Product (GNP) growth rates, and historical relationships between population, labor force participation, productivity, GNP, and other variables. The projections of consumption of individual commodities in turn were based on the projections of economic aggregates. Past and recent trends were relied upon, but adjustments were made for technological changes that might be expected and for changes in commodity consumption patterns resulting from likely shifts in consumer preferences.

Projecting into the future is always hazardous because of the possible modifications of historical trends. Such trends are important elements in relating the past to the future. The target years of 1980 and 2000 are not so distant in the future as to undermine confidence that past trends can serve as a reasonable basis for projecting the future. But they are also far enough ahead to conclude that appropriate policies could meaningfully change the projections. Thus, the projections are likely but by no means inevitable, depending on policies that might be adopted and implemented.

POPULATION

To a significant degree, resource requirements for 1980 and 2000 are already in the process of being determined by the size and age and sex composition of the population in 1970. All persons who will be 30 years of age or older in 2000 are already born. Further, all women who will be of childbearing age (15–44 years of age) in 1980 are alive in 1970 and most of those who will be of childbearing age in 1990 are now alive.

In 1967, the Bureau of the Census prepared four alternative sets of population projections for the years 1980 and 2000. These alternative projections differed mainly in their assumptions about fertility. After careful study we selected the Series C projections, which assumed a fertility rate of 2,775 per 1,000 women at the end of childbearing, as our medium projection for population in both 1980 and 2000. (The fertility rate in Series C is about 13 percent higher than the lowest fertility rate assumption and about 20 percent below the highest rate in the series.)

Public policy aimed at stabilizing population could have an impact on fertility rates in the long-term future, but such a policy could hardly prevent sizable increases in population between 1970 and 1990, or even 2000. The current low Census Series E projections, which assume a gradual decline in fertility rates to 2,110 by 1990, imply a population increase of about 60 million between 1970 and 2000.[1] It should be noted that a fertility rate as low as 2,110 would ultimately stabilize population and is without historical precedent in the United States.

Regardless of whether new national population and family planning policies are formulated and implemented, it is obvious that by 2000 resources must be available to meet the requirements of a substantially larger population than at present. On the basis of our own analysis of various factors

[1] Department of Commerce, Bureau of the Census, *Current Population Reports*, Series P–25.

influencing population growth, we still think it most realistic to plan for an additional 100 million people by the year 2000.

EMPLOYMENT AND ECONOMIC ACTIVITY

The projections of labor force are derived from the projections of population, taking into consideration factors which affect the proportion of the population 16 years of age and over who are likely to appear in the labor market as able and willing to work. Because the labor force is drawn from persons 16 years of age and over, the entire labor force in 1986, and all except those between the ages of 14 and 30 who will be in the labor force in 2000, have already been born. The projections indicate a labor force of 100 million in 1980 and 135 million in 2000.[2]

If we continue to maintain a national policy of high levels of employment, as set forth in the Employment Act of 1946, it will be necessary to create approximately 20 million additional jobs between 1970 and 1980, and approximately 55 million between 1970 and 2000. These filled jobs will not only provide incomes and consumer demands for members of the enlarged labor force, but they will simultaneously result in the production of additional output of goods and services for an increased population.

Assuming an increase in productivity per employed member averaging 2.6 percent annually between 1970 and 2000, the Gross National Product (GNP) is projected in 1958 dollars to be $1,176 billion in 1980 and $2,603 billion in 2000.[3] This compares to GNP in 1970 (in 1958 dollars) of about $725 billion. It reflects a 60 percent rise from 1970 to 1980 and a level in the year 2000 more than 3½ times that of 1970. At the growth rates projected in our study, GNP can be expected to double every 16 or 17 years. The large increase in employment and production indicated by these projections can be attained only through greater access to the nation's physical resources and to more efficient use of these resources.

RESOURCE REQUIREMENTS

In addition to meeting the needs created by an increasing population, new demands for the increased usage of the nation's physical resources will be created between 1970 and 2000 by changes in concepts of what constitutes an acceptable standard of life, and by aspirations to improve the quality of life.

Even if it were to be assumed that the majority of Americans are sufficiently affluent to want or need no more material goods—an assumption of more than doubtful validity—a large minority of Americans are still far below average in terms of income and material goods and services required to provide them with a minimum acceptable standard of life.

In 1969, almost 48 percent of the families in the United States had incomes of less than $8,000. Approximately $115 billion annually would be required by these below-average households to raise them to the $8,000 family income level. That is hardly a level of luxurious consumption, or a level where needs can be said to be reasonably satisfied.

For everyone, affluent and poor, the quality of life is determined by the nature of the environment as well as the goods which they consume directly. In effect, the two are related; as we become more concerned with our environment, more and more resources will be required to improve it. Increases in production bring increased environmental problems, but they also make it possible to allocate more resources to improve the environment—physical, social and cultural. Clean, well designed and livable cities are essential to improve the quality of city life; and clean air and clean water are more important to everyone. These conditions will be more feasible if we have the means to achieve them as well as the policies to limit or prevent their deterioration.

It has been estimated, for example, that the control of air and water pollution alone will require expenditures of $30 billion between 1970 and 1980 to attain currently accepted minimum standards. The cost of greatly needed urban renewal will be many times that amount. The replacement of 6 million existing substandard housing units alone has been estimated to cost $100 billion or more.

In addition to these requirements for resources to improve the present standard and quality of life, we must also provide for the larger population of the future. Our projections made in 1967–68 indicated an average of at least 2.2 million new housing units needed to be constructed annually between 1968 and 1980 for replacements and new family formations, and 2.5 million annually between 1968 and 2000. This contrasts with the construction of an average of only 1.4 million new housing units annually during the decade of the 1960's. Further, the present national housing goal of 26 million units between 1969 and 1978[4] makes our projections appear conservative.

We need more and better educational and health facilities and service and more recreational services. True, our standard of living is far higher than ever in the past and far above most other nations, but when we inventory our unfulfilled needs, the gaps are startling.

Having outlined the framework of projected demands as submitted in the report to the would now like, as an economist, to pose some of the key policy issues that might be considered by the participants in this significant conference. I shall deal only with a few such issues and only in outline form.

ECONOMIC ENVIRONMENTAL ISSUES

As for population, I strongly favor a marked reduction in population growth and in fact the earliest feasible achievement of a stable population. But we are not yet agreed as a people on such a goal nor is there concensus on how to make rapid progress in family planning. This is a high priority challenge but it has been a "mentionable" subject only in recent years and we have much educating and planning and programming to do if we are to make perceptible progress in defusing the population explosion.

The issues relating to labor force and employment are very complex. Do we want more leisure or more production, income, and consumption? Evidence on the entrance of women into the labor market and of moonlighting hardly warrant the conclusion that our people will opt for more vacations, earlier retirement, shorter daily hours and fewer days of work per week as an alternative to higher incomes and higher standards of living. Further, if we were to pursue by design a slower growth rate what would we do about unemployment? Would we keep certain groups out of the labor market by law or regulation? Who would make such decisions and who would be excluded from jobs? Is forced idleness compatible with high quality environment?

There are those who look upon increases in production as evils *per se*. They regard the Gross National Product (GNP) as an obscene or leperous concept or phrase, as one of the worst evils that has cursed mankind. Having been involved in the development of the first national income studies in the United States, I guess I should feel guilty, but I have no such self-disdain.

Economic activity and the output of goods and services are desirable and essential. They result in satisfying the requirements of life and in meeting our needs for existence and for comfort. This does not mean that growth in output should take precedence over all other considerations. Faster growth with more monopoly and greater concentration of economic power is to be avoided. Certainly faster growth and the pollution of our environment is to be fought vigorously. But we must ask ourselves whether economic growth and an improved quality of the environment are compatible or whether deterioration in the environment is an inevitable consequence of economic growth. It will require major government effort, as well as private effort, to achieve the essential compatibility.

I believe we can have both economic growth and a better environment. In fact, if we were to bring a halt to the expansion in the GNP or greatly slow down its expansion purposefully, we might well suffer greater environmental deterioration (physical, social, psychological, political and moral) than if we strive sincerely and aggressively for both economic expansion and a better environment. What we must do is to establish policies and programs and procedures which will so shape and influence our entire production effort as to prevent pollution of the environment. We must not only limit pollution but we must replace or recycle scarce resources. Also, we should allocate more of our increased output to improving environmental quality. I am convinced that not only do we greatly need more goods and services for quality living, but with proper policies and safeguards we can produce this greater abundance with environmental damage. Indeed part of the increment in output can be used to achieve the better environment we all want.

The big question is one of goals and priorities. Without appropriate priorities neither planned economic stagnation nor vigorous expansion will fully solve our problems of poverty, slums, health, education and endless other deficiencies in our society. Even without priorities, growth makes these problems more manageable than does designed economic stagnation. What we need is to formulate goals, plans, policies and implementation designed to prevent economic expansion from damaging the environment and also designed to use much of our expanded output to overcome poverty, to rebuild our slums, to provide clean air and water, to assure adequate health and educational services and to lift the quality of our environment. These are not impossible of achievement provided we have the will and the wisdom to achieve them.

Let me conclude with two brief observations. First, I have had enough experience in many less developed countries to conclude that low levels of production and slow economic expansion are by no means compatible with a quality environment. Second, I believe we can achieve the objective I have outlined, without resort to either government ownership of all the means of production or detailed regimentation. It can be done with a mixture of wise and enforced standards and regulations mingled with a carefully formulated variety of incentives and penalties. These principles and observations are pertinent to policies for use of the public lands as well as for broader application.

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[2] Current Department of Labor projections also indicate a labor force of 100 million in 1980. Department of Labor, *U.S. Manpower in the 1970's*, November 1970.

[3] The most recent projections of the National Planning Association project GNP in 1980 to be $1,150 billion in 1958 prices. National Planning Association, Center for Economic Projections, *Projection Highlights*, September 1970.

[4] Department of Housing and Urban Development, *Economic Analysis of a Ten Year Housing program.*

TRIBUTE TO THE LATE SENATOR RUSSELL

Mr. BEALL. Mr. President, although I did not have the pleasure of serving with the late Senator Richard B. Russell, I was very much aware of the significant role he played in guiding our Nation during the past four decades. My father served with Senator Russell and was, in fact, a member of the Armed Services Committee when it was chaired by our late colleague from Georgia. My father always spoke of him in the highest terms, describing him as a man of great strength, fairness, competency, and above all great dedication to his State, to his Nation, and to this Senate.

Senator Russell dedicated his life to the cause of constitutional government at home and unquestioned military strength abroad. His constancy in the pursuit of these goals made him a pillar of strength to six Chief Executives.

Those of us who are new to this body have been denied the opportunity to serve with a great Senator and a great American.

LEGISLATIVE HISTORIES OF THE RESTRICTIONS RELATING TO CAMBODIA

Mr. FULBRIGHT. Mr. President, in view of recent developments in Cambodia, I think it would be helpful to Senators and readers of the RECORD to have available a summary of the somewhat complicated legislative history of the restrictions passed by Congress last year concerning U.S. involvement in Cambodia.

I ask unanimous consent that there be printed in the RECORD two memorandums, one setting forth the most significant actions on the Cooper-Church amendment and the second summarizing actions concerning the prohibition on U.S. financing of South Vietnamese or other forces in actions in support of the Cambodian or Laotian Governments.

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

SIGNIFICANT EVENTS RELATING TO THE COOPER-CHURCH AMENDMENT

I. FY 1970 DEFENSE APPROPRIATION BILL

On December 15, 1969, Senator Church offered an amendment as a substitute for an amendment offered to the Defense Appropriation bill by Senators Cooper and Mansfield. The Church amendment, as modified, read:

"Sec. 643. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

It was adopted by a vote of 73–17 and the Cooper-Mansfield amendment was subsequently adopted by a vote of 80–9.

II. FOREIGN MILITARY SALES BILL—H.R. 15628

Following the President's decision to send U.S. military forces into Cambodia, Senators Church, Cooper, Aiken and Mansfield introduced an amendment to H.R. 15628 designed to prohibit further U.S. involvement in Cambodia, except the furnishing of military aid, and limited air action, without Congressional approval. On May 11 the amendment was adopted, with modification, by the Committee by a vote of 9 to 5.

Debate on the bill began in the Senate on May 13 and ended on June 30 after the amendment, with certain changes, was adopted 58–37. The amendments offered to it, and the action taken on them, were as follows:

1. *Cooper*—Rewrite of the preambular language; adopted 82–11 on May 26.
2. *Dole*—Make amendment inoperative if President determines POW's were being held in Cambodia; rejected 36–54 on June 3.
3. *Byrd of W. Va.*—Allow President to retain U.S. forces in Cambodia if he thought it necessary to protect the lives of American forces—defeated 47–50 on June 11.
4. *Mansfield*—No impugning of the Constitutional powers of the President—adopted 91–0 on June 11.
5. *Byrd of W. Va.*—Relating to the Constitutional powers of the President as Commander-in-Chief—adopted 79–5 on June 22.
6. *Javits*—Relating to the Constitutional powers of the Congress—adopted 73–0 on June 26.
7. *Griffin*—To permit U.S. to pay for foreign military advisers and mercenaries in Cambodia—rejected 45–50 on June 30.
8. *Jackson*—Allowing U.S. air activities if not in "direct" support of Cambodia—adopted 69–27 on June 30.

The text of the Cooper-Church amendment to H.R. 15628, as passed by the Senate, was:

"Sec. 47. Limitations on United States Involvement in Cambodia.—In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970, and to expedite the withdrawal of American forces from Cambodia, it is hereby provided that unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended after July 1, 1970, for the purposes of—

"(1) retaining United States forces in Cambodia;

"(2) paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any United States personnel in Cambodia who furnish military instruction to Cambodian forces or engage in any combat activity in support of Cambodian forces;

"(3) entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or to provide persons to engage in any combat activity in support of Cambodian forces; or

"(4) conducting any combat activity in the air above Cambodia in direct support of Cambodian forces."

Subsequently, in view of the passage of the Cooper-Church amendment to the Supplemental Foreign Assistance Bill, the amendment was deleted from H.R. 15628 by the conference committee.

III. FY 1971 DEFENSE APPROPRIATION BILL—H.R. 19590

The Defense Appropriation Bill was amended by the Senate Appropriations Committee at the request of Senators Cooper and Church to add Cambodia to the prohibition against involvement of U.S. ground personnel in Laos and Thailand. The bill was approved by the Senate on December 15, without any objection to this provision. The conference committee reported back with a proviso which made the section read as follows (proviso added in conference is underlined):

"SEC. 843. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia: *Provided, That nothing contained in this section shall be construed to prohibit the President from taking action in said areas designed to promote the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.*

On December 28 the Senate disagreed to the conference report because of this and another proviso added in conference and the bill was returned to the conference committee. It was reported from conference again on December 29 after deleting both the proviso and "Cambodia" from coverage of the amendment, thus leaving the text as it was adopted in the FY 1970 Defense Appropriation Bill. In the meantime, the Cooper-Church amendment to the Supplemental Foreign Assistance Bill was agreed to on December 22.

IV. SUPPLEMENTAL FOREIGN ASSISTANCE AUTHORIZATION BILL—H.R. 19911

On December 13 the Committee adopted, without opposition, an amendment to the Supplemental Foreign Assistance Authorization Act, proposed by Senators Cooper, Church, Javits, Case, and Mansfield, which prohibited sending U.S. ground troops or military advisers into Cambodia. A second amendment, sponsored primarily by Senator Javits, specified that any U.S. aid should not be construed as a commitment to defend Cambodia. The text of the two amendments follows:

"Sec. 6. (a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for Cambodian military forces in Cambodia.

"(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense."

The amendment was not contested in the Senate and the bill passed on December 16. The amendment was accepted by the House conferees—and both the House and the Senate agreed to the conference report on December 22.

SUMMARY OF THE LEGISLATIVE HISTORY OF THE FULBRIGHT AMENDMENT RELATING TO PAYMENT FOR FOREIGN MILITARY OPERATIONS IN CAMBODIA OR LAOS

I. DEFENSE AUTHORIZATION BILL—H.R. 17123

The Defense Authorization Bill revised the language carried in defense authorization and appropriation bills in previous years in order to authorize specifically the financing of Vietnamese or other free world forces operations in the "sanctuary" areas of Cambodia. The Senate Armed Services Committee report on the bill stated, however, that there was ". . . no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian government." Senator Fulbright introduced an amendment to the bill to carry out that intent and to prohibit U.S. financing of any such activities in Laos as well. (A second Fulbright amendment prohibited paying special allowances to foreign troops greater than the rate of combat pay paid U.S. troops.)

The amendment was adopted by the Senate without opposition on August 21 and was accepted without change by the House conferees. The text of the entire section with the Fulbright amendment italicized follows:

"(a) (1) Not to exceed $2,800,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese

forces, (B) local forces in Laos and Thailand; and for related costs, during the fiscal year 1971 on such terms and conditions as the Secretary of Defense may determine. None of the funds appropriated to or for the use of the Armed Forces of the United States may be used for the purpose of paying any overseas allowances, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970. *Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos.*

II. DEFENSE APPROPRIATION BILL—H.R. 19590

The language in the authorization bill, concerning the funding of Vietnamese and other foreign forces, has traditionally been carried in the Defense appropriation bill also. The Fulbright amendment added to the authorization bill was not included in the House version of the Defense Appropriation Bill, H.R. 19590. If the language had not been carried over from the authorization bill there would have been no practical restrictions on use of Defense funds to pay for Vietnamese or Thai operations in Cambodia or Laos. At Senator Fulbright's request, the restrictive language was included in the bill reported by the Senate Appropriations Committee and no objection was raised to the item on the Senate Floor.

The conference added a proviso to the amendment which made it read as follows (proviso added in conference italicized):

"Provided further, That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided further, That nothing contained in this section shall be construed to prohibit support of free world or local forces in actions designed to promote the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war,*" . . .

The conference report was rejected by the Senate, by voice vote, on December 18 because of this item and the addition of a similar proviso to the Cooper-Church amendment. The second conference modified, but did not eliminate, the proviso. After considerable discussion in the Senate about the meaning and intent of the provision, the conference report was agreed to on December 29. The entire text of the section as agreed to, with the revised proviso italicized, follows:

"Section 838(a)—Support of free world forces

Sec. 838. (a) Not to exceed $2,500,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine:

Provided, That none of the funds appropriated by this Act may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970: *Provided further,* That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided further, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war."*

CHILE BECOMING A COMMUNIST POLICE STATE

Mr. ALLOTT. Mr. President, the evidence continues to mount—steadily and predictably—that Chile is becoming a Communist police state.

The sad but undeniable fact is that Chile's new President, the Communist Salvador Allende, acts like a Communist. This means the U.S. Government must give high priority to high-level policy decisions about how we can isolate this hemisphere's newest Communist dictatorship.

In recent days a number of news stories from Chile indicate Allende's determination to establish communism with more than deliberate speed. For example, on January 10 the Baltimore Sun carried a story by Mr. Robert A. Erlandson concerning the establishment of so-called peoples tribunals in Chile. The tribunals will judge the antisocial behavior of citizens who seem insufficiently enthusiastic about the emerging dictatorship.

On January 15 the New York Times carried a story from Chile by Mr. Juan de Onis, reporting on the arrival in Chile of 70 Brazilian revolutionaries who had been freed in exchange for a kidnapped Swiss diplomat. It is obvious that the revolutionaries knew they would be welcome in Chile. This must raise anxieties among Chile's neighbors.

Mr. President, Allende's behavior in guiding Chile into the Communist camp is additionally depressing—if redundant—evidence of the extent to which the Monroe Doctrine is a dead letter, dead from exposure to the weak and vacillating policies of the early 1960's.

Obviously there is little this Nation can or should do to influence the elections in another sovereign nation. But that is not the issue. Chile has probably had its last free election. Now the question is how to isolate the disease that has infected that pathetic nation.

Mr. President, so that all Senators can ponder the grim facts about Allende's emerging despotism, I ask unanimous consent for Mr. Erlandson's and Mr. de Onis's illuminating articles to be printed in the RECORD.

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

[From the Baltimore Sun, Jan. 10, 1971]

CHILE'S "PEOPLES COURTS" MAY BE A DANGER—"ANTI-SOCIAL BEHAVIOR" WILL BE TARGET OF LOCAL TRIBUNALS

(By Robert A. Erlandson)

RIO DE JANEIRO.—Chile's Marxist president, Salvador Allende, has taken his first—and perhaps most potentially dangerous—step toward communizing Chile with the announcement that "peoples tribunals" will be set up to judge "anti-social behavior."

Such tribunals, which amount to "revolutionary justice" or drumhead courts-martial, are point 38 of the 40-point "basic program of the popular unity government," which is Chile's new bible, and which calls for "an end to class justice."

EMASCULATED SYSTEM

However, they will merely establish one class of justice for another, and from the traditionally Democratic Chilean viewpoint will effectively emasculate the judicial system.

Such "peoples tribunals" have an historical record of permitting personally vengeful denunciations, spying on one's neighbors, friends and family—an in the end giving the government a network of informers which allows near-absolute control of the population by fear.

Those with the best political connections become the judges of their less influential countrymen, and the term "anti-social behavior" has extensive, and potentially evil, ramifications.

"People's tribunals" are the mark of totalitarianism, and the hand of President Allende's Communist supporters can be seen in their creation.

Although the Communists represent only one faction of his six party popular unity coalition, they are the best organized, disciplined and financed. They also provide the new president with his ideological "brain trust."

The Communists, according to informed sources in Chile, controlled more than 80 per cent of the 8,000 "popular unity committees" formed to work in the Allende campaign.

Immediately after the election, it was reported that new committees were being formed and that the Communists were actively extending their control over the existing ones.

This then was a grass-roots network of control which, in combination with the new "peoples tribunals" should, within a few years, give the Communists an almost unbreakable grip on Chile.

With the court announcement was another of lesser importance, but nonetheless significant, that honorifics such as "excellency" and "your honor," traditional in Spanish-speaking countries will be abolished.

President Allende and his cohorts refer to the people and each other as "campanero", which can be translated as companion—or "comrade."

[From the New York Times, Jan. 15, 1971]

SEVENTY FREED BY BRAZIL FOR ENVOY ARRIVE JUBILANTLY IN SANTIAGO

(By Juan de Onis)

SANTIAGO, CHILE.—Seventy Brazilian revolutionaries, jubilant over their release from prison in exchange for a kidnapped Swiss diplomat, arrived in Chile today and were granted political asylum.

The leftist Chilean Government of President Salvador Allende Gossens, while giving the Brazilians a warm welcome, took pains to prevent any statements by them that might offend Brazil's military Government. The freedom of the prisoners had been demanded by the kidnappers of the diplomat Giavanni Enrico Bucher. He was abducted in Rio de Janeiro Dec. 7.

The Brazilians, most of them, university students in their early twenties, including about six young women, were told not to talk with newsmen while they cleared through immigration formalities and were photographed.

They were taken by bus from the international airport to a Ministry of Interior guest house near the city's main park. Visitors were barred and the Brazilians were practically incommunicado for their first day here.

CAUTIONED BY CHILE

"We have told them they are not to do or say anything that would damage Chile's relations with our sister countries," said Gen. Emilio Cheyre, national director of investigation, who supervised the arrival.

Vera Maria Rocha, 20 years old, who was a student at the University of Pernambuco in Recife, Brazil, was able to speak briefly with newsmen during a call at a hospital to be treated for a sore throat.

She said that during six months in jail in Recife she and other women political prisoners had been tortured by the police to obtain information about a kidnapping plot that had been planned but that never took place. Miss Rocha said some of the male prisoners bore scars, welts, bruises and other signs of torture by mechanical and electrical devices.

Despite the Government's wishes, the emotions of the former prisoners and about 150 Brazilian students in exile here who turned out before dawn to meet them could not be entirely repressed.

Most of the young men leaving the chartered airliner, still wearing cotton shirts from the hot jail cells of Rio de Janeiro, raised clenched fists over their heads as they came down the steps.

BANNERS AND CHANTS

When Bruno Dauster, a powerfully built student with a big black moustache, reached the ground and was checked off on a list by a Chilean official, he turned toward the students who filled the airport terminal observation deck.

"Down with the Brazilian dictatorship?" he bellowed in Portuguese. The students chanted back, "Down, Down, Down, Down," and waved a banner that stretched 20 feet. It said, "Death to the Assassin Regime of Brazil."

The former prisoners formed under a wing of the plane around a large red, white and blue Chilean flag. There were emotional scenes as many of the Brazilians, separated by months or years in jail, embraced, laughed and wept.

One woman, with three small children, a boy and two girls, had flown from Rio here with her husband on the plane but had not been allowed to be together with him until the plane landed. With the three children, 73 Brazilians were on the plane.

The released prisoners included Jean Marc van der Wing, the last president of the outlawed National Student Union of Brazil, and many others who had been in jail for up to two years. Some were charged with involvement in bank robberies, kidnappings, explosions, arms thefts and other acts that are part of the extremist plan to overthrow Brazil's military Government.

From the balcony of the terminal, the students began shouting the names of revolutionaries killed in Brazil.

"Comrade Marighela," shouted one voice and the others replied in chorus: "Present!" "Comrade Camara, Comrade Marcio Alves" and six or seven other names followed. Each brought the thunderous response, "Present!" that echoed across the empty airport.

TRIBUTE TO SENATOR RUSSELL

Mr. MONDALE. Mr. President, the tragic death of Senator Richard Russell marks the end of nearly 40 years of the highest service to his State and his country.

Senator Russell was a true giant within this body. Yet, his unquestioned power was a matter not simply of his years of service, but of his extraordinary intellect, parliamentary ability, dedication to the Senate, and to his capacity to bear his power with both courtesy and humility.

He was an institution in the finest sense of that word. To us all, he was both inspiring and formidable. And neither we, his colleagues, nor history will forget this man whose service to his country spanned the most critical years of this century.

POLICIES OF WEST GERMAN CHANCELLOR WILLY BRANDT

Mr. ALLOTT. Mr. President, I want to take this occasion to clarify, and bring to an amicable conclusion, a small misunderstanding that has occasioned some comment and confusion among our friends in West Germany.

Early in December, I delivered some remarks in the Senate expressing my strong disagreement with some of the premises and directions of the emerging "Ostpolitik" policies of West German Chancellor Willy Brandt. Shortly thereafter I was visited by the German Ambassador to the United States, Mr. Rolf Pauls.

Ambassador Pauls gave me a full and competent exposition of the Brandt government's point of view. I elaborated on my position. I trust that he enjoyed our exchange of views as much as I did. The exchange was entirely amicable, and we parted with an increased understanding of our different viewpoints.

The confusion arose when my views were called to the attention of the German State Secretary during a question hour in the Bundestag. The man raising the question was Herr Walter Becher, a member of the Christian Social Union. He asked the State Secretary, Herr Karl Moersch for the Brandt government's reaction to my remarks.

In the course of a discussion of this question, Herr Moersch was whispered the information that Ambassador Pauls had met with me and that as a result of that meeting, I had altered my views to conform with those of the Brandt government. Herr Moersch used this whispered information in his response to Herr Becher.

Herr Becher correctly doubted the accuracy of this report of my meeting with the Ambassador and wrote to me to see if I had in fact altered my position. I informed him that I had not altered my position. A subsequent investigation among the participants in the Bundestag debate revealed the source of the confusion.

According to Herr Moersch, bad acoustics on the floor of the Bundestag caused him to receive a mistaken impression of the report he was receiving—in a whisper—about the Ambassador's report of his meeting with me. The whisperer wanted to tell Herr Moersch that my response to the Ambassador's presentation was "receptive." Herr Moersch reported that my response had been "positive," thereby giving rise to the mistaken impression that I had altered my opposition to the policies under discussion.

I do not trust my own judgment concerning the nuances of the German language. But reliable persons with whom I have consulted indicate that the distinction between the German words "receptive" and "positive" approximates the distinction between their English counterparts. That is, a "positive" response to Ambassador Pauls' exposition of the Brandt policy would have been a response of positive approval of that policy. A "receptive" response would have been a cordial reception of the Ambassador's exposition, but with a clear understanding that cordial airing of differences does not diminish the importance of those differences.

Mr. President, I want to emphasize that I think this confusion resulted from a minor and innocent misunderstanding. I have no reason to doubt the candor of Herr Moersch's explanation of how this misunderstanding occurred. And I certainly think that no blame attaches to Ambassador Pauls. I know that he enjoys the highest confidence of his Government, and I am sure that this judgment is shared by his many friends—among whom I count myself—in Washington.

Mr. President, I want to take this occasion to put in the public RECORD the facts about this confusion and its happy resolution. The relevant documents are:

First. A translation of the transcript of the exchange in the Bundestag between Herr Becher and Herr Moersch.

Second. A copy of Herr Becher's letter to me inquiring about the accuracy of Herr Moersch's statement.

Third. A copy of my letter to Herr Becher confirming the inaccuracy.

Fourth. A copy of Herr Moersch's letter to Herr Becher, clarifying the source of Herr Moersch's confusion.

Fifth. A copy of a translation of that letter provided through the German Embassy.

When this letter, and the accompanying translation were transmitted to me by the German Embassy it was on the understanding that Herr Moersch preferred that the letter remain confidential. I respected that preference. But now the letter has been made available in Germany to Der Spiegel, January 19, the most widely circulated weekly magazine in Germany. Fairness compels me to make it available to interested persons on this side of the Atlantic.

Therefore, Mr. President, there are two more relevant documents:

Sixth. A copy of the article from Der Spiegel in which this supposedly private letter is directly quoted.

Seventh. A translation of that article.

Mr. President, I ask unanimous consent for these documents to be printed in the RECORD at the conclusion of my remarks.

Mr. President, I think it is necessary to say a few words about Der Spiegel's recent performance.

Its report of this affair confirms what many American officials have heard, but until now have been reluctant to believe about the marked decline in the quality of Der Spiegel. The magazine report involved blatantly partisan references to Herr Becher. It also contained inaccuracies concerning my own foreign policy position.

In addition, it contains some quite comically mistaken remarks about the significance of seating arrangements in the U.S. Senate. It seems that the Washington bureau of Der Spiegel has not mastered even the most elementary facts about even the major institutions and practices of our Government. These poor souls are under the mistaken impression that there is such a thing as a "back bencher" in the Senate. Alas, it seems that the confusion of the Der Spiegel correspondents extends to confusion about the country in which they are stationed. Clearly they think they are living in London. This is an innocent confusion, but a confusion nonetheless, and I urge them all to consult their passports and work orders.

If they are supposed to be in London, they should make haste to the airport. If they are supposed to be in Washington, they should make haste to a bookstore and purchase a textbook on comparative government. This will explain to them the rudimentary differences between the British House of Commons and the U.S. Senate. A little knowledge will greatly enhance their enjoyment of their stay in Washington, and it might even come to the attention of their employers.

Until then, one must mourn for the plight of the diminishing number of people who take Der Spiegel seriously. When one combines ignorance in the Washington bureau with inflamed partisanship in the editorial offices in Germany, one is left with a magazine equally bereft of talent and integrity.

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

TRANSLATION FROM GERMAN BUNDESTAG

President VON HASSEL. I submit now the Question No. 113 of the Representative Dr. Becher:

"In which way does the Federal Government consider American voices which fear that the Government is helping the Soviet Union by certain promises on the field of an economic and scientific cooperation leading to the overcoming of those bottlenecks which have constituted roadblocks against a further growth of the Soviet military potential and in this way of the threat against the U.S.A.?"

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). Mr. Representative the reply to the Question 113 is the following: Promises on the field of economic and scientific cooperation which could effect the removal of the bottlenecks hindering a further growth of the Soviet military potential do not exist. Our policy of the trade with the East is generally aimed at an intensification of the trade and cooperation with the East European States. The Government of the United States has raised here no objections.

President VON HASSEL. An additional question, Representative Dr. Becher.

Dr. BECHER (CDU/CSU). Mr. State Secretary, should the judgement of such an influential man as Senator Gordon Allott not be given a very especial attention, who already before the trip of our Minister of Economics Professor Schiller to Moscow, namely on August 28, declared in the U.S. Senate that West German factory plants and long-term credits would make it easier for the Soviet Union to continue her armament race with the United States by removing her present economic difficulties?

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). Mr. Representative, the statement made by that American Senator was founded, as it was discovered afterwards, on a not quite correct information. After the publication of that statement—which by the way, as I can tell you here once, played no part in the U.S.A. whatsoever but only over here—a discussion took place between our diplomatic representative and that Senator at which he was advised about the real state of affairs. The Senator, as far as I know, has considered that advice as satisfactory. (Applause among the Government Representatives)

President VON HASSEL. A second additional question, Representative Dr. Becher.

Dr. BECHER (CDU/CSU). Don't you believe, Mr. State Secretary, that the Americans were forced, in order to protect their interests, to call men as Wolff von Amerongen before the Subcommittee for Foreign Trade, who, as far as the reproduction of his statement in the "Spiegel" is correct, said: "When one speaks there too much about Brandt and his Ostopolitik, they are inclined to think that we speak about politics but in reality want the big trade with the East?"

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). Mr. Representative, I cannot comment this question because I do not know the source. But it is completely clear that there are many men in the world—why should not they be also in the U.S.A.?—who think, when hearing about the Ostpolitik, above all of the deepening of economic relations and who certainly do not necessarily like to hear that e.g. an American firm did not succeed to reach a trade agreement, while a German firm is on its way to reach such an agreement. This is natural in this world. Such things exist even among Allies. Even within one single country it is possible that there are various firms with various opinions. (Applause among the Government Representatives)

President VON HASSEL. An additional question, Representative Dr. Czaja:

Dr. CZAJA (CDU/CSU). Mr. State Secretary, on which facts is founded your understanding that the Chairman of the Republican Policy Committee in the Senate, Gordon Allott, has changed his opinion, which he stated in a Senate speech on August 28, after he repeated this thesis in a further speech in a still much sharper form—especially also with reference to the Berlin question—only a few days ago?

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). Mr. Rpresentative, you state something which is not known to me. I have founded my opinion that Mr. Allott has no more professed what he once had said, after a thorough briefing, on a report made by our Embassy in Washington which led with Mr. Allott, after his speech, a discussion, and made to him documents available which are available to us. Let me still add that the fact that there are—also in the field of interests—various opinions is, in a democratic country like the U.S.A., indeed completely understandable and should surprise nobody.

President VON HASSEL. I submit the Question No. 114 of the Representative Dr. Becher:

"Does the Federal Government not act in a very serious contradiction if it, on one side, pleads for an unabridged presence of the American troops in Europe, and, on the other side, gives support to the Soviet Union by means of such projects as is the production of trucks with the help of the firm Mercedes Benz—projects which will sooner or later directly or indirectly, have detrimental military effects on the American troops and on the Alliance which rests on those troops?"

Please give your reply, Mr. Parliamentary State Secretary.

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). The Soviet Union has been in contact with West European and Japanese enterprises with regard to deliveries and contributions to a truck-production project which will start its production at the earliest time in 1975/76. The Government of the U.S.A. has known these negotiations. It would have protested against deliveries and contributions by friendly nations if it feared that such a participation in the realization of the truck-project would sooner or later unfavorably affect the American troops and the Western Alliance which rests on them.

President VON HASSEL. An additional question, Representative Dr. Becher.

Dr. BECHER (CDU/CSU). Mr. State Secretary, does the Federal Government not realize itself, that the help for a production of Soviet trucks for a Power with such an enormous big territory as the Soviet Union has, is equally meaningful as the help for the production of e.g. Soviet tanks or rockets which could be used militarily against us or the U.S.A.?

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). Mr. Representative, first, the Federal Government does not share your comparisons; it considers them in this point as inadmissible. Second, the Federal Government is not of the opinion—which can be heard out of your question—that a policy of embargo can be useful to the interests of the German People and of the Western Alliance. (Applause among the Government Representatives)

President VON HASSEL. A second additional question, Representative Dr. Becher.

Dr. BECHER. (CDU/CSU). Mr. State Secretary, does the eminent growth of the strategical and conventional potential of the Soviets, which was stressed in the common statement by the NATO Defense Ministers and which is generally known, in any case not make necessary a reconsideration of the plans for the technological respectively scientific cooperation which were laid down in the Moscow Pact?

MOERSCH (Parliamentary State Secretary of the Foreign Ministry). No, Mr. Representative. On the contrary, the NATO council discussed all these questions at length. I can point out the communiqué. All NATO partners are in a complete agreement with what we settled up with Moscow in this respect. It is also in the interest of our Allies that we are coming through cooperation to the reduction of confrontation. It is self-evident that you can not hinder a World Power like the Soviet Union in its economic development through a return to the policy of embargo of the pipe-line-type, but you can aggravate the tension in the world by it. (Applause among the Government Representatives).

BONN, *December 27, 1970.*

Hon. GORDON ALLOTT.
U.S. Senator,
Senate Office Building,
Washintgon, D.C

DEAR SENATOR ALLOTT: I take the liberty to enclose a partial translation of the Bundestag proceedings of December 18, 1970. Under the impression of the declaration

made by the last NATO meeting which stressed the enormous and growing military strength of the Soviet Union, I submitted to the State Secretary of the German Federal Foreign Ministry questions concerning the economic cooperation between Germany and the Soviet Union, and especially the construction of a huge truck factory in the U.S.S.R. with West Germany.

I quoted your excellent great speeches on the Soviet-German Pact and the Soviet-German trade. In his reply to me and to my colleague Dr. Herbert Czaja, who is equally a member of the Foreign Relations Committee of the Bundestag, State Secretary Moersch stated that, after having been supplied information by the German Embassy in Washington, you changed your views concerning the German-Soviet Pact and trade.

I take the liberty to call this Bundestag debate and the statements by Mr. Moersch to your kind attention and I would be very obliged if you kindly sent me your standpoint on what Mr. Moersch maintained. We shall have, in the second half of January 1971, a big Bundestag debate on the Soviet-German Pact, and your speeches will be the main material supporting the CDU/CSU standpoint. In fact, we shall depend on you and your views expressed in your speeches. We would, of course, appreciate very much any additional speech you could make before January 24. You can now influence immensely the developments in our country.

I personally am of the opinion that a sincere real cooperation between Germany and the United States must have an absolute priority if we are to secure freedom and peace; that we should not seek profit in trade with the Communists; that we should coordinate our political and economic policies towards the East; and that, by no means, by no pacts and by no trade, we should confirm the Communist regimes and make them stronger vis-a-vis the suppressed peoples.

With best personal regards,

Yours very sincerely,

DR WALTER BECHER,
Member of the German Bundestag,
Foreign Relations Committee.

DECEMBER 31, 1970.

Dr. WALTER BECHER,
8 Muenchen 22, Germany,
Triftstrasse 1.

DEAR DR. BECHER: Thank you for your letter and the transcript of the Bundestag proceedings.

I found the whole situation rather amusing. Following my latest speech on the West German situation, the German Ambassador asked for an appointment to discuss this question. The exchange was frank and friendly. However, to imply that I was persuaded to the point of view of the Brandt government on these matters by the discussion with the Ambassador is way out of line.

I found the talk with the Ambassador useful in my consideration of the whole subject. However, subsequent to that time, I have found even more evidence to substantiate the positions I originally held on the matter. Accordingly, what I said in my earlier speeches reflects my current thinking on the problem.

As you know, I am not alone in these views. A number of Senators, most recently Senator Edward Gurney of Florida, have spoken along the same lines. Indeed former Secretary of State Acheson has made comments which make mine pale by comparison. And now, just yesterday, former Undersecretary of State George Ball, with whom I often find myself in disagreement, made, in different words, the exact points I made in my two speeches.

I hope to be able to say more about this question at an appropriate time. I may not be able to do so in January, however, because I do not expect Congress to be in session until late in the month.

Best personal regards.

Sincerely yours,

GORDON ALLOTT,
U.S. Senator.

TEXT OF THE LETTER FROM THE PARLIAMENTARY SECRETARY OF STATE TO THE MEMBER OF THE GERMAN FEDERAL DIET DR. BECHER

MY DEAR COLLEAGUE: During Question Hour of the 89th Session of the Federal Diet, on December 18, 1971, you had put a subsidiary question to Question 113 to the effect, whether the judgment of so influential a person as Senator Gordon Allott should not give us reason to pay special attention, in that Senator Gordon Allott—even prior to the visit of our Minister for Economic Affairs to Moscow—had stated before the US-Senate, that West German machinery and equipment as well as loans should make it easier for the Soviet Union to continue in an unimpeded manner its armament race with the United States, in spite of present economic difficulties.

Since I had to answer from memory this additional question which clearly broached certain political aspects, I made use, amongst others, of a short remark passed to me by a colleague who happened to be present: He mentioned a Report of our Ambassador Pauls in Washington to the effect that Senator Allott—after his last talk with our Ambassador—had struck a "most receptive" attitude. Bad accoustics in the House caused me to hear "positive" (instead of the word "receptive") and hence I drew up my answer on the lines you know.

These are the facts. They have led, incidentally, to the mistaken assumption in the Press that Ambassador Pauls had not reported his talk with Senator Allott correctly. This assumption is, indeed, false and I deeply regret that Ambassador Pauls has been misrepresented to the party with whom he had the discussion. His way of reporting was perfectly correct and I have arranged for Ambassador Pauls to be asked to advise Senator Allott of the above mentioned facts.

I feel a real concern, my dear Colleague, to apologize for this error. If you should deem it important I shall be glad to take the opportunity of making a statement for the official Minutes.

With kindest regards.

MOERSCH.

[From Der Spiegel, Jan. 18, 1971]

THE FALSE LIGHT

The Ultra-Conservative refugee organization's CSU-member of the Bundestag, Walter Becher, put the Free Democratic State Secretary, Karl Moersch of the Foreign Office into a corner.

In the last question and answer period of the Bundestag on December 18, 1970, the President of the Sudeten German National Union wanted to learn from Moersch whether the judgment of "such an influential man" as the American Senator Gordon Allott, concerning the German Ostpolitik, would not force him to give the matter a second thought. The Republican had criticized the Federal Government for giving the Soviet Union a lead in the armament race vis-a-vis the United States by providing machinery and long term credits.

It was the Washington correspondent of Axel Springer's "Welt", Heinz Barth, who presented to the Federal Germans for the first time, Senator Allott as "influential" and as a critic of Brandt's Ostpolitik.

In reality Allott, after 15 years in the Senate, still was confined to a back bench in the U.S. Senate and has been considered a Cold Warrior—in the same way as Becher, with whom he has been according to the words of the latter—"personally in contact for a long time."

The Parliamentary State Secretary Moersch made his answer more difficult than was necessary. Instead of just sticking to the point that Allott's references have "had no importance in the U.S.A., but only here in Germany", he replied, after a whispering consultation with his advisers on the Government bench, that Allott's opposition to the Eastern offensive of Bonn was founded on some incorrect information about the matter itself."

Bonn's Washington Ambassador Rolf Pauls, so said Moersch, had in the meantime informed the American about the "real state of affairs . . . the Senator, as far as I know has considered that advice as satisfactory."

Becher did not pursue that point further, but astonished, he inquired of Allott, whether Moersch's reply did correspond to reality. The Senator promptly came to the help of his German political counterpart with a letter. On December 31 Allott attested to "Dear Dr. Becher:" that it was true that a discussion had taken place in his office with Ambassador Pauls face to face. However, "to imply that I was persuaded to the point of view of the Brandt government on these matters by the discussion with the Ambassador is way out of line." His position has been, instead rather hardened.

Becher was triumphant and Moersch admitted in a letter to the CSU man that he became a victim of an error of his senses. It was due to "the bad acoustics on the Bundestag floor" that he had understood from the whispered conversation that the American had assumed a "positive" attitude rather than a "receptive" attitude. He declared himself to be ready to correct his reply before the Parliament. At the same time the State Secretary regretted that he put Ambassador Pauls into a "false light" to the party with whom he had the discussion in Washington.

Last Wednesday, the ball was again passed from Allott to the right-wing player—Springer. Axel Springer [Intra-German Service (ASD)] reported to the "Welt" from Bonn about the Senator's denial and added, disguised as a question, the incorrect information that Pauls was, because of his false report, ordered to the Foreign Office in Bonn to make a report.

In reality, Moersch says the mistake was his own. "Mr. Becher was better informed than I was. Something like this can happen. In past times I have also handled State Secretaries in such a way."

STUDENTS HELPING OTHERS

Mr. McINTYRE. Mr. President, today when so much of our attention is directed toward that small segment of the younger generation which seems determined to disrupt our society, we tend to forget about the majority of our young people who are working quietly and with dedication to improve our society. They do not seem to get the headlines because they work without fanfare.

I would like to call the attention of the Senate to an article in the December 1970 issue of the University of New Hampshire magazine, "Students Helping Others" by Bill Persch.

This article points to over two dozen university student "help organizations." These organizations are working in Red Cross blood drives, VISTA, 4-H work, and even the Durham, N.H., Volunteer Fire Department.

These student groups have created a 24-hour a day telephone answering service offering professional advice on legal aid, premarital counseling, medicine, and drugs. "Cool Aid" as this service is called

also provides the opportunity for just a personal conversation for the lonely in these times when there are so many impersonal occasions in our life.

The students at the university also help support religious organizations in their efforts to spread the Christian spirit both on and off campus.

All this does not mean that the students at the University of New Hampshire are any less concerned with what goes on in the political world. They have simply chosen to meet quietly with their representatives rather than shout their demands in the streets. They have chosen to quietly print and distribute their story rather than make the front pages.

Mr. President, I ask unanimous consent that this article about the constructive activities of the students at the University of New Hampshire be printed in the RECORD.

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

STUDENTS HELPING OTHERS

(By Bill Persch)

Grabbing most of the headline space these days are stories on campus dissent and reports of student groups intent on overturning the establishment in favor of remaking society from the ground up.

Seemingly lost in the shuffle of minority interests—left, right, or indifferent—have been the student majority whose voices sound the notice of assent and whose actions seek to affirm what's right with the world and to change what's wrong peacefully.

At UNH this year the ideal of students helping other students or people in the community less fortunate to find themselves and a better way of life has become dramatically real for many through the activities of at least two dozen "help organizations."

Actually not a new or even unusual "happening" on the campus, this informally-knit student movement includes pre- and post-degree manpower from virtually every academic corner of the University. Several faculty and townspeople volunteer time to act as advisers, consultants, or honorary members and are frequently called upon to give the older generation's point of view.

Typical of the kind of UNH student group symbolizing this little-known side of college life is the local chapter of Alpha Phi Omega. It is a service fraternity, not a social fraternity, and its 34 members have pledged themselves to the goal of "getting to know people better by helping them." It is just that simple.

According to chapter president Gregg Paquette, a senior art education major from Claremont, one of the forms this help takes is the sponsorship of the annual Miss UNH Pageant this month to award a $100 scholarship to a deserving coed who would otherwise be unable to finish college for lack of funds. Plans are being made to award two such grants in 1971.

Without doubt, however, the most ambitious undertaking of Alpha Phi Omega is running Campus Chest, a week-long series of events to raise money for campus projects, such as UNHITE (UNH Improve the Environment) campaign, the life studies course, or the black students' program. Through such crowd-pleasers as the first donkey basketball game ever seen in Snively Arena last semester, Alpha Phi Omega netted more than $440 which enabled a number of UNH student groups to last out the year.

Similar involvement in campus causes comes from the network of social fraternities and sororities whose biggest combined effort last year was something called the "Grecian Clearwater Revival," a local talent and dance concert which raised close to $500 to help stage the UNH Survival Fair and related Earth Day events which brought 3,000 visitors to campus last April.

On their own, Greek houses have volunteered student help for the Red Cross blood drive, part-time help for the Seacoast area VISTA and SCORE community advancement programs, and a house-cleaning party for the Newmarket Day Care Center. Phi Mu sorority is sponsoring an American Indian foster child living in Oklahoma.

One of the freshest approaches to the problem of how to extend a helping hand among a campus community of more than 10,000 has come from a privately-incorporated UNH student and community group known as Cool-Aid. Basically a telephone referral service, Cool-Aid offers the combination of anonymity and professional service to any caller 24 hours a day.

Approximately 40 seacoast professionals in such fields as legal aid, pre-marital counseling, medicine, and drugs serve the project by furnishing expert advice to callers who are troubled by any kind of personal problem. They can turn to Cool-Aid for this kind of help—or just for someone with whom to talk.

Project founder Ruth Sundeen, a junior from Dover, claims that well over 300 people have dialed 868-5600 for assistance since last spring and that nearly every caller has been helped—at least a little.

Speaking for her regular answering staff of about 30 volunteers trained in the basic people-to-people techniques employed by the UNH Counseling and Testing Center, Miss Sundeen explains why Cool-Aid was created.

"It is more than just helping people who need help," she says. "It is help for the people like us who want to help too."

Representative of a more spiritually-oriented answer for many students who belong to such campus groups as the Catholic Newman Club, the United Protestant Association, and Jewish Hillel is the response of the non-denominational Inter-Varsity Christian Fellowship.

Arthur J. Ward of Ossining, N.Y., an electrical engineering graduate and recent chapter president, explained it this way: "Our purpose is to somehow relate Christian Bible principles to everyday life on campus."

Although many hundreds of colleges and universities across the nation list fellowship chapters trying to do the same thing, the UNH chapter is one of New England's largest and most active. Weekly meetings with outside guest speakers, informal "bull sessions", bowling nights, and socials attract as many as 80 students on occasion during the year and have helped jump membership from 11 students in 1965 to 35 this year.

Entirely student-run with the exception of faculty advice from Kirk E. Farnsworth of the Department of Psychology, inter-varsity members have taken their learning from scripture into a wide range of career and campus interests. Three members helped out in a Boston Back Bay social work project last summer. Another member, a music major, found a part-time job as music programmer on radio station HCJB (Herald Christ Jesus Blessing) in Equador.

Still another point of view toward life on campus—a familiar one in New Hampshire—is the perspective of the student 4-H Club. Predictably more urban than farm-oriented these days, the University 4-H Club is busy spreading culture and home-making knowledge among the state's under-20 generation. "We Owe It to Our Children", a collection of student oil paintings and poems on an anti-pollution theme was the group's gift to Earth Day last April.

Next spring several hundred high school 4-Hers will visit the campus to participate in the annual 4-H activity day sponsored by the UNH membership. Besides contests and demonstrations in traditional 4-H fare, such as livestock, sheep, and poultry raising, 10 state county winners in clothing design, public speaking, choral singing, photography, child care, and conservation will go on display.

In another 4-H project, that of helping low-income families, a group of UNH home economics majors are teaching cooking and sewing skills to children and adults in Dover and Somersworth.

During the college year students are the mainstay of the volunteer Durham Ambulance Corps which serves the University, as well as Durham, Lee, and Madbury. There are about a dozen students who have taken Red Cross standard and advanced first aid courses, as well as specialized ambulance training, and as many more are enrolled in a new course being taught this fall.

Like their faculty and townspeople counterparts who carry on the ambulance service when the students are not around, the young members are on call at any hour of the day or night to go where emergency medical help is needed.

There are students who are call members of the Durham-UNH Fire Department. They train with the regular members of the department and become proficient in the use of the equipment carried on the fire trucks. Several of them spend their free hours at the station and they are ready and eager to respond when an alarm comes in.

Helping new freshmen to get adjusted to college life is the job of about 80 students who are members of the Freshman Camp staff. For several days in September approximately 100 incoming freshmen meet with these upperclassmen at a summer camp in Gilmanton. In an atmosphere of relaxed spontaneity, entering students learn to break down the strained air of unfamiliarity that goes with a new experience. Although a student-run venture, several members of the faculty, including group adviser John R. Haskell Jr. of the Whittemore School of Business and Economics, visit the camp for a firsthand look at the new arrivals before the rush of on-campus registration begins.

In January the 21 members of Mortar Board, senior women's scholastic honorary society, plan to sponsor a reception and luncheon for members of the New Hampshire Legislature in the hope of explaining exactly what is going on at UNH these days and how most students really feel on issues. Visits to community clubs and local organizations throughout the state to meet citizens and present a picture of student activities is another goal.

In a similar vein, a newly-organized undergraduate group calling itself "Image 71" is at work publishing a booklet telling the UNH student story for distribution throughout the state.

The roster of student and community organizations on campus grows still longer with the aid of intriguing names like Sophomore Sphinx or Campus Gold, but it becomes apparent after only a brief look at the activities that the real spirit of the universal symbol of peace is being kept alive at UNH more in terms of positive actions than negative words.

CASH-FOR-CANS ALUMINUM RECOVERY PROGRAM

Mr. ALLOTT. Mr. President, last year I shared with the Senate information regarding the pioneering and public-spirited efforts of the Adolph Coors Co. to improve the environment in its 11-State marketing area.

This effort involves a cash-for-cans incentive program to reduce litter and enable the company to approach its goal—production methods that will en-

able it to recycle everything the company uses.

In this regard I have recently received a most heartening progress report from my good friend, Mr. William R. Coors, chairman of the board of the Coors Co. So that all Senators may inform themselves concerning the efforts of this progressive company, I ask unanimous consent for his letter to be printed in the RECORD.

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

ADOLPH COORS CO.,
Golden, Colo., January 12, 1971.

Hon. GORDON ALLOTT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLOTT: A year ago I wrote all legislators in Adolph Coors Company's 11-state marketing area to advise that our company was embarking upon a cash-for-cans aluminum recovery program. We did that because this company and its distributors are solemnly committed to fight litter and solid waste in order to help keep America the kind of place we all want it to be. In light of that commitment, I believe you will be interested to know these things:

Public response to the cash-for-cans program has vastly exceeded our expectations. During the first 11 months of 1970, our 166 distributors received 5,218,463 pounds of aluminum or more than 120-million cans. We paid the organizations and individuals who picked up that aluminum $521,846 for doing so. The program is not restricted to Coors cans . . . we pay for all aluminum containers, of whatever brand. Literally hundreds if not thousands of youth, civic and service organizations are cooperating with this program; they use the dime-a-pound proceeds for worthwhile community causes of all kinds.

As you can imagine, our cash-for-cans program did not always meet with immediate public enthusiasm in our various marketing areas. Getting people concerned and involved has been the major Adolph Coors Company management effort during 1970, and in some cases it has been a long, uphill fight. In areas where the community has gotten behind the effort, we are showing returns of over 60% of our cans. Since our studies indicate that not more than one percent of our cans actually end up as litter and that fully 99% of the users of our product dispose of the empty can properly, a 60% return not only all but eliminates the litter but makes an appreciable dent in the solids waste aspects as well.

Litter has been defined as the visible portion of the solids waste iceberg. Although unsightly and repugnant, litter is but a small fraction of the real, long-range environmental problem of solids waste disposal. We are confident that in the long run recycling of aluminum containers will be a more satisfactory answer than returnable glass bottles in minimizing solids waste. For example, both Pepsi-Cola and Coca-Cola report that they only average 90% return on returnable soft-drink bottles which are sold for home consumption. In densely populated urban areas, the rate of return drops as low as 75%. One thousand returnable bottles weigh about 750 pounds. At 90% return, each 1,000 bottles sold adds 75 pounds of glass to litter and solids wastes. One thousand aluminum cans weigh only 40 pounds. With no salvage at all the aluminum cans would comprise only about half the weight of solids waste that returnable bottles do. Yet we are confident of reaching a minimum 75% recycle level given the time to do so.

Although we regard litter as the pressing and immediate problem and our initial efforts with the cash-for-cans program have mainly been directed at correcting litter, we view the impending and ominous matter of solids waste and its disposal as the real and serious long-range environmental challenge. Thus, we regard aluminum can salvage and recycle as a permanent part of our overall operation. Of all of our management objectives it has the top priority. Our hope is that we will be allowed sufficient time to make it work. Our success to date exceeds our fondest hopes although we regard it as just a start.

Adolph Coors Company and its distributors will intensify their efforts to make the cash-for-cans program even more successful in 1971. We anticipate that far more aluminum will be recovered for recycling. More and more companies are turning to aluminum packaging because they realize its environmental value. Further, in 1971 our company will discontinue use of the tall tinplate can replacing it with an aluminum can of our own manufacture. When that changeover is complete, *all* canned beer marketed by Coors will be in aluminum cans.

A new and important program at Adolph Coors Company will provide for the salvage and reuse or recycle of our convenience bottles which have heretofore been nonreturnable. All such bottles will soon have a redemption value of one cent each. The majority of these will be suitable for reuse. Those that are not will be returned as cullet to a glass factory located a few miles from our brewery in Golden and melted up to be made into new bottles—that is—recycled. Glass like aluminum can be infinitely recycled.

Thus with the completion of our 1971 changeover on the tall can from tinplate to aluminum and the immediate adoption of a complete system of returnable bottles, every Coors can and bottle will have a cash return value. Both plans will be in effect throughout our entire marketing area . . . Arizona, California, Colorado, Idaho, Kansas, Nevada, New Mexico, Oklahoma, Texas, Utah and Wyoming.

One other thing. A top management committee at our company now is meeting regularly to determine how we can *recycle everything that Adolph Coors Company uses* . . . not only aluminum and glass, but also wood, paper and the rest. We have found some answers; we are seeking a total answer. This effort also has top management priority.

Our company is totally dedicated to the business of keeping this nation clean and inviting. We share and appreciate your concern with this vital problem. You have my personal pledge that Adolph Coors Company will be an outstanding leader in the preservation of a quality environment for America.

Sincerely,

WILLIAM K. COORS,
Chairman of the Board.

UNAUTHORIZED USE OF NAMES BY "EAST-WEST TRADE MISSION"

Mr. MONDALE. Mr. President, recently, a mailing went out from an organization calling itself the East-West Trade Mission, headquartered at the World Trade Center in San Francisco, Calif. This mailing was soliciting participants for a trip to Yugoslavia and the Soviet Union and allegedly into Communist China.

On the letterhead appeared my name as vice chairman of the mission. Appearing also on the letterhead as members of the advisory board were Senator PERCY, Congressman CONTE, and Congressman LEGGETT.

None of us authorized the use of our names in connection with this venture. We have no reason to have any confidence whatsoever in this mission and wish to wholly disassociate ourselves from any connection with, endorsement of, or intention to participate in this trip.

I have yet to receive even so much as a letter from the organizers of this alleged East-West Trade Mission, but upon hearing from other sources of the use of my name, I sent the following telegram, which I ask be reprinted at this point in the RECORD.

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

Mr. PAUL SJEKLOCHA,
East-West Trade Mission,
World Trade Center,
San Francisco, Calif.

Regret the unfortunate use of my name unauthorized on recent mailing soliciting members for trip to Yugoslavia, Soviet Union, and China. Request immediate list with full mailing addresses of all persons contacted in any way with this trip on stationery with my name on letterhead.

WALTER F. MONDALE,
U.S. Senator.

Mr. MONDALE. Many of the other individuals appearing on this letter were similarly unaware of this use of their names, and Senator PERCY has also informed the mission that his name should never have been used. Senator PERCY and I, and Congressmen LEGGETT and CONTE, all of whom wish to be associated with this disavowal, will make every attempt to reach those contacted by this solicitation and inform them of this unfortunate error.

TOWARD A NEW CHINA POLICY—ADDRESS BY SENATOR McGOVERN

Mr. FULBRIGHT. Mr. President, on Sunday the Senator from South Dakota (Mr. MCGOVERN) made an important address urging revision of our Nation's long outmoded and ill-founded policy toward China.

It deserves the attention of all persons interested in foreign policy and I ask unanimous consent that the text of his address be printed in the RECORD.

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

TOWARD A NEW CHINA POLICY

(Remarks by Senator GEORGE MCGOVERN at the University of the Pacific, Stockton, Calif., Jan. 24, 1971)

A few days ago I announced that I am a candidate for the presidency of the United States.

In announcing that decision I made one commitment above all others. I pledged to seek and speak the truth with all the resources of mind and spirit I command.

That standard requires an early effort to dispel the fog and myth which have for the past twenty years befuddled our attitudes and our actions toward Mainland China. These myths and fears may be the most costly and dangerous untruths in all of American public policy.

They have isolated a population of 800 million, more than one-fourth of the world's people.

They have isolated the United States position from a large and growing body of world

opinions and practice; from trade, from diplomatic recognition, and from other forms of contacts which should characterize relations between mature societies.

They have pushed Chinese leadership into belligerence and suspicion toward the United States, creating enormous obstacles to the normalized relations which even the Nixon Administration, led by an architect of our distorted vision, seems now to recognize must ultimately come.

They have placed us on the wrong side of nationalistic aspirations throughout Asia, and have forced our alliance with governments which degrade the very principles of democracy, liberty and independence upon which our own nation is founded.

And they have brought us twice into major wars, with a toll of 100,000 Americans dead in Korea and Vietnam and the total still rising in seemingly endless devastation.

We must begin immediately to escape the tyranny of the untruths which have shackled our thinking for so long and to such ill effect.

Our policy still reflects a belief, persisting since 1949, that the present government in Peking is but a temporary usurper of legitimate power in China. We still await the eventual return of Chiang Kai-shek or his descendents, expecting that he and some two million followers on Taiwan will somehow recapture control over the vast multitude of the Mainland which long ago expelled him.

Put bluntly this is pure fantasy and it impedes all hopes for improved Sino-American relations. The Chinese civil war is over on the Mainland and it will not be undone.

We formed the Southeast Asia Treaty Organization, and we entered Vietnam and remain there today, because of another set of mistaken beliefs—those holding that China seeks to, or can, conquer and dominate her Asian neighbors. It is the domino theory, Dean Rusk's "yellow peril" or Vice President Agnew's more recent picture of a "Red Peking tidal wave engulfing all of Asia and Southeast Asia."

It is wrong for several reasons. It assumes that China has the capacity to negate sentiments for nationhood and independence to which the Dutch, the British, the Japanese and the French have already yielded, and to which we must eventually yield as well.

It assumes much more than the evidence sustains about Chinese regional ambitions and capacities. Those ambitions doubtless seek removal of visible threats to Chinese security—including some 600,000 American troops stationed in countries on her borders. They doubtless call, at least, for international neutrality among those countries, and a willingness to deal with the same sort of Chinese influence that would be demanded by any Chinese government, communist or not. But where is the evidence that China is about to engulf her neighbors.

Notwithstanding bellicose rhetoric, Chinese troops have operated beyond Chinese borders rarely in the past twenty-one years. They entered Korea only when the forces of General MacArthur were racing toward their borders in the Yalu River. If we have been unable until now to perceive their action as defensive, we should certainly be able to understand it in light of our own current "protective reaction" phraseology. Chinese troops have fought in India and Tibet, but the objectives were to claim disputed territory not to elevate new ideology. We must also rely upon conjecture to support our impression of China as an instigator and driving force behind "wars of national liberation" in Asia and other parts of the world.

China has offered limited training and equipment to insurrectionary forces in a few countries. But she also regards revolution as a "do-it-yourself" enterprise. Thus, in the heavily analyzed writings of Defense Marshal Lin Piao, the heir-apparent to Mao Tse-tung, China is presented as a model and other nations are told to carry out their own revolutions with no expectation of Chinese aid. China aspires to be the ideological center of world revolution, she seems to cherish with equal fervor her role as noncombatant.

In defiance of our historic friendly relations with the Chinese people, we have also come to regard communist Chinese as a race apart, intensely militant in nature and utterly lacking in civilized regard for human life. Like any racial prejudice, the thesis is without rational support.

Finally, and with the gravest consequences, we see China as an inevitable military threat to our own security. Again, we take our view from selective reading of propaganda, ignoring both the written and real evidence of internal preoccupation and international caution.

China, with four times our population, has a gross national product of less than one-twelfth of our own. She spends less than one-twelfth as much as we do on defense. She has fewer armed forces than we, and they are, especially after the cultural revolution, as much civil servants as soldiers. Some 85% of her population is agricultural, devoted to the gigantic task of feeding her vast population. She is beset with enormous internal difficulties. Even if she had the inclination, she has neither the military or industrial capacity to seriously threaten our safety, at levels beyond the protection we can readily supply.

It is time we began to assess China in realistic terms.

We must do so, first, because our actions and preparations for dealing with the China of our imaginations have damaged us far more than the China that is real either can or would.

We must do so because our policy, instead of responding to existing threats, tends to create threats which would otherwise not be posed.

And we must do so because we approach a new era, in which the consequences of continued efforts to isolate, encircle and vilify China can be even more deadly than the costs of the past.

Let me suggest, then, several fundamental elements of a new posture toward China.

First, we should forego any plan to construct an area defense antiballistic missile system designed to nullify the budding Chinese deterrent force.

We have good enough reason to give up such plans on purely technical grounds, because the NIKE–X–Sentinel–Safeguard cannot protect our population against even moderately sophisticated ICBM's, let alone against other methods of delivery.

But the implications for U.S.-China relations raise overwhelming support for the same conclusion. We do not need an anti-Chinese ABM, and its construction will harm immeasurably the prospects for nuclear stability.

China's attitude toward nuclear weapons has been brash in rhetoric but cautious in practice. Like other nuclear powers, they contend that their nuclear capability is developed solely to deter a nuclear attack from other countries. Their nuclear tests have been accompanied by advocacy of nuclear disarmament and the creation of "nuclear-weapon-free" zones. They have made a unilateral commitment against their own first use of nuclear weapons—something the United States has never done. They upbraided the Soviet Union for "adventurism" following the Cuban missile crisis in 1962.

But if we still fear China's attitudes, there is no prospect at all that the Chinese will attain a nuclear force big enough or advanced enough to threaten our deterrent. They need never doubt that any attack on the United States will bring immediate destruction to their own society, to all of their cities, to all of their painfully built industrial base, and to millions of their people.

Under such circumstances construction of an anti-Chinese ABM requires us to believe that Peking is ruled by fools and suicidal maniacs.

We cannot welcome any proliferation in these dangerous weapons. But neither can we stop the emergence of China as a nuclear force. We gain nothing and lose much, therefore, by attempting to deny China the ability to deter nuclear attack; by attempting to deny her the same protection we consider prudent and responsible for ourselves.

Second, our position on trade with China should be put on the same basis as U.S. trade with the Soviet Union and other communist nations in Eastern Europe. We must end the almost total embargo on trade which we have imposed for twenty years. It is a relic of a futile and foolish attempt to bring down the communist government by isolating her from normal social and economic relations not only with the United States but with all free countries. Its primary victim has been the United States. It is costing us a vast market for our produce that is now being preempted by the Japanese and others while we keep our head stuck in the sand.

Third, as an effort to initiate travel and cultural contacts, an invitation should be made at the Warsaw talks, and eventually in open dialogue with the Peking government, for visitations to the United States by Chinese scientists, government officials, newspapermen, and similar groups. We should begin, as well, to encourage American-Chinese natural scientists working in purely theoretical fields to resume their private contacts in China and to seek visas to visit their families, relatives and friends from whom they have been separated for more than 20 years.

Fourth, we must address without equivocation the perplexing question of Chinese representation in the United Nations.

Prior to the next general assembly meeting, the United States should enlist majority support for a resolution to recognize the Peoples Republic of China as the legitimate occupant of China's seats in the United Nations General Assembly and on the Security Council. On the question of Taiwan, we may consider a subsequent arrangement continuing membership in the U.N., but not on the Security Council, pending settlement of the island's status. We should abandon our effort to designate Chinese representation an "important question" requiring two-thirds approval.

Fifth, we should adopt a similar approach to the problem of recognition. Again, I can foresee no simple solution to the Taiwan issue. We should, however, be clear on one point; that our recognition of reality with respect to the Chinese civil war will, of itself, raise serious questions about Chiang Kai-shek's claim that he leads the government of any country. He agrees with Peking's claim that Taiwan is part of China. If that issue is resolved positively then we must recognize that Taiwan, too, will live under the same government as the Mainland. If not, and there are some historical and ethnic reasons for such a view, then Chiang's claim to authority on the island will still derive only from the fact that he fled there and took and held power with brutal force after his defeat on the Mainland.

In any case, the status of Taiwan is not ours to decide. We may hope for its resolution through international auspices or among the Chinese and Taiwanese people themselves. But we should move now to recognize the government in Peking and to seek diplomatic relations. Chinese acceptance of the Canada formula, in which Canada was obliged only to take note of the Chinese claim to Taiwan, sets a useful pattern which we could wisely pursue. The desperate need for growing knowledge, contact and understanding should be denied no longer.

For twenty-five years, through the administration of five presidents, Democratic and Republican, the United States has managed to avoid both nuclear and conventional war with the Soviet Union.

Within the next decade we must learn to live with another hostile nuclear power. We must gain that knowledge quickly, and we must overcome conditions of ignorance and mutual distrust immensely more serious than those which accompanied the Soviet Union's nuclear capability.

But we can draw on that experience.

Avoiding war with the Soviet Union has meant many things. It has, of course, meant maintaining forces of our own sufficient to prevent nuclear blackmail. But that is only a small part of the problem and one easily overemphasized, for to arm beyond the requirements of deterrence is to accelerate a dangerous and wasteful arms race.

It has meant devoting much of our ablest diplomatic talent to Soviet affairs, so that our men in Moscow might provide our government with the most accurate possible understanding of Soviet capabilities, plans and interests.

It has meant establishing facilities and institutions through which we can communicate clearly and quickly with Soviet leaders, so that war will not occur through misunderstanding or accident.

It has meant the quest for an intelligent and realistic appraisal of our own essential interests and those of our allies, so that we can negotiate with a clear understanding of the possibilities and priorities.

It has meant sometimes taking the first step when there was no assurance that our initiative would be reciprocated.

Above all, it has meant a constant and patient search, probing for areas of common interest so that we might not only avoid war but also begin the process of controlling, and then ending, the production of those weapons that make war between nuclear powers the most ominous threat to the world's future.

The heaviest responsibility facing the next president is to initiate and then press forward as rapidly as circumstances will allow, a dialogue with China of the sort that has made our relations with the Soviet Union, if not friendly, at least less dangerous to ourselves and to the world.

The search will require patience, skill and understanding, as it has in the case of the Soviet Union. We have had, and will continue to have, profound differences of interest and outlook with both regimes. At the beginning we can expect that many of our initiatives will be met with scorn.

But we do have common interests. We share, I believe, a common aspiration for avoiding the confrontation which could end human life on this planet, for in that kind of conflict there can be no winners.

And we *can* share a respect for national boundaries in all parts of the world, and a hope that what competition there is between conflicting ideologies beyond those boundaries will be conducted in peace. We can achieve that if we can on both sides replace hysteria with reason and temper our passion with common sense.

A nation as rich and powerful as the United States can readily afford to move in a spirit of understanding and respect.

If we are truly committed to truth, and if we are determined to shed the burdens of past mistakes, then we can clearly do no less.

THE 53D ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. ALLOTT. Mr. President, this Friday all Americans will join the millions of Americans of Ukrainian descent in celebrating the 53d anniversary of Ukrainian independence.

This day has special meaning for those Americans who are directly linked by ties of birth, or memory or affection with Ukrainia. But it should also have special meaning for all other Americans who have similar ties with the numerous other nations currently suffering under Soviet despotism.

For every American who has ties to a captive nation, this day is a day for renewed dedication to the proposition that freedom is indivisible.

Similarly, for all Americans, of whatever ethnic stock, Ukrainian independence day is a day for counting our blessings. We who were born free cannot neglect the lessons which history has taught about the vulnerability of freedom. We have much to learn from those of our fellow citizens who have had more direct experience with 20th century tyranny.

This Nation is fortunate to have the allegiance of these brave and good citizens, whose understanding of the meaning and price of freedom is so clear.

PORTSMOUTH NAVAL SHIPYARD DISPLAYS ITS GOOD CITIZENSHIP

Mr. McINTYRE. Mr. President, I have always been proud of the Portsmouth Naval Shipyard's contribution to the defense of our country and their contribution to the welfare of our citizens. Once again they deserve recognition. The Portsmouth Naval Shipyard employees and military personnel reached an all-time high for blood donations in the New Hampshire-Vermont area.

Mr. President, I ask unanimous consent that an article about their contribution which appeared in the Portsmouth Periscope be printed in the RECORD.

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

PORTSMOUTH'S BLOOD DONATIONS IN 1970 AT ALL TIME HIGH; SHIPYARD LEADS ALL INDUSTRIES IN VERMONT-NEW HAMPSHIRE

Blood donations by employees and military personnel on the monthly visits of the Red Cross Bloodmobile during the calendar year 1970 surpassed donations in all industrial facilities in New Hampshire and Vermont. A total of 2,115 pints of blood were donated at PNS during 1970, an average of 176 pints of blood each month. This is an all time high for blood donors at Portsmouth. Previous record high was in 1966, with 2,072 pints of blood donated.

Shipyarders consistent support of the Blood Program was recognized Tuesday morning, December 15, at a ceremony held in the Administration Bldg., when Charles T. Mazza, Assistant Administrator, Vermont-New Hampshire Red Cross Regional Blood Center, presented a letter of commendation to Captain Donald H. Kern, Shipyard Commander, who accepted the citation for all PNS blood donors. Mazza added his personal commendation, pointing out that accolades were also in order to volunteers who turn out to donate and are unable to do so because they cannot meet medical standards for giving blood.

Representing all blood donors at the ceremony were Earl F. Frost, Shop 72 and Robert P. Hopley, Planning. They are among the leading donors, each employee having donated 10 gallons of blood. Maurice Bedard, also a 10 gallon donor, was unable to attend. He is the Shipyard's top donor, with 86 pints of blood credited to his official Blood Donor Record card.

Among Shipyard officials in attendance were Donald K. Holster, Director of Industrial Relations and Administrator of the Shipyard's Blood Program; and Kenneth C. Clement, Employee Services, who is Coordinator.

The letter of commendation, signed by Edward R. Stearn, Administrator, Vt.-N. H. Red Cross Blood Program, with headquarters in Burlington, Vt., is quoted:

"Officials of the Vermont-New Hampshire Red Cross Blood Program throughout the region join me in extending heartiest congratulations on the outstanding blood drawing held at the Portsmouth Naval Shipyard December 2. As you may know, the 206 pints donated that day brought the total for the calendar year 1970 to 2,115 pints, an all time high for this installation. As a matter of fact, this is also a new 12-month record for any group, plant or other facility in our entire region.

"The total donated on December 2 could not have arrived at a better time, since our blood drawing for the preceding week had been curtailed by the Thanksgiving holiday and with no drawing being held on the day following. Thanks to the response of Shipyard employees, however, we were able to meet all demands, including exactly 100 pints sent to just one of our hospitals over a three day period from Saturday through Monday.

"A quick check of our records indicates that in the 208 blood drawings held at the Portsmouth Naval Shipyard from September 1953 through December 1970, there have been 27,774 pints of blood donated. In itself this total is outstanding, but we believe there are two factors that make this figure even more significant. The first is that donations are on the rise rather than declining. The second is that every request we have made for rare types of blood to meet special situations such as open heart surgery, aneurysms, etc., have, without exception, been exceeded by a substantial margin.

"All of us involved in the day to day operation of this program are aware of the time and effort required to achieve the results enumerated above. Please convey our sincere thanks to Donald K. Holster, Director, Industrial Relations Office and Kenneth C. Clement, Blood Program Coordinator, for the planning and direction they have given this program over the years.

"We trust that all others who have helped in any way in achieving this outstanding record of accomplishment are aware of how much their support is appreciated by our hospital patients and their families. Needless to say, we are aware that this increase in donations in recent years could not have been achieved without your personal interest and support."

SOVIET TREATMENT OF JEWS

Mr. TOWER. Mr. President, I would like to take this opportunity to speak briefly on the plight of Soviet Jewry. Many Americans, both in the public and private sector, have recently condemned Soviet atrocities toward Russian Jews. It was perhaps this public condemnation that most contributed to the commutation of the death penalties handed down by the Soviet court in the case of the "alleged" Leningrad hijackers.

Although the facts seem to clearly stand out in this matter, I would like to briefly address myself toward an examination of Soviet policy with regards to its Jewish minority. Unlike other minority groups, Jews in the Soviet Union lack the basic privileges afforded to their fellow citizens. They are not allowed to learn either Hebrew or the Yiddish language in Soviet schools. Many of their

religious observances have been hindered by state restrictions.

Although the state atheistic policy supposedly does allow freedom of religious expression for the Jew, this freedom is indeed limited. The largest synagogue in Moscow has a seating capacity for around 600 people. There are only three synagogues in Moscow serving 500,000 Jews. A new edition of a Hebrew prayer book has not been printed in years.

Soviet policy toward Russian Jews represents a perfect example of Communist "double think." Such a policy is enunciated through state rhetoric proclaiming the justice and humanity of the Soviet system. In many instances, Russian Jews are paraded into the public eye extolling the justice of the system. Undoubtedly, fear for their own lives, as well as for the lives of their families and friends, has played a large role in their public allegiance to the Soviet Union.

The other side of the "doublethink" campaign is represented by an increasing antisemetic effort by the totalitarian regime of Brezhnev and Kosygin. Although it is clear that the czarist pogroms and the Nazi-like concentration camp experiences are absent from Soviet life, it seems to me that a policy of genocide does exist in the Soviet Union. It can be labeled as a genocide policy aimed at the spirit—a policy intended to destroy the personal and unique qualities of a people.

This policy, which has accentuated over the past few months, seems to be backfiring. As happens in so many similar episodes of human behavior, the persecuted Jewish minority in Russia has rediscovered a sense of cultural and religious cohesiveness. Russian Jews in growing numbers have rejected the goal of complete assimilation into Soviet society.

We must ask ourselves what are the causes for this sudden upsurge of blatant anti-Semitic activity in Russia. There are a number of plausible answers to this question. First, it seems quite evident that the powers that be in the Soviet Union are attempting, with some success, to place the "scapegoat" image on the Jews. This is not new to the world and particularly not new to Russia. Of course, somebody must be blamed for the failure of the Bolshevik revolution and the Marxist ideal. By placing the blame on a recalcitrant and mostly unassimilated minority, Soviet authorities intend to take the pressure off themselves.

Therefore, Soviet propaganda has shifted the blame to some innocuous worldwide conspiracy spearheaded by the expansionist State of Israel and the imperialistic nations in the free world. This is most absurd. The only concrete problem in this matter is the desire of a group of people to realize self-determination; to acquire the choice of living either in the Soviet Union free from prejudice and discrimination or to have the opportunity to emigrate to Israel.

It is estimated that at least 50 percent of the Jews now living in the Soviet Union would emigrate to Israel if the opportunity would arise. The granting of this license to emigrate, it would seem to me, would represent a major propaganda victory for the Soviet system. It would show to the world that Soviet justice and humanitarianism can at times be more than the empty words we so often read about in Pravda and Izvestia.

The failure to grant this license indicates that something deeper than what appears on the surface has assisted in formulating Soviet policy. I would strongly suggest that some direct or indirect agreement has been made between the Soviet Union and a number of Arab States stipulating that Jewish emigration to Israel be kept at a bare minimum. Although certainly no agreement has been made public, it is quite likely that one exists. Israel is one of the few countries in the world that is actively encouraging people to emigrate to her land. This is to be understood, since population and military manpower is perhaps the only area where Israel's Arab neighbors can claim an advantage. It must be considered, at least in a military sense, a triumph of enormous magnitude that a people numbering less than 3 million has been able to withstand a force of more than 100 million people for such a long period of time.

The world must continue to apply pressure to Soviet persecution of its Jewish minority. The United States, as leader of the free world, must continue to make note of a judicial system whose main characteristic is that individuals are considered guilty until proven innocent and where defense counsel is in reality a simple tool of the Procurator's Office.

The recent kangaroo court procedures of the alleged Leningrad hijackers is a perfect example of the Soviet judicial system. Moreover, it is an example of the "de-Khrushchevization" policy—an exclusively Soviet intention to harden relations with the free world. We must call attention to these atrocities. However, attention in the form of bombing Soviet buildings in the United States represents a simple degeneration to tactics epitomized by Communists and supporters of those governments.

I will continue to make note of similar examples of Soviet totalitarian injustice as they appear in the future. I am confident that the Congress, the President and all people who cherish freedom will join me in this endeavor.

GEN. DOUGLAS MacARTHUR BIRTH ANNIVERSARY

Mr. BYRD of Virginia. Mr. President, yesterday, January 26, was the 91st anniversary of the birth of General of the Army, Douglas MacArthur.

It was a day, too, in which the Douglas MacArthur commemorative stamp was issued in the city of Norfolk, Va.

It is appropriate that this stamp should be first issued in Virginia's largest city, and the city in which General MacArthur's mother was born. Norfolk is also the site of the MacArthur Memorial Foundation, whose president and treasurer is the former mayor, W. Fred Duckworth.

Making the address at the luncheon, attended by 600 guests, was Gen. William C. Westmoreland, Chief of Staff of the U.S. Army. Present, too, was Mrs. Douglas MacArthur, the General's widow.

There are several lines in General Westmoreland's address to which I invite special attention. He, as did General MacArthur, emphasized that the guidepost of the American soldier is "duty, honor and country." I cite another paragraph in General Westmoreland's address.

> General MacArthur knew better than most that the struggle for freedom never ends . . . it is eternal. Each new generation must resecure for itself the blessings of liberty—both the privileges, and more important the responsibilities.

I ask unanimous consent that the text of General Westmoreland's address be at this time printed in the RECORD.

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

REMARKS BY GENERAL W. C. WESTMORELAND, CHIEF OF STAFF, UNITED STATES ARMY, DEDICATION OF THE GENERAL OF THE ARMY, DOUGLAS MACARTHUR COMMEMORATIVE STAMP, GOLDEN TRIANGLE HOTEL, NORFOLK, VA., TUESDAY, JANUARY 26, 1971

To participate in this tribute to General of the Army Douglas MacArthur is a personal honor and privilege. But as we dedicate this commemorative stamp, we also, today, celebrate the 91st birthday of this giant of a man.

Soldier, statesman, administrator, patriot, and genuine humanitarian, General MacArthur has earned a hallowed place in the history of our Nation. His exploits need no recital to the American people. They are well known to all. They are a tribute to a half century of dedicated service to our country . . . in peace and in three wars.

General MacArthur was first and foremost a professional soldier. But he was more than the sum of his individual acts—he lives as the embodiment of all that a soldier aspires to be, what he can be, what he shall be. He is the symbol of the profession of arms. As we salute this great soldier, we recognize at the same time the profession that he has so dramatically represented and the hundreds of thousands of men who follow in his path.

Appreciation for the military profession . . . what it means . . . what it supports . . . why it is necessary . . . was enshrined as never before by General MacArthur on that day in 1962 at West Point when he received the highest award of his fellow alumni—the Sylvanus Thayer Award. As Superintendent of the United States Military Academy at the time, I was privileged to be his official host. In accepting the award, General MacArthur, before the assembled Corps of Cadets, graduates, and distinguished guests, spoke without notes for 45 minutes in the most eloquent prose. He stated that his receipt of that award was . . . not intended primarily to honor a personality, but to symbolize a great moral code . . . an expression of the ethics of the American soldier . . . the profession of arms . . . that the very obsession of [the] public service [of the American soldier] must be duty, honor, country. . . .

Today, the very obsession of our Army on the frontiers of freedom throughout the world remains focused on General MacArthur's dramatic charge.

Throughout his entire career, General MacArthur had the satisfaction that only comes from "helping others help themselves" . . . first in the Philippines . . . next in Japan . . . then in Korea . . . a satisfaction that we now have in Vietnam, where once again we as a nation help others to help themselves.

There the young men in our Armed Forces have essentially done what they were asked to do:

Help prevent a communist takover by force of South Vietnam.

Help bring an end to terror in South Vietnam.

Help achieve a just, honorable and lasting peace.

And help South Vietnam build a strong viable nation. I know that General MacArthur would be proud of the demonstrable dedication of the men who have done their duty in Southeast Asia . . . who have done—and done well—what they were asked to do

General MacArthur knew better than most that the struggle for freedom never ends . . . it is eternal. Each new generation must re-secure for itself the blessings of liberty—both the privileges and more important the responsibilities.

No one appreciated more our rich tradition and the price that humanity has paid for freedom than General Douglas MacArthur. In responding to the results of a magazine poll on the question of the military obligations of the citizen, he stated: . . . so many seem to be unfamiliar with the struggle of mankind for the free institutions we enjoy. Magna Carta, the Declaration of Independence, the Emancipation, the rights of small nations and other birthrights of this generation have been bought with the high price of human suffering and human sacrifice, much of it on the fields of battle.

These eloquent words of General MacArthur reflecting the cost of freedom were recorded almost four decades ago. They are true today . . . they are immutable.

Our Army stationed here in the United States and around the world—an Army of over a million men and women—is your Army just as it was in General MacArthur's time. Its only reason for being is to safeguard those values in our way of life that all of us so jealously cherish—to serve the national interest.

The United States Army has always served our Nation with unfaltering dedication, unswerving loyalty, and absolute devotion. We continue to cherish our apolitical role as set forth in our Constitution. General MacArthur's charge that the "great national problems are not for [military] professional participation or military solution" has never been more appropriate. Our "guidepost stands out like a ten-fold beacon in the night: Duty, honor, country."

His legacy . . . symbolized by the stamp we dedicate today . . . is our obligation to the American people of this great Nation.

MIDDLE EAST OIL

Mr. TOWER. Mr. President, in recent days, the Persian Gulf members of the Organization of Petroleum Exporting Countries—OPEC—have raised the specter of an embargo of the shipment of Middle East crude oil. This will place our friends and allies in Western Europe and Japan in an extremely precarious position. Fortunately for this country, our domestic oil industry is strong enough to allow us to avoid total dependence upon Middle East supplies.

If an oil embargo does occur, it is estimated that Western Europe will exhaust its petroleum supplies within 3 months. This country cannot supply Western Europe with petroleum as it did in 1967 because of its own increased domestic needs and the defense requirements in Vietnam.

We will have to carefully utilize our resources to meet our own needs. Because a great portion of the petroleum used in Vietnam comes from the Middle East, we will be forced to supply our military effort from our own oil production. Because we have avoided reliance upon foreign crude oil sources, we can do this.

I would caution, however, that both Venezuela and Canada supply the United States with significant quantities of crude oil. The Canadians in turn get an important part of their crude oil from the Persian Gulf. It is reasonable to assume then, that a Middle East embargo would reduce the oil available to Canada and, therefore, reduce the amount of oil which that country would be willing to export to the United States.

I regret that we face the danger of an embargo and hope that it will not materialize. I must point out, however, that those of us who support a strong domestic oil industry presented the possibility of this very danger to Congress when it cut the depletion allowance last year and to the administration and Congress alike when they considered eliminating the mandatory oil import quota system. I argued then that these steps—reduction of the depletion allowance and elimination of the quota system—would so weaken our domestic oil industry that our Nation would be forced to rely on foreign sources for our petroleum needs. The argument is valid today.

We can all be thankful that the President heard our plea and preserved the oil import quota system. The health of the domestic oil industry is necessary to the welfare of the United States. We cannot allow it to become so weak that we find ourselves in the position of our Western European friends—at the mercy of foreign sources for our very survival.

CRISIS OF EMPLOYMENT AMONG RETURNING VETERANS

Mr. CRANSTON. Mr. President, the problem of unemployment among our returning veterans is reaching critical proportions. While the unemployment crisis has reached dire proportions throughout our society, the effect upon veterans is among the most serious. The unemployment rate for veterans is consistently higher than among comparable nonveterans of the same age and educational level.

I have been most concerned about double sacrifices we are imposing upon our veterans. Not only do they risk their lives and limbs in military service to their country, but they are also bearing the greatest part of the burden of unemployment in the war against inflation, a situation created by the very war in which these men have served.

In the last session of the 91st Congress, I worked to include special provisions to assist veterans in S. 3867, the comprehensive Employment and Manpower Act, which was vetoed by the President on December 16, 1970.

As chairman of the Subcommittee on Veterans' Affairs of the Committee on Labor and Public Welfare, I held hearings on unemployment and overall readjustment problems of returning veterans on November 25 and December 3, 1970. These hearings revealed that the No. 1 problem facing veterans is unemployment, and that immediate action is needed. I am currently preparing legislation to correct some of the problems revealed by these hearings.

On January 25, I joined with the distinguished Senator from Wisconsin (Mr. NELSON) and the distinguished Senator from New York (Mr. JAVITS) as well as 23 other Senators in sponsoring legislation to provide public service employment during periods of widespread unemployment. This bill, S. 31, the Emergency Employment Act, will provide meaningful service jobs for the unemployed and underemployed, including veterans. In section 2(4) of the bill a special emphasis on returning veterans' employment needs is included.

The problem of veterans' unemployment has recently received more of the public recognition it deserves. I am most pleased that our subcommittee hearings have helped to focus attention on this issue.

The administration and several veterans' groups have taken action to publicize this critical situation, primarily through efforts to bring veterans and existing jobs together. This effort is commendable and should be encouraged. However, this does not reach the most serious problem of insuring that enough jobs exist to be filled by the unemployed, especially our unemployed veterans.

The Veterans of Foreign Wars is an organization dedicated to the service of its fellow veterans and deserves congratulations for its continuing efforts to develop solutions and programs for the successful readjustment of returning veterans.

A recent article in the VFW magazine underscores the veterans' unemployment problem and emphasizes the need to provide prompt and effective job counseling and job placement services.

Printed with the article are the pertinent comments of concern expressed by my good friend and fellow Californian, Mr. H. R. Rainwater, commander in chief of the Veterans of Foreign Wars.

Mr. President, I commend the article and comments to the attention of my colleagues and I ask unanimous consent that the article by Mr. James K. Anderson, "Jobs for Veterans," which appears at page 21 of the January 1971 issue of the VFW magazine, along with comments of Mr. Rainwater be printed in the RECORD.

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

JOBS FOR VETERANS

(By James K. Anderson)

What are the job prospects for returning veterans in 1971?

This is a major question facing young men as they return to civilian life and one that the Nixon Administration is going to be wrestling with for many months to come.

In an effort to help them find suitable work, President Nixon in October began a Jobs for Veterans Campaign aimed at focussing national attention on the problem, using existing programs to train veterans and to encourage employers to hire them.

"Jobs for Veterans is a nationwide effort to highlight the quality of the American veteran whose blend of skills and self-discipline make him an ideal candidate for employment," said President Nixon. "He has

proved himself in the military—all he needs is the opportunity to demonstrate that he can contribute as much in civilian employment.

"I want this program to increase the national awareness of the veteran's potential as an employee and I am confident that public and private employers will meet the challenge by providing veterans with widened job and training opportunities."

James F. Oates Jr., retired president of the Equitable Life Assurance Society, was appointed national chairman.

Involved in the campaign are the Departments of Labor, Commerce and Defense and the Veterans Administration.

Out of the 27 million living veterans, almost 4,100,000 are from the Vietnam Era. This means that they are younger—their average age is 25.3, compared with 44.4 for all veterans—and many this year will be entering the job market for the first time.

Heightening the problem of veteran employment is the expected higher discharge rate in 1971, accompanying increased troop withdrawals from Vietnam. In recent years, separations from the service have added approximately a million men a year to the nation's job force. The number of returning veterans has been increasing at a rate of 100,000 a year since 1965.

A partial picture of the employment problems of veterans in a tightening job market can be seen from their jobless pay claims filed under the special Unemployment Compensation Plan for Ex-Servicemen (UCX).

According to the Department of Labor statistics, 78,200 veterans were reported to be continuing to file claims by the end of the first week of last July. This total was 44,900 more than for the same period in 1969. Now the rate of new claims being filed by recently discharged veterans is running at the rate of more than 40,000 a month.

Some 2 million veterans used their state employment offices in finding work last year, but only half of them were placed in nonfarm jobs.

Of the more than a million veterans returning to their homes each year, at least 950,000 of them are short-termers with two to four years' service, 50,000 junior officers completing tours of duty, 65,000 career men with 20 or more years of service and 120,000 members of minority groups.

Experience since 1964, the beginning of the Vietnam Era, has shown that a fourth of those being discharged will return to school, but the balance will seek work immediately—and not where they were employed when they went into service.

The increase in the number of veterans looking for work can be seen from the growth in registrations with state employment services. In 1970 it was 2 million but in the previous fiscal year it was 1.7 million, a jump of more than 300,000 in one year.

Department of Labor projected figures for 1971 indicate another increase of 300,000 new applications for jobs in the 2,400 offices of state employment services. This will bring the total 2,300,000.

States most affected by separations include California, with 11.03% of the million plus; New York, 7.47% Pennsylvania, 5.77%; Texas, 5.63%; Illinois, 5.45%; and Ohio, 5.29%. The others range from Michigan, 4.54%, to Alaska, .02%.

According to Department of Labor statistics, male veterans filed 32.1% of all new job applications and were given 34% of the nonfarm jobs.

A factor enhancing the employability of recently discharged veterans is their military training. For instance, 80% of the former enlisted men and and 95% of the ex-officers have acquired skills in the service that can be utilized in civilian work. These involve engineering, technical trades and administration.

Most officers are college graduates, while 83% of the enlisted men have had 12 or more years' schooling. In addition, the Defense Department spends more than $3 billion a year on education and training, a third of it in technical fields.

Another bright spot on the employment horizon was the success of the VA and *Boston Globe*-sponsored New England Vietnam Veterans Job Mart held in Boston late in the summer.

Job promises went to 7,000 veterans who were tested and interviewed and a total of 15,000 employment opportunities were offered. Salaries were from $4,500 to $18,700.

Not only were many of the veterans able to find work but Donald E. Johnson, Veterans Administrator, said the spirits of many were buoyed because it was evidence that a government agency was taking a personal interest in the men's welfare.

A further indication of the picture of veterans employment is to be found in the recent VA publication "Two Years of Outreach," covering the period from 1968 to 1970.

According to the survey made for this VA study, unemployment among veterans six to 12 months after separation ranged from a high of 18.5% for Negroes without high school to 6.2% for non-Negroes, with the rate for all veterans at 6.7%, which is higher than the national average.

Median monthly earnings for all veterans who reported their income to VA questioners were $507. Negroes, however, earned $465.

Although GI Bill training and educational benefits are available to veterans, only 24% of those answering reported they were taking advantage of this opportunity after six to 14 months of civilian life, but the same percentage said they expected to begin upgrading themselves in another six months.

Failure to enter training programs was explained by 17% as indecision; a need for more money for their families, 16.5%, and fulltime employment, 25.7%.

It is significant that 70% of the inquiries the VA has received from Vietnam veterans concern educational benefits and 33% on-the-job training.

Educationally and therefore jobwise the Vietnam veteran is in a somewhat more advantageous position than his World War II or Korean War counterpart. Seventy percent of the men who have served since Aug. 4, 1964, were high school graduates when they entered service, compared with 54% of World War II veterans and 56% of those serving at the time of the Korean War.

Further, the percentage of veterans from Vietnam with high school diplomas is increasing. According to recent figures it is rising to higher than 80%, while two-thirds of current GI Bill trainees were high school graduates when they entered training and 11% had finished four or more years of college.

Realization that better jobs and more education go hand in hand has sent 817,000 into VA training programs, as of last summer, for an increase of 35% over a comparable period last year and 7% more than the peak of 764,000 reached by Korean War GI Bill trainees in 1957. Nearly 60% of the 817,000 are in colleges.

Those receiving on-the-job training have risen from 45,000 in 1969 to 78,000 in 1970.

As the Nixon Administration noted, this year will be a difficult one for veterans who are coming home looking for work:

"This is a crucial period for the veteran, especially for those returning to areas of increasing competition for good jobs. With the present economic situation corresponding with the increase in the number of returning servicemen, we are witnessing a steady rise in unemployment among veterans, especially among younger enlisted men from the Vietnam Era. Many more find themselves under-utilized and under-employed."

HIRE VETERANS, RAINWATER URGES

Recognizing the problems of veterans employment, Commander-in-Chief Herbert R. Rainwater is urging that V.F.W.'s Employment Program—"A Job for Each Veteran"—be strengthened.

Post Commanders throughout the organization have been alerted by Rainwater to the need for intensified effort in this campaign on behalf of:

"Young veterans who have recently put aside their uniforms."

"Older veterans who are phased out of their previous employment because of technological changes."

"Handicapped veterans who require some special effort to match job requirements with their individual capabilities and limitations."

In urging action on this problem, Rainwater has pointed out that the V.F.W.'s Manual for Employment Officers lists the names, telephone numbers and addresses of Veterans Employment Representatives (VERs) in all areas of the country.

As part of the Department of Labor, they are "eager, ready, willing and able to promote job opportunities for veterans and to insure adequate job counseling," Rainwater advised.

Each Post, he continued, should appoint an Employment Officer to maintain contact with VERs to assure veterans preference in job placement and with prospective employers in the Post's area and to bring them together with job-seeking veterans.

REVENUE SHARING

Mr. BAKER. Mr. President, the distinguished chairman of the House Ways and Means Committee has delivered a thoughtful commentary, apparently the product of intensive and scholarly analysis, on the subject of Federal revenue sharing with State and local governments. This statement deserves an equally thoughtful reply.

While I have not yet had the opportunity to devote an equivalent amount of time and resources to a comparative analysis of the distinguished gentleman's statement, I do wish to respond today to the major points at issue. A more disciplined and scholarly analysis can follow.

At the start, it is well to emphasize some significant areas of agreement between Mr. MILLS and myself.

First, we both recognize the existence of very real and very serious fiscal problems faced by many localities.

Second, we both recognize the long and established legacy of Federal interest in the viability of State and local governments and in the adequacy and quality of the public services they provide. This expression of national interest is best typified by reference to the explosive growth experienced in Federal grants-in-aid to States and localities over the past 25 years. This record of channeling Federal revenues back to States and localities for spending on specified domestic functions is well established.

Third, we both recognize and deplore the hopeless administrative tangle which now engulfs our Federal grant-in-aid system. The proliferation of narrow categorical programs has proceeded at a pace matched only by the dollar growth in overall Federal assistance to States, and localities.

In response to these three recognized points of wide agreement, President

Nixon has presented a very bold and promising proposal—one uniquely suited to our national needs. Chairman MILLS, on the other hand, suggests our most appropriate response at this point should be further study. He fears we are being forced "willy-nilly" into a revenue-sharing program.

It is difficult for me to understand how an idea which has been the subject of proposed legislation since 1949, which has received intensive scrutiny before a respected congressional subcommittee, which has undergone thorough examination by academicians and Presidential committees, and which has received the blessing of both major political parties in their campaign platforms can be said to be an idea advanced willy-nilly. That statement just does not hold up under analysis.

In short, it seems clear to me the problem has been defined, the alternatives have been identified, and the President's choice—a general revenue-sharing program—has been rigorously evaluated. This is a time for action, not further study.

At the same time, I do not fault the distinguished chairman's appeal for considered analysis. Every proposal must be subjected to that test at any moment. Therefore, I should like to quickly review and analyze the three major points in his scholarly address.

First, he spends considerable time identifying "winners" and "losers" in the geographic income distribution race, depending on alternative assumptions as to the most likely alternative use of funds appropriated for revenue sharing. I am troubled by this type of analysis for several reasons.

For one, the chairman himself points out that it is the people, not the geographic entities known as States, which ultimately win or lose from any Federal spending program. With revenue sharing, a shift in the mix of total government spending will take place. State and local spending will gain relative to Federal spending. Since the distributional impact of State and local spending—on education, welfare, sanitation, law enforcement, health, and all the other traditional domestic functions—is more broadly based and equitable among income classes than is Federal spending, the net result of a shift toward revenue sharing seems to me to be of obvious benefit to the people. This is, after all, what a reordering of priorities is all about.

For another, the chairman seems to set up a statistical "straw man." He carefully ranks the winners and losers based on his own definition of incidence and a questionable measure of benefits. Let me offer an example close to home—the District of Columbia—in illustrating the dangers in this type of analysis.

The District shows up relatively as the largest recipient of the benefits of Federal spending. This, of course, results from the existence of the Federal Government in this city. By using the chairman's analysis, any action short of more Federal spending would be detrimental to the District. However, I am certain no one would contend that all Federal spending in the District of Columbia results in full benefits to its citizens. Every dollar spent creates some corresponding demands on the city's services and on its residents. The net result, whether beneficial or detrimental to the people of Washington, is difficult to determine.

To compare the District's share of revenue sharing to its share of the initial impact of all Federal spending is to my mind inappropriate. It is like apples and oranges. The one—revenue sharing—goes directly to the city government for its most beneficial use. The other—Federal spending for payroll and related services—creates a whole series of economic demands, by no means all of which may benefit the city.

I am surprised to find the chairman reach some very broad conclusions about the relative distribution of revenue-sharing benefits between urban and nonurban locations. Personally, I would suggest we look at the two major operating provisions in the President's proposal to determine where the funds will be allocated.

For each State, general revenue-sharing funds will be primarily allocated on the basis of population—a variable which I would generally equate to urbanization. Within each State, the local government share will be allocated according to each government's share of locally raised revenues. Since urban governments raise considerably more revenues per capita than do nonurban governments, I find it impossible to offer the observation that the President's proposal, in Mr. MILLS' words:

> Actually is the reverse of facing up to the urban problem that we have been hearing about.

That statement simply does not hold up under analysis.

The second major point raised by the distinguished chairman is that such a revenue-sharing program will relieve local officials of the responsibility for raising taxes to cover increases in their expenditure programs. He notes that his committee has responsibility for raising taxes at the Federal level, and he appreciates how unpleasant raising taxes to cover increased expenditures can be. But to relieve State and local officials of this burden will violate an important principle of government and will produce inefficient decisionmaking.

I would point out that the President is not asking the Congress to increase taxes. In fact, except for the temporary surcharge which has now expired, Congress has not had to raise taxes since the Korean war. The progressive income tax allows us to increase spending without raising tax rates.

State and local officials are in quite a different boat. In the last 12 years, State governments alone have had to put through over 450 new or increased major tax actions. I find it hard to accuse them of irresponsibility. State and local taxing efforts have, and will continue, to provide the bulk of all State and local efforts.

We have shared problems and responsibilities, and we have shared revenues in recognition of that situation. Every State government shares revenue with its localities. The Federal Government, through the grant-in-aid process, will share $30 billion this year. Within this Federal Congress we separate the responsibility for initiating tax increases from the act of initiating expenditure increases. I see no inviolable principle at issue here.

The third major point raised by Chairman MILLS is that current Federal deficits make a start on revenue sharing unwise. He notes that Federal expenditures must be kept at reasonable levels.

I fully agree that Federal expenditures must be maintained within an economically stabilizing standard. The President has said that his budget—including his revenue-sharing plan—will honor such a standard. Planned expenditures will not exceed the Federal revenues generated under our current tax system with a fully employed economy. This is a responsible and tough budget rule. If we had followed this rule in fiscal year 1968, there would have been a balanced Federal budget—not one some $25 billion in deficit.

Thus, revenue sharing is offered in the framework of a responsible budget position. The debate on revenue sharing should center on its advantages or disadvantages as a Federal spending program—not on its marginal budget impact. After all, the alternatives which Chairman MILLS suggests we evaluate—such as tax credits or increased spending on categorical aids—involve the same impact on the net budget position as does revenue sharing.

As a final note, let me go beyond Mr. MILLS' statement to some of the issues he does not address—to some of the most important arguments for revenue sharing.

We have been discussing here matters of fiscal analysis. They are important matters to evaluate. But revenue sharing is more than a fiscal tool. It must be discussed and analyzed for its several dimensions. Most importantly, it represents a transfer of decisionmaking power—along with the funds—back to our States and localities. It represents a renewed trust in the vitality and wisdom of representative government in a local setting.

In every respect, we have had revenue sharing, as a purely fiscal device, in operation for many years. It already represents nearly one-quarter of all Federal domestic spending. The central issue today is over who shall have control over the final disposition of federally shared funds. Whose priorities should be weighed in allocating program funds intended for local benefit to local areas?

I conclude that we must begin to shift these kinds of decisions back closer to our people. Revenue sharing can do that. It can help to make our system of government more responsive and more effective. We must not fail to evaluate the President's proposal in these nonfiscal dimensions, for it is toward an improved federal system that the revenue-sharing proposal is ultimately directed.

NIXON BEHIND THE SCENES

Mr. ALLOTT. Mr. President, the second most tiresome feature of American life right now is the fact that spring is still so far off. The most tiresome feature is the spate of press articles analyzing and psychoanalyzing the President and, invariably, purporting to find a new Nixon.

Recently Newsweek magazine tried its hand at this speculative art and, alas, fell short of perfect accuracy. Fortunately, the editors of Newsweek, in the spirit of free exchange of opinion, have given space for an opposing view. The February 1 issue of Newsweek carries an illuminating short essay from the distinguished Secretary of Health, Education, and Welfare, Mr. Elliot Richardson.

Mr. President, this is one of the best short descriptions of President Nixon and his achievements that I know. It certainly captures the spirit of Richard Nixon as he is known to those of us who have been his supporters for over two decades.

Secretary Richardson makes an especially important point about the "Middle East war of 1970." Of course, that war never happened, and thus there will never be any monuments to the President for his conduct of that war. But there should be monuments to statesmen who, like President Nixon, keep crises from happening. Peace—and the absence of monuments to additional American war dead—is the only monument President Nixon wants. He is well on his way to achieving that.

Mr. President, so that all Senators may reflect on the wise words of Secretary Richardson, I ask unanimous consent for his article to be printed in the RECORD.

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

NIXON BEHIND THE SCENES

(By Elliot Richardson)

In last week's issue of NEWSWEEK, Washington bureau chief Mel Elfin offered an appraisal of Richard Nixon at midpassage in his Presidency. The White House requested space in the magazine for a reply. The article was written by Secretary Richardson of Health, Education and Welfare.

To those who do not know the President, or to those who accept the stereotype presented in NEWSWEEK last week, the leadership and compassion shown in the State of the Union address might have come as a surprise—and we can expect the customary interpretations of a "new" Nixon.

But to those who have come to know the real Nixon—as I have over the years, in working with him on foreign affairs and now again on human needs—his "New American Revolution" comes as no surprise at all.

Rather than apply facile labels to a complex and unconventional man, let me simply recount some of my own observations of him over the years.

Jordan.—The most essential quality of a modern President is one that no experience or training can teach: the courage that comes from strength of character.

Moments of high drama, played on a public stage, are not the only times that Presidential courage is needed. I believe future historians will judge the solution of the Jordanian crisis to be one of the high-water marks of the Nixon Presidency.

The story cannot now be told in full. But with Syrian tanks rolling across Jordan's border, with one of the men who holds the key to peace in the Middle East on the brink of disaster, with Israel poised for attack and with both superpowers being drawn toward confrontation, the President of the United States did exactly what Presidents are supposed to do: he took personal charge of the situation, lived with it day and night, used the levers of power calmly and surely and—always behind the scenes—displayed the courage that averts wars.

Because there was no widespread public fear beforehand, there were few accolades and no widespread sense of relief afterward. Which is just as well—the American public and the world public do not need any emotional roller-coaster rides at this time. But the "Middle East war of 1970" is not in the history books largely because of the courage and skill of the American President.

The Eisenhower years.—I recall a time back in 1958, when I worked in HEW in the Eisenhower Administration and when there was a desperate need for more school construction and more college buildings. We had a plan for Federal subsidy of the debt service on new facilities for education, which would not have had great immediate impact on the budget but that would commit the government to a generation of support—and that would get more schools built quickly.

We had exactly one ally in the Cabinet—Vice President Nixon. He saw that problem in terms of schoolchildren and college students in the 1960s and 1970s, and he volunteered to take up what had been conceded to be a losing cause.

At a Cabinet meeting where the decision was to be made, the Budget Bureau presented its objections. I was sitting back against the wall, with my resignation in my pocket, and with that sinking feeling that comes when you see heads nodding away thousands of schools.

The Vice President knew that direct confrontation would freeze the opposition. Little by little, in the course of the meeting, he chipped away at the objections, letting the subject be changed, coming back to it later on another tack, never argumentative, always reasonable.

Finally, President Eisenhower said, "I don't see where there can be any strong objection to this, either philosophically or in terms of money. Let's go ahead with it." The pencil the Vice President was holding snapped in his hand, and I reached in my pocket and crumpled up my resignation.

Welfare reform.—Recently, after his speech to the White House Conference on Children—a moving and heartfelt speech—he called me to discuss how else he could show his personal commitment to welfare reform. At 4 in the morning that day, he told me, he had gotten out of bed to add to his speech his memories of his own childhood—how his family may have been poor, but they never felt poor, because they were never subjected to the demeaning indignities of the present welfare system. He could not understand why some people still felt his heart was not in welfare reform—because he know what it did to human beings, and he has a deep, even a fierce, personal commitment to changing the system. That's why I am certain we are going to get it changed, and soon.

SALT.—Our position at the Strategic Arms Limitation Talks was discussed at a series of National Security Council meetings. The President had been given voluminous option books, weighing the implications of each consideration, including the detailed misgivings of some of his military advisers about making a comprehensive proposal—they preferred, instead, a series of individual steps.

I cannot think of a more complex decision that could confront any President, or one with more far-reaching ramifications. The fact that he did his homework was apparent in his questioning. He encouraged argument. He listened a lot. He took his time, thinking about it both alone and aloud with advisers for months. And then, on a sheet of paper with a series of "approve-disapprove" choices, we saw his decision. He incorporated his own modifications and additions and settled on a comprehensive arms-limitation presentation.

Perhaps it will succeed; perhaps only part of it will be accepted, since it is not presented in an all-or-nothing way. But every man who worked on it knows that the one man who is elected to decide has decided on the basis of thinking it through.

Sensitivity.—In 1956, in the midst of the mini-dump-Nixon campaign in which Christian Herter was pushed forward as a possible replacement, I was asked by Governor Herter to help draft a speech for him nominating Nixon.

After I had something on paper, I showed it to the then-Vice President and asked if he found it suitable. Politely, he replied: "This says everything that needs to be said." I started to leave with the speech unchanged, but it occurred to me that the Vice President's answer was a little restrained. I asked him if there were other things he would like to have said.

Then, and not until then, he opened up to give me a short and unforgettable lesson in speechwriting. He showed me how to put myself in the shoes of the speaker, standing in front of a live audience of thousands—a political audience that wanted to express itself from time to time. It was a far better speech for his editing, but it would not have been unless he had been invited to edit.

Biafra.—We were discussing what to do about starvation in Biafra. There was a definite danger in straining our relations with Nigeria, then in the final stages of its civil war. The President weighed the problem of Nigerian displeasure against the need of the hungry Ibos; the deciding factor was the humanitarian feelings of the American people. The President owed it to his fellow citizens to make the kind of response that was rooted in the American character: the President's reaction could not be the "correct" diplomatic reaction, it had to be the gut American reaction.

I have seen the President at work, and worked with him. I know that the qualities he has displayed to me over the years are not "new." And they are once again reflected in his speech to the joint session of the Congress last Friday.

In his State of the Union address, the President of the United States revealed himself to be a calmly rational revolutionary—in the sense that the men who founded this nation were revolutionaries.

Without the bravado and fury one associates with a revolution, Richard Nixon outlined a fresh approach to two of the overriding concerns of the American people: the need for the Federal government to do more for the poor and the sick, and the need for each American to have much more of a say in the decisions that affect his life.

That definition of the American character—the evocation of the American spirit—is what Presidents must constantly strive to do. That is what we saw last week in the State of the Union. That is the overriding theme President Nixon repeatedly returns to, in talks on campuses and discussions with his Cabinet and staff.

This is how he put it, off the cuff and off the record, early last week: "There was running through the theme of that constitutional convention, even among the Federalists, let alone the Jeffersonians, the idea that it was important to keep government close to the people, that people had to have a part of the action, that every person did count, that the individual wos what was important. That is what we have lost sight of. So now we come to a point 190 years later.

"We are setting forth before the country a whole new approach to government, one which we trust will be good for the next two years when adopted, or the next four years or six years, or through the balance of the '70s, but beyond that it will do as well for this country for the next 100 years as the present system did for the past 190 years.

"This is a great goal. That is one that should inspire us. It is one that should lift us, and it is one also that should build for all of us the strength we are going to need to withstand the barbs of our critics.

When a President speaks that way to the men around him and when you see how fervently he means what he says, you understand why he inspires such loyalty and commitment in the men around him It needs to be transmitted more widely, which is the hardest task of all, but I believe it will be done.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CHILES). If there be no further morning business, morning business is concluded.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9, a resolution to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, on yesterday the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Kansas (Mr. PEARSON) brought up, during the morning hour, Senate Resolution 9, and, under the Senate rules, that resolution was discussed until 1:15 p.m. on yesterday. At that time, also under the rules, the resolution, not having been acted on, went to the calendar. Thereupon the distinguished Senator from Kansas (Mr. PEARSON) moved that immediate consideration be given to Senate Resolution 9.

It was at that point that the junior Senator from Alabama made a motion that the motion of the Senator from Kansas (Mr. PEARSON) be postponed to the next legislative day. Even though we are still in the same legislative day, one calendar day has expired, and even though on yesterday the motion was made to postpone the motion of the Senator from Kansas (Mr. PEARSON), to the next legislative day, it is still the order of business.

Mr. President, yesterday I spoke briefly on this motion, and I pointed out some of the efforts that have been made in the U.S. Senate since the first Congress, starting in 1789, to set a rule for limitation of debate. I brought the history of the action by the Senate in this regard down to the time of the year 1947. Later during my remarks today, I shall seek to bring that history down to date, the thought being that as efforts have been made in the U.S. Senate to limit debate, as the Senate has considered some of these proposals, accepted some, rejected others, modified and accepted some, made changes, some good, some bad, we have now come to rule XXII, which had its inception back in 1917. The present rule XXII, therefore, is the outgrowth of the study, the efforts, the ability, and the dedication of great Senators who have served in this body since the foundation of this Republic, starting in 1789 with the 1st Congress. So what we have today in rule XXII is a distillation, a perfection, of all the thought, all the efforts, all the attempts to set a standard to limit and control debate in this body.

Mr. President, prior to 1917 there was no cloture provision in the U.S. Senate. Briefly, at the start of the 1st Congress, the Senate did have a motion for the previous question. That, too, was debatable, so that there really was no real limitation on debate until 1917.

Not only do we have the examples and the precepts of history to serve as a guide; we have a record of some of the exact efforts made in the U.S. Senate with regard to this rules change. Rule XXII, as it now exists, is not a delegation of rights. It does not give to a Senator or a group of Senators or the Members of the U.S. Senate the right to unlimited debate. It does not give any right whatsoever with respect to unlimited debate. What it does is to provide a method for limiting debate. Actually, although there have been some changes backward and forward since 1917, we now have, I believe, the very same provision that was put into the Senate Rules in 1917—that is, requiring a two-thirds vote of a quorum of the Senate present and voting in order to shut off debate in the U.S. Senate.

Let us see how many that would take. A quorum would be 51. That is the lowest number that would constitute a quorum. Two-thirds of that, I believe, would be 34. In other words, if 51 Senators were present, 34 voted to invoke cloture, and 17 voted not to invoke cloture, we would have a two-thirds vote, and cloture would be invoked.

Mr. President, we read in newspapers and magazines that we have unlimited debate in the U.S. Senate. That is not correct. There is no limit on the right—and this is the only way it is unlimited—of an individual Senator, in speaking on a debatable issue, to continue his speech unless it is eventually cut off by the application of cloture. So, as long as an individual Senator wants to stand up and speak on an issue, he has that right; and the floor cannot be taken away from him, without his permission, by any method other than the filing of a cloture motion which calls for a mandatory vote on the second calendar day thereafter. So to that extent it is unlimited. But there is the limitation of cloture.

This same question came up 2 years ago, and the second speech I delivered in the U.S. Senate was on this issue. The effort was made at that time by the distinguished Senator from Idaho (Mr. CHURCH) and I believe the distinguished Senator from Michigan (Mr. HART) to provide for the application of cloture to cut off debate by a 60-percent vote of the Senators present—a three-fifths vote, if you please. The argument was made—and apparently it is being made this time—that at the start of a new session, an entirely different rule applies with respect to amending the Senate rules. They say that under section 5 of article I of the Constitution, which gives each House of Congress the right to set its own rules, the cloture provision requiring a two-thirds vote is unconstitutional because it prevents a majority of the membership from setting their own rules.

The fallacy in that argument is, of course, that the Senate has set its rules, and those rules provide, in rule XXXII, that the rules of one Congress or the rules of one Senate carry over to succeeding Senates unless amended as provided by the Rules of the Senate. The rules provide that a resolution to change the rules can be debated, and therefore one has to resort to rule XXII itself in order to cut off debate.

So, in no way has the U.S. Senate gone contrary to or infringed upon section 5 of article I of the Constitution in setting its rules. All we ask is that the rules be followed. These rules have been in effect substantially—on this particular rule XXII—as written today since 1917. So, 2 years ago, this same effort was tried.

I have a digest in my hand of the exact proceedings that took place 2 years ago on this subject.

We met on Friday, January 3, 1969, and on that very date, the opening day of the 91st Congress, Senators were sworn in and, without taking any other action except the adoption of routine resolutions, the Senate stood in recess until Monday, January 6.

However, on the opening day, Mr. MANSFIELD, the majority leader, made the following request, which was agreed to. It is listed in the following fashion:

PROPOSED MODIFICATION OF RULE XXII

Mr. MANSFIELD. Mr. President, I ask unanimous consent that notwithstanding the Senate's having convened to commence the 91st Congress, all proceedings, rights, and privileges concerning the effort to change rule XXII of the Standing Rules of the Senate be reserved, and that the proponents of such change not be prejudiced in any way pending the actual commencement or transaction of Senate business, provided that such action be proposed not later than Thursday next.

By unanimous consent it is agreed that they will put in the motion to change the rule and that none of our rights would be prejudiced by waiting until several days into the session.

On Monday, January 6, the Senate was concerned with the electoral count and no action was taken on any proposed rules changes.

The Senate was not in session on Tuesday and Wednesday, but on Thursday, similar proceedings to what we are going through right now took place.

On Thursday, January 9, after the election of the Senate Chaplain as provided for in Senate Resolution 10, Senator

CHURCH of Idaho submitted Senate Resolution 11—and the resolution now I believe is No. 9, so that there is practically no change—Senate Resolution 11, to change rule XXII, together with a notice under rule XL proposing a change in the rule and asked for the immediate consideration of Senate Resolution 11. Objection was heard to its immediate consideration and the Chair stated that under rule XIV, paragraph 6, the resolution would lie over 1 day. Exactly the same thing happened here on Resolution No. 9.

Mr. MILLER of Iowa also introduced a resolution, No. 12 to make changes in rule XXII together with notice, under Rule XL, and asked for immediate consideration of Senate Resolution 12. Objection to its immediate consideration having been heard, the resolution was ordered to lie over a day under the rule.

Friday, January 10, after transaction of morning business, the Chair laid before the Senate, Senate Resolution 11, and the resolution was debated until the end of the morning hour, 2 o'clock—the very same procedure I commented on a moment ago with respect to this resolution, except that it was 1:15 p.m. because we convened at 11:15 yesterday, rather than 12 o'clock 2 years ago.

So at 2 o'clock, 2 years ago, January 10, 1969, this resolution was placed on the calendar. Senator CHURCH of Idaho moved that the Senate proceed to the consideration of the resolution, which motion was debated the remainder of the day. So we are just substituting the names of Senators here. This other motion on yesterday was made by Senator PEARSON, the only difference being that at this session a motion was made to postpone consideration of the motion to consider until the next legislative day, and even though a calendar day has elapsed, we are still in the same legislative day. So we are still discussing the same motion to postpone to the next legislative day.

So on Monday, January 13, 1969, the Senate continued debate on the motion to take up Senate Resolution 11, but no action was taken thereon.

The following day, Tuesday, January 14, pursuant to the unanimous-consent request of January 13, the Senate took up and adopted Senate Resolution No. 13, establishing the numerical size of the various Senate standing committees. Subsequently, the Senate took up Senate Resolutions 14 and 15, electing the chairmen and the majority and minority members of the various standing committees.

A cloture motion was filed during the afternoon, to bring to a close debate on the Hart motion to take up Senate Resolution 11 as follows:

MOTION FOR CLOTURE

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to the consideration of Senate Resolution 11, a resolution amending the Standing Rules of the Senate.

FRANK CHURCH, JAMES B. PEARSON, GEORGE MCGOVERN, JOSEPH D. TYDINGS, PHILIP A. HART, HUGH SCOTT, EDWARD W. BROOKE, QUENTIN BURDICK, MIKE MANSFIELD, EDMUND S. MUSKIE, CLINTON P. ANDERSON, STEPHEN M. YOUNG, CLIFFORD P. CASE, HIRAM L. FONG, GAYLORD NELSON, JACOB K. JAVITS, FRANK E. MOSS, WALTER F. MONDALE, EDWARD M. KENNEDY, WILLIAM PROXMIRE, JOHN O. PASTORE, HARRISON WILLIAMS, VANCE HARTKE, CHARLES GOODELL, LEE METCALF.

They are proceeding under rule XXII, which they were seeking to amend and they are seeking to amend now, and which they recognized then as a rule and which they recognize now as a rule. They have not adopted any new rules. The old rules of the 91st Congress have gone over into the 92d Congress, under rule XXXII. So they filed a cloture motion and when they filed the cloture motion then, on the second calendar day thereafter, we had a vote on whether debate should end or not. After the motion was filed, Senator CHURCH of Idaho inquired if it would take a majority or a two-thirds vote to agree to the motion, phrasing his question—addressed to the President of the Senate, who at that time was Vice President HUMPHREY, now the distinguished Senator from Minnesota—as follows:

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Idaho will state it.

Mr. CHURCH. Mr. President, under the terms of the cloture motion just filed, the Senate will proceed to vote on the question of closing debate on next Thursday, 1 hour after the Senate convenes. It is the view of most of those Senators signing the cloture petition that with respect to questions proposing changes in the Senate rules at the opening of a new Congress, the requirement of rule XXII for an affirmative vote of two-thirds of those Senators present and voting to invoke cloture is an unconstitutional restriction on the right of the Senate to amend its rules at the opening of new Congress. The parliamentary inquiry, therefore, is:

If a majority of the Senators present and voting, but less than two-thirds, vote in favor of this motion for cloture, will the motion have been agreed to?

The Chair—Mr. HUMPHREY at that time—informed the Senate that if a majority voted for the motion, he would announce that the motion was agreed to.

The Senate spent the remainder of the day debating the motion to take up Senate Resolution 11.

The following day, the Senate continued debate on the motion to take up Senate Resolution 11, and on the second day, thereafter, at the hour of 1 o'clock, the Vice President directed the clerk to call the roll to ascertain the presence of a quorum. After a quorum had been ascertained, the cloture motion was restated to the Senate and, under the rule, the Senate then proceeded to vote by yeas and nays on the question, Is it the sense of the Senate that the debate shall be brought to a close?

Fifty-one Senators voted aye: 7, nay. The Vice President, at that time Vice President HUMPHREY, announced the motion was agreed to as follows:

Under the provisions of Article I, Section 5 of the Constitution, and those provisions of rule XXII and other rules not in conflict with this constitutional provision, the Chair announces that 51 Senators having voted "aye" and 47 Senators having voted "nay," cloture has been invoked on the motion to proceed to consider Senate Resolution 11, and debate will proceed under the limitation provisions of rule XXII.

He is saying, in other words, that rule XXII is unconstitutional as requiring two-thirds affirmative vote of the Senators present and voting, when that is the only rule that allows any limitation of debate.

So, they accept the provisions of the rule for the purpose of having the cloture petition, and thereafter proceed as rule XXII called for. Yet, they said that the very rule they were proceeding under, two-thirds requirement, was unconstitutional. That was the only rule by which they had any limitation whatsoever.

Mr. Holland of Florida, that great Senator from the State of Florida who, during the 91st Congress, completed 24½ years of faithful, able, and dedicated service to the people of Florida and the people of this Nation and who was leading the fight to sustain rule XXII, took an appeal from the ruling of the Chair.

The Vice President applied rule XXII in all respects but the two-thirds requirement, holding that the appeal was not debatable. The Chair put the question: "Is the decision of the Chair to stand as the judgment of the Senate?" On Senator Holland's appeal he put the question to the Senate as to whether they agreed with his decision or not.

The Senate by a vote of 45 yeas to 53 nays refused to sustain the decision of the Chair. Thus, cloture not having been invoked, the Senate continued the debate on the motion to take up.

In other words, the Senate overruled the Vice President on his contention that the two-thirds requirement of Senators present and voting to cut off debate was unconstitutional.

The Vice President declared a rule of the Senate to be unconstitutional when the Senate rules do not give him the power to pass on constitutional questions. No statute gives him that power. The Constitution does not give him that power. The Senate took the position that he had not ruled correctly. And the effect of the action of the Senate was to declare that rule XXII at this point, the two-thirds requirement for cloture, is constitutional, that the Senate is bound by it, that no matter when a motion is filed seeking to amend the Senate rules—in the middle of the session, the beginning of the session, or the end of the session—debate is permissible against that resolution seeking a rule change, and the only way debate can be ended is by applying the cloture provision of rule XXII providing for a two-thirds affirmative vote.

So, Mr. President, we are confronted with the same question. Why is this question important? What difference does it make whether two-thirds of the Senators can cut off debate or whether 60 percent of the Senators can cut off debate or whether a majority of the Senators can cut off debate?

The right to extended debate is the very feature about the Senate that makes it the greatest deliberative body in the world. It is part of our system of checks and balances.

Legislation can be stampeded and steamrollered through the other body.

But when it gets to the U.S. Senate, a closer look can be taken at that proposed legislation.

What good is extended debate? I have never seen a piece of legislation that has been subjected to extended debate and the compromises that necessarily come about as a result of that extended debate that has not—if it did pass—been passed in a form which was an improvement over the form in which it was introduced.

What good is extended debate? It alerts the people of the country to the dangers, to the imperfections, to the faults inherent in the legislation concerning which extended debate is made.

What good is extended debate? It protects a minority of the Senate, possibly a minority of the country, from the onslought of an arrogant majority.

Mr. President, what may today be a majority in the Senate, a majority throughout the country, may some day be a minority. What is today a minority may some day be a majority.

Extended debate protects the country against further concentration of power in the National Government. It protects against mushrooming Federal bureaucracy. It can be used to prevent big government from getting bigger.

Mr. President, if the Senate were to pass the 60 percent provision for cloture, possibly before this session is over and certainly at the start of the next session the Senate would be faced with an effort to get majority cloture. If we ever get to the point in the Senate where a majority of the Senate can run roughshod over the minority, the situation is going to be mighty bad in the Senate and in the country. Cut off debate in the Senate by majority vote? That is where we are heading if this resolution is agreed to.

That is the reason the junior Senator from Alabama made the motion to postpone the motion to take up and consider until the next legislative day. If he loses that motion, then there will be an opportunity to discuss the motion to take up and consider.

Mr. President, I might state that this is the second speech I have made on this particular motion and until we come up with another motion, the junior Senator from Alabama will not be allowed under the rules of the Senate, which he certainly wants to abide by, to make another speech on this particular issue; that is, the matter of postponing the Pearson motion to the next legislative day.

Mr. ERVIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLEN. I yield.

Mr. ERVIN. With the understanding that by so doing he will not lose the floor and will not have subsequent remarks by him counted as an additional speech.

Mr. ALLEN. I am delighted to yield under those conditions.

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

Mr. ERVIN. Mr. President, in view of the fact the Senator from Alabama was speaking yesterday afternoon and had not completed his speech, I ask unanimous consent that the speech which the Senator from Alabama began yesterday and resumed this afternoon, be counted as only one speech.

Mr. PACKWOOD. Mr. President, reserving the right to object, I suggest the absence of a quorum.

Mr. ERVIN. Mr. President, I raise the point of order that there was no yielding for the purpose of having a quorum call. Therefore, the quorum call is out of order.

The PRESIDING OFFICER. For what purpose did the Senator from Alabama yield?

Mr. ALLEN. I yielded only to the Senator from North Carolina. I did not yield to my good friend, the distinguished Senator from Oregon.

Mr. PACKWOOD. Mr. President, am I correct that the Senator from Alabama loses the floor when consent was asked?

Mr. ALLEN. The junior Senator from Alabama yielded only on the condition that he not lose the floor.

The PRESIDING OFFICER. That request was granted, so the Senator did not yield the floor. When the Senator from Alabama did yield the floor it was under the unanimous-consent request as made by the Senator from North Carolina.

Mr. PACKWOOD. My question is: Does the Senator from Alabama lose the floor when unanimous consent was asked by the Senator from North Carolina?

The PRESIDING OFFICER. He would have, had he not agreed to the previous unanimous-consent request.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. There is objection by the Senator from Oregon.

The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, I appreciate the indulgence of my good friend, the distinguished junior Senator from Oregon, in objecting to the request that the remarks I am making now be counted as part of the previous statement I made yesterday. It actually does a favor to the Senator from Alabama, because that will give the junior Senator from Alabama an opportunity to take a little rest after the conclusion of his remarks at this time; whereas, the junior Senator from Alabama had planned in just a moment or two to yield the floor to his distinguished colleague, the senior Senator from North Carolina, so that he might have something to say on the issue. It leaves the junior Senator from Alabama the only recourse of continuing so that he can get in some of the remarks he wishes to make with respect to this important issue.

Mr. President, this is an important issue. I have said many times as to the vote in the 91st Congress on the resolution to amend the rule to provide for 60 percent or three-fifths cloture that the vote on the appeal from the ruling of the Chair at that time was the most important vote, as far as the good of the country was concerned, that was taken in the 91st Congress because it did overrule the ruling of the Vice President who had held that a majority of Members of the Senate at the opening of a new Congress could invoke cloture, when the rules very plainly state that a two-thirds vote is required.

Mr. President, that was a most important vote. I recall one distinguished Senator who voted the first time to apply cloture. That was certainly part of his philosophy and it was one of his deep-rooted convictions that cloture should be applied under those circumstances. I refer to the distinguished majority leader, who has just entered the Chamber. He voted at that time to apply cloture to stop debate with respect to the resolution or the motion to bring it up; but when the ruling was made from the Chair that a majority fewer than two-thirds was sufficient to invoke cloture, in the statesman-like manner that the junior Senator from Alabama has come to expect from the distinguished majority leader, he voted to overrule the Chair because it is very plain from reading the rules that it takes a two-thirds vote to invoke cloture.

Insistence was made then and has been made now that new rules can be put in at the start of a new Congress; that new rules can be voted by majority vote; and that if a debate is conducted against the rules, then a majority can shut off that debate. But the fallacy in that argument is that all the proceedings that have been had with respect to this resolution have been under the Senate rules—the very manner in which it was filed, the 1-day notice which was given as required by the rules of the Senate, the fact that it did not go to a committee, but, on objection having been made to its immediate consideration, was held up and brought over to the next day—all these are procedures that the proponents of the measure would not have been entitled to in the absence of the rules of the Senate.

So we are proceeding under rules. Could we act otherwise except under rules?

The 91st Congress ended on the 2d day of January, 1971, about 22 hours before it would have expired by operation of law anyhow, on January 3, at noon. Then the 92d Congress started. But there is no hiatus whatsoever, there are no voids, there are no gaps because, very wisely, the Members of the Senate in the past, in rule XXXII, provided that the rules of one Congress pass over to the succeeding Congress.

So the very resolution that we have on our desks, Senate Resolution 9, shows very plainly that it is conceded by their very actions that Senate rule XXII is in full force and effect, just as the other rules are in full force and effect, or we could not be operating here today. We could not go through the procedure which allowed the resolution to be debated for 2 hours, then go to the Calendar, then have a motion to bring it up.

The very language of the resolution itself refers, as its subject, to amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

What does rule XXII now provide that they are seeking to amend? It provides that it takes a two-thirds vote of a quorum of the Senate present to cut off debate. So how could insistence be made as it was made 2 years ago? I trust and hope that, the Senate having an-

swered that question in reversing the Chair, the insistence will not be made now that we can seek to amend the rules and reach up in the air and come down with procedures, found nowhere whatsoever, to cut off debate, in the face of the rule itself, rule XXII, calling for a two-thirds vote to cut off debate.

Mr. President, I made the suggestion yesterday, during the course of my brief remarks, that Senate Resolution 9 was just an entering wedge, a forerunner, if you please, Mr. President, to an effort to achieve majority cloture in the Senate. There are some Senators who possibly do not feel that that is right; that this effort would stop if we got a three-fifths rule, a 60-percent rule. But that is not the lesson of history, because one time cloture did not even apply to motions to proceed to the consideration of a rule change. The cloture rule did not apply; it was not applicable. At one time, it took a constitutional two-thirds vote. If we had 100 Senators, it would, of course, have taken 67 to invoke cloture. That was back when there were only 96 Senators. That has been changed to a two-thirds vote of a quorum present. As I suggested, 34 votes, theoretically, under certain circumstances, would be enough to cut off debate.

MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. EAGLETON). Would the Senator from Alabama suspend so that we may receive a message?

Mr. ALLEN. If I do not lose my right to the floor and with the understanding that my succeeding remarks not be considered another speech.

The PRESIDING OFFICER. Without objection, with that understanding, the Senate will receive a message from the President of the United States.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES OFFERED

As in executive session, the Presiding Officer (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, it was not long after the junior Senator from Alabama made the statement that Senate Resolution 9 is an entering wedge for seeking to get majority vote for cloture before the distinguished senior Senator from New York (Mr. JAVITS) asked the junior Senator from Alabama to yield the floor, without his losing his right to the floor, in order that he might file an amendment, or present an amendment—I do not believe he actually filed it; it was printed—calling for a 51-vote or majority vote cloture.

So that is what they are seeking to do—to get it to where 51 votes in the Senate will be sufficient to choke off debate, with the evil consequences that are in store if any such action is ever taken by the Senate. If we ever have 60 percent cloture—which will be followed in a matter of a short time, in the judgment of the junior Senator from Alabama, by majority vote cloture—we will have a ruthless or arrogant majority fully capable of running roughshod over the minority. We will have it capable of passing bills without necessary debate. We will have the Senate in such condition that, really, Senators would not be serving their full intended purpose, in the judgment of the junior Senator from Alabama. They might just as well decide matters in the Senate, if we cannot debate them, by straw vote; decide them by public opinion polls; let Senators stay home, answer questionnaires on where they stand on various issues; and we would not even have to have sessions of the Senate. It would just become a ceremonial body, without any powers or rights whatsoever, except those that are lodged in the majority.

It would also give the National Government, the administration, not just this administration, or the last administration, or the next administration, but any administration, the opportunity, the chance, the power to gain control of the Senate. It would certainly break down the balance of power, the separation of powers, between the executive and the legislative branches.

It would put the executive department in complete control of our legislative department. We would have legislation coming over from the House of Representatives without adequate consideration. They have a 5-minute rule over there; and sometimes they cannot even offer amendments under the rule that they have. If such legislation comes over to the Senate, and a majority of 60 percent of the Senators can cut off debate and go to a vote without proper consideration of measures pending before the Senate, we are going to have some ill-conceived legislation on the statute books.

Mr. ERVIN. Mr. President, will the able and distinguished Senator from Alabama yield for several questions?

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from North Carolina for the purpose of engaging in a colloquy, provided that I do not lose my right to the floor and provided that my subsequent remarks, if any, will not be considered another speech.

The PRESIDING OFFICER (Mr. EAGLETON). Is there objection? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, I ask the Senator from Alabama if he would agree with the Senator from North Carolina that there is a vast difference between the rules under which the House of Representatives acts and the rules under which the Senate acts.

Mr. ALLEN. Yes, indeed. I think that the country looks to the Senate for proper consideration of legislation, and I do not want to forfeit that right which Senators have.

Mr. ERVIN. Will the Senator from Alabama accept the assurance of the Senator from North Carolina that during 1946, when the Senator from North Carolina had the honor of being a Member of the House of Representatives for a short time, the House of Representatives had pending before it a bill to extend the draft law under which no person could be drafted?

Mr. ALLEN. If the Senator makes that statement and gives assurance to the Senator from Alabama that that is correct, he will accept what the Senator says.

Mr. ERVIN. Will the Senator from Alabama accept the assurance of the Senator from North Carolina that this bill was pending right after the end of hostilities in the Second World War, that at that time we had Russia ruled by a dictator named Stalin, and that the Senator from North Carolina believed in his heart of hearts that the best interests of his country required that that bill be defeated or amended so as to provide methods by which the American military forces could be kept strong?

Mr. ALLEN. So great is the confidence of the junior Senator from Alabama in the distinguished Senator from North Carolina that whatever assurance the distinguished Senator from North Carolina gives to the junior Senator from Alabama will be accepted as holy writ.

Mr. ERVIN. Will the Senator from Alabama accept the assurance of the Senator from North Carolina that the Senator from North Carolina felt that it was his duty to his country, because of the dangerous international situation, to try to get a little bit of time to point out the fact that the House of Representatives was about to pass a draft bill under which no man could be drafted.

Mr. ALLEN. I accept the Senator's assurance.

Mr. ERVIN. Will the Senator from Alabama accept the assurance of the Senator from North Carolina that, as a then Member of the House of Representatives, in order to make a speech 4½ minutes long under the House rules, on a subject which the Senator from North Carolina thought was perhaps connected with the very ability of this Nation to survive in this world, he had to borrow 2½ minutes from the Democrats and 2 minutes from the Republicans.

Mr. ALLEN. I accept the Senator's assurance.

Mr. ERVIN. Will the Senator from Alabama accept the assurance of the Senator from North Carolina that from that day to this, the Senator from North Car-

olina has devoutly believed that a Senator not only should have the right, but that he actually does have the right today, to speak for more than 4½ minutes in behalf of what he considers a proposition on which the survival of his Nation might depend?

Mr. ALLEN. Yes, indeed.

Mr. ERVIN. I thank the distinguished Senator from Alabama for yielding.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for bringing this matter to my attention. Certainly this is just another example of why it is necessary that we keep, in the U.S. Senate, the right to extended debate. Not unlimited debate; there is no such thing as unlimited debate in the U.S. Senate. It is limited by rule XXII.

I promised, Mr. President, some minutes ago, that I was going to give a little history of rule XXII. I digressed, and my attention was diverted to other matters. But rule XXII, in substantially its present condition, came about in the year 1917. Prior to the adoption of the cloture provision of rule XXII, there was no cloture provision in the rules of the U.S. Senate. Senators could talk just as long as they were physically able and so inclined, and it is quite obvious that thus four or five, seven or eight, or nine or 10 Senators could filibuster any bill to death.

The war clouds were gathering for the First World War, and President Wilson wanted to arm the merchant marine. They were trying to go through the German submarine blockade, and they should not have been required just to go out like lambs to the slaughter; he wanted to see the merchant marine armed.

He got his legislative leaders to introduce a bill that would have permitted him to arm the merchant marine to defend the ships of the merchant fleet against the German submarines. There was a group of some, I believe 12 Senators, possibly fewer, but nine to 12 Senators who felt as though this would be a step toward war with Germany, and they were doves of that day. They were not called that; they were called by somewhat harsher names back at that time. But they had an extended discussion against that bill in the Senate. It had passed the House of Representatives and came to the Senate, and it was talked to death; and down with it went some other major legislation.

It caused President Wilson to make the statement that we have all read or heard about, that a little group of willful men, representing no opinion but their own, have brought the Government of the great United States to a halt, or words to that effect; and he insisted that the Senate adopt some sort of cloture provision that would prevent a repetition of that sort of filibuster. So they put the two-thirds cloture provision into rule XXII. It has been modified, changed considerably, changed to where it took a constitutional two-thirds, which would mean two-thirds of all Senators, whether they were present or not, and it has been made applicable to motions to consider resolutions providing for rules change, where it did not provide that to start with. Then it has gone back to the two-thirds of a quorum of the Senate present.

I might comment, in passing, on the change in the power of the Chief Executive of this country in the days since 1917. Back in 1917, President Wilson, a great student of constitutional law, a great historian, a great writer, a great student of political science, and a great President, felt the need, under our separation of powers in our country, to call on Congress to enact this provision for arming the merchant marine. He felt the need of congressional action. Imagine what a Chief Executive today or 5 years ago or 5 years hence would do if confronted with a similar problem. He would say, "Arm those vessels," and he would not ask anyone's permission, probably not thinking it important enough to call in any advisers. He would just take the action.

Mr. ERVIN. Mr. President, will the Senator yield for a question, apropos of the point he is making?

Mr. ALLEN. I yield, if I may do so without losing my right to the floor and without the resumption of my remarks being considered a second speech on the same subject.

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

Mr. ERVIN. Does not the Senator from Alabama recall as a historical fact that President Franklin D. Roosevelt, without asking the consent of Congress or any other human being or any other official or any other official body, made an agreement during the first days, or at least the early days, of the Second World War by which he traded or leased or transferred to the British flag a great many American destroyers?

Mr. ALLEN. Yes, indeed; that did happen. That is part of this extension of power of the Chief Executive which I was pointing out. Yes; that is correct.

I mentioned that point, Mr. President, and the distinguished Senator from North Carolina has refreshed my recollection on the extension of this power, this reaching out for more and more power. It proves the very point we are seeking to make with respect to continuing the right to extended debate unless cut off by the provisions of rule XXII, calling for a two-thirds vote of the Senators present, in order to invoke cloture.

Mr. PACKWOOD. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield to the distinguished junior Senator from Oregon without losing my right to the floor and without the resumption of my remarks being considered a second speech on this same subject.

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

The Chair points out to the Senator from Alabama that he may at any time yield for a question, and it will not be considered as a second speech.

Mr. ALLEN. The Senator from Alabama appreciates that information, but, at the same time, he would rather have it spelled out in the RECORD.

The PRESIDING OFFICER. That is perfectly within his rights.

Mr. PACKWOOD. Do I correctly understand the thread of the argument of the Senator from Alabama to be that, basically, his opposition to the change in rule XXII is twofold: First, we are a continuing body and we are governed by those rules, and any change in any rule, rule XXII or otherwise, would be subject to the existing rules?

Mr. ALLEN. Is that the Senator's question or is that a comment?

Mr. PACKWOOD. That is the question. That is the first thread of the Senator's argument—that with respect to any rule we want to amend or change, we are subject to the existing rules as a continuing body.

Mr. ALLEN. The junior Senator from Alabama has pointed out that under rule XXXII, with which I am sure the distinguished Senator from Oregon is familiar, the rules of one Senate carry forward to the succeeding Senate, and the only way that can be changed is by amendment under the rules. He points out, further, that we do not in each new Senate pass any resolution or any new set of rules, and we have not done that on this occasion. We have traveled under rule XXXII. All the proceedings we are taking—the very colloquy in which we are engaged now—are under the rules of the 92d Congress, coming over to us from the 91st Congress, as provided by rule XXXII.

Mr. BYRD of West Virginia. Mr. President, will the able Senator from Alabama yield for the purpose of my attempting to make a correction in the RECORD, which I think he will approve, in further response to the question of the Senator from Oregon, with the understanding that the Senator from Alabama will not lose his right to the floor and that any resumption of his remarks will be counted as a continuation of his previous remarks?

Mr. ALLEN. Mr. President, may I yield under those conditions?

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

Mr. BYRD of West Virginia. Without taking sides on this question either way, I want to state that Senate rule XXXII, with respect to the rules, has reference to their continuing from Congress to Congress, not from Senate to Senate. I believe that the Senator from Alabama is making the argument that the Senate which meets here today is the same Senate which met in 1789 and it will continue to be a—I see the Senator nodding his head.

Mr. ALLEN. No. The Senator is shaking his head.

Mr. BYRD of West Virginia. The Senator is shaking his head. I think I have misstated myself or he does not understand me.

Mr. ALLEN. The Senator has misstated the position of the junior Senator from Alabama.

Mr. BYRD of West Virginia. Would the Senator allow me to correct myself?

Mr. ALLEN. Let the junior Senator from Alabama explain what his contention is.

Mr. BYRD of West Virginia. Would the Senator let me state what I thought his contention was?

Mr. ALLEN. If that is the wish of the distinguished assistant majority leader.

Mr. BYRD of West Virginia. Let the Senator explain his position.

Mr. ALLEN. No; go ahead, please.

Mr. BYRD of West Virginia. Mr. President, I thought the Senator was making the argument that the Senate is a continuing body.

Mr. ALLEN. The Senator from Alabama has never made that statement. The Senator from Alabama has stated that, under rule XXXII, the rules of the Senate obtaining and existing in one Congress carry over to the succeeding Senate, which is a part of the succeeding Congress, of course. Obviously, the Senate of the United States does not set the rules of the other body. All we can do is set up our own rules. They do carry forward unless amended under the rules. I am sure that the distinguished Senator from West Virginia could quote from memory that section of rule XXXII.

Mr. BYRD of West Virginia. If the Senator will yield, under the previous, same understanding, I do not question what the Senator says with respect to Senate rule XXXII. I merely rose to attempt to make a correction of the RECORD which I thought would meet with his approval, when he earlier said that rule XXXII provided that the rules continue from one Senate to the next Senate. I merely want to say that the rule does not say that. There is provision for a continuation of the rules from one Congress to the next Congress. Each Congress consumes a 2-year period. But, in my judgment, if not in the judgment of the able Senator from Alabama, the Senate is a continuing body and any contention that the rules carry over from the previous Congress has to be based on two things; namely, first, Senate rule XXXII, and second, that the Senate is a continuing body—the same Senate, although not made up of the same Members, that convened in 1789, and it will be the same Senate until the crack of doom. That is the cornerstone of the argument, in my opinion, that at the beginning of a new Congress the rules of the Senate in the previous Congress carry over until changed. It is the real basis, I believe, of the argument of those who maintain that if cloture is invoked at this point, it must be invoked under the provisions of rule XXII which currently require the affirmative vote of two-thirds of Senators present and voting to invoke cloture.

I do not intend to take side with either the one or the other of the participants. I merely state that the verbiage in rule XXXII, "from one Congress to the next Congress," is deliberately so written, because there is no such thing as "one Senate" or the "next Senate," in my opinion. There is no such thing as a succeeding Senate. It is the same "continuing body" that first convened in 1789.

Mr. ALLEN. The Senate, of course, is a part of Congress so that when it carries over from one Congress to the next Congress, then the Senate, as a component part of that Congress, would have its rules carried over, under rule XXXII; and to that extent, certainly, I agree with the distinguished Senator from West Virginia.

Mr. PACKWOOD. Mr. President, may I ask another question of the Senator from Alabama?

Mr. ALLEN. I am happy to yield to the Senator from Oregon, under the same conditions.

Mr. PACKWOOD. Yes; under the same circumstances, of course.

I did not mean to get into any lengthy argument. I understand that we continue from one Congress to the next Congress. But I am wondering whether the theory of the argument of the Senator from Alabama is that we are bound by the rules that exist to change our rules as the chief argument that he is making.

Mr. ALLEN. The only way we can get out from under the rules of the 91st Congress is to amend them in accordance with the rules as stated in rule XXXII.

Mr. PACKWOOD. The Senator propounded a second argument that, apart from whether we are a continuing body or continue from one Congress to the next Congress, or from one Senate to the next Senate, is it not the Senator's contention that he is opposed to the right of a majority to terminate debate under any circumstances, anyway?

Mr. ALLEN. I am in favor of the provisions of rule XXXII. I am also in favor of the provisions of rule XXII.

Mr. PACKWOOD. But if there were no rule XXII or rule XXXII, the Senator from Alabama would still vote to have a two-thirds limit on debate——

Mr. ALLEN. Of course I would, over a majority limit.

Mr. PACKWOOD. Might I propose further that if we were not a continuing body, or continuing from one Senate to the next Senate, or continuing from one Congress to the next Congress, whatever rule XXXII or rule XXII may say, does the Senator from Alabama concede the right of a majority, at the beginning of the opening of a legislative body—that is, one that is not continuing—have the right of a majority to adopt its own rules?

Mr. ALLEN. A legislative body can adopt its own rules; yes——

Mr. PACKWOOD. But if it is not a continuing body.

Mr. ALLEN. Yes, of course, A legislative body has the right to adopt its own rules. The Senate has adopted its rules. I am reading from them now.

Mr. PACKWOOD. Apart from the fact that there are rules, is the Senator conceding, then, that if we were not a continuing body, a majority would have the right and should have the right to adopt its own rules, including what percentage it would take to terminate debate?

Mr. ALLEN. The matter of a continuing body has nothing to do with it, actually. Whether the Senate is a continuing body or not, we are governed by the rules which we have.

Mr. PACKWOOD. But if we were not a continuing body, does the Senator from Alabama concede the right of the majority to determine what percentage it would take to terminate debate?

Mr. ALLEN. That is posing a question that has nothing to do with it. We are concerned with the rules as we find them in the rulebook.

Mr. PACKWOOD. That will be the point of some comments I shall make at another time but, without passing on the question of whether we are a continuing body, I am curious about the philosophy of the Senator from Alabama as to the right of a majority in a noncontinuing legislative body to determine its own procedures.

Mr. ALLEN. Under the rule——

Mr. PACKWOOD. I am assuming there are no rules but that we are talking about a body that is not continuing.

Mr. ALLEN. Well, that is a hypothetical question——

Mr. PACKWOOD. That is right.

Mr. ALLEN. That is not covered by the facts of the case here. That is just engaging in idle speculation. We should not engage in any idle speculation here.

Mr. PACKWOOD. Sometimes we would be better off if we did.

I have no further questions at the moment.

Mr. ALLEN. I thank the distinguished Senator from Oregon.

Mr. ERVIN. Mr. President, will the distinguished Senator from Alabama yield to the Senator from North Carolina for some judicial light on this question we have just been discussing, with the understanding, of course, that by so doing he will not lose his right to the floor, and with the further understanding that by so doing he will not have any subsequent remarks counted as an additional speech on this subject, or have his rights otherwise prejudiced?

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina on those conditions.

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

Mr. ERVIN. Mr. President, I thank the distinguished Senator from Alabama for yielding to me.

The Supreme Court of the United States ruled on this in the case of McGrain against Daugherty, which is reported in volume 273 of the Reports of the U.S. Supreme Court. A Senate investigating committee tried to get Mally S. Daugherty, a brother of the then former Attorney General to come before it and testify. He refused to do so. An election came along; and a new House of Representatives was elected, and one-third of the Members of the Senate were elected; and the old Congress died, and a new Congress came into being. The President of the Senate issued an order for the arrest of Daugherty; and he was arrested by the Deputy Sergeant at Arms of the Senate. Daugherty then went into the Federal district court and applied for a decree for his release, upon the allegation that since the Congress at which the Senate committee authorizing the investigation had been created had terminated, the Senate committee had lost its power to act in any parliamentary manner. The district court adopted the theory now held by some of the Members of the Senate—other than the Senator from North Carolina.

So there was squarely presented the question of whether parliamentary proceedings of the Senate in a previous Congress still had legal force and effect. The Supreme Court of the United States reversed the decree of the district court releasing Daugherty upon this reasoning:

> Another question has arisen which should be noticed. It is whether the case has become moot. The investigation was ordered and the committee appointed during the 68th Congress. That Congress expired March 4, 1925.

Then the Court set out the position of the arrested party, to the effect that the power of both the House and the Senate to exercise parliamentary functions after that Congress had gone out of existence had ceased, and cited the rule to that effect which had been held in England with reference to the British Parliament.

But the Court rejected this position, saying:

> The rule may be the same with the House of Representatives whose Members are all elected for the period of a single Congress; but it cannot well be the same with the Senate, which is a continuing body whose Members are elected for a term of 6 years and so divided into classes that the seats of one-third only become vacant at the end of each Congress, two-thirds always continuing into the next Congress, save as vacancies may occur through death or resignation.

That is the end of the quotation from the Supreme Court. That was a square decision of the Supreme Court of the United States in 1926. The decision was to the effect that the Senate is a continuing body, a body that never goes out of existence. Furthermore, the Constitution provides that the Senate may adopt rules to conduct its proceedings.

I thank the Senator from Alabama for yielding for this clarification.

Mr. ALLEN. Mr. President, I thank the Senator from North Carolina for that information. I am interested to hear that the Supreme Court of the United States has declared that the U.S. Senate is a continuing body. But that is not the turning point of this issue, whether or not the Senate is a continuing body. We do have the Senate rule, which the Constitution gives the Senate the right to set, in section 5 of article I. The Senate has complied with that provision. The Senate rules of one Congress become the Senate rules of the succeeding Congress unless amended as provided by the rules.

We have, in effect, ratified that position by proceeding for the days that we have been in session under these very same rules. As a matter of fact, with respect to the resolution that we are discussing right now, coming before us in the manner it has and at the time it has, in strict accordance with the rules of the 91st Congress—which have now become the rules of the 92d Congress—when they got ready to introduce the resolution, they did not say, "We hereby adopt the following new rules as the rules of the United States Senate. They said, "We seek to amend rule XXII of the United States Senate," thereby recognizing the full force and validity and effect of the Senate rule.

So all the proceedings we have had since January 21, when we came back into session, have been under the Senate rules which by our adopting them in practice would certainly show they are now in full force and effect and that if they seek to amend rule XXII, they must amend it in accordance with the provisions of the Senate rules themselves.

Mr. ERVIN. Mr. President, will the Senator yield for some further questions by the Senator from North Carolina that are designed to elicit information on the question put by the distinguished Senator from Oregon to the Senator from Alabama a moment ago as to what would be the result if the rules were silent on the subject.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina for that purpose without losing my right to the floor and without my subsequent remarks being considered a second speech on the same subject.

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

Mr. ERVIN. Mr. President, does not the Senator from Alabama know as a historical fact that a number of the Members of the Senate which constituted part of the First Congress were men who had served on the Constitutional Convention which drafted the Constitution?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Mr. President, does not the Senator from Alabama recall as a historical fact that the First Senate when it adopted rules had no rule providing for the silencing of a Senator?

Mr. ALLEN. Mr. President, I rather believe they did have the previous question, which was debatable in the First Congress.

Mr. ERVIN. Mr. President, the recollection of the Senator from Alabama is that they had a rule on that subject?

Mr. ALLEN. It was used three times in the 17 years from 1789 to 1806.

Mr. ERVIN. And the late Senator Moses of New Hampshire pointed out that the motion to invoke the rule was debatable.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Mr. President, is it not a fact that from the time the Senator first wrote its rules down to 1917, it was accepted as a correct interpretation of the procedure of the Senate that no Senator could be silenced by any other Senator or by the entire Senate.

Mr. ALLEN. The Senator is correct. I believe that during the War Between the States they did put in some temporary limitation.

Mr. ERVIN. Mr. President, did not the Senator from Alabama on yesterday point out the number of attempts that were made by various persons, including as I recall Henry Clay, to get a rule of the Senate that would permit the Senate to put an end to debate, and all of those efforts were rejected.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. The Senator pointed out, as I recall, that Woodrow Wilson, one of the greatest students of the Constitution this country has ever known, pointed out to Congress at the time of the debate over the merchant marine during the First World War that there was no rule which permitted putting an end to debate in the Senate and he asked for the first cloture rule that was passed.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Mr. President, does not the Senator from Alabama agree with the Senator from North Carolina that the provision of the Constitution which says that each State shall be represented in the Senate by two Members gives those Members the right to take whatever course of action is necessary for them to represent their States and that such course of action would allow them to debate measures unless the Senate in the execution of the power to make rules to govern its proceedings decreed otherwise?

Mr. ALLEN. The Senator is correct. That is not only their right, but it is also their duty.

Mr. ERVIN. Mr. President, if the rules were entirely silent on the subject, every Senator of the United States would have the right to stand and speak on behalf of any position he took without any limitation whatever.

Mr. ALLEN. The Senator is correct. As the junior Senator from Alabama has suggested a time or two, it is not the conferring of the right of unlimited debate. It is the limitation of the right to engage in extended debate. It has been the observation of the junior Senator from Alabama that whenever the opinion in the Senate was of such a preponderance on one side of a question that it was desired to cut off debate, it was not difficult to get the required two-thirds majority.

I believe the present two-thirds requirement has served the Senate well. It has served the country well.

I recall just in the closing days of the 91st Congress a one-man filibuster which was engaged in by the then senior Senator from Tennessee, former Senator Gore, against a bill providing for contributions or subscriptions by the U.S. Treasury to certain foreign financial corporations, including the International Monetary Fund, the World Bank, and the International Development Association.

While $2 or $3 billion was involved, there was $1.1 billion set aside for making so-called soft loans in foreign countries. The then Senator from Tennessee pointed out that many small towns, large towns, and rural communities did not have adequate water and sewage facilities and that the applications were tremendous in number and had been turned down by the appropriate agencies because of the lack of funds; whereas the bill provided for making $1.1 billion in soft loans to foreign countries and foreign units of government.

By having a one-man filibuster, which it was believed could not be cut off by a two-thirds vote, Senator Gore was able to work out a compromise which caused the supporters or administration leaders to reduce that amount from $1.1 billion to $100 million for these soft loans, thereby, by his extended discussion of the bill according to his figures, saving the taxpayers of this country $1 billion. So the filibuster or extended debate

serves a very useful purpose. It can be cut off; it has been cut off many, many times in the Senate.

It used to be said the filibuster was used against civil rights legislation. Well, cloture has been applied with respect to civil rights legislation that has been introduced; and I know of little, if any, civil rights legislation that was pending in the last session that the Senate did not pass.

It was interesting to note in the closing days of the 91st Congress that those who were resorting to the use of extended debate or filibuster were Senators who favor making it easier to cut off debate. I refer to the distinguished Senator from Wisconsin (Mr. PROXMIRE) who, by engaging in extended debate on the SST conference report, was able to defeat the full funding of the SST project. The distinguished Senator from New York (Mr. JAVITS) and I believe the distinguished Senator from Minnesota (Mr. MONDALE) were threatening use of extended debate with respect to the import quota legislation. The import quota legislation was not passed by Congress. The full funding of the SST was not authorized.

So, Mr. President, the use of extended debate is certainly not a practice engaged in only by Senators from my section of the country. When an effort was made to choke off the debate on the SST I opposed those efforts because I believe that those who oppose the SST have a right to be heard on the question.

If we change the cloture rule, if we reduce the requirement to 60 percent, and then follow it with the proposal by the distinguished Senator from New York (Mr. JAVITS) calling for a 51-vote imposition of cloture, the Senate is going to cease to be the greatest deliberative body in the world. It will not even be a deliberative body at all. Talk about Congress staying in session for 11 or 12 months a year, there will not be any need of it if a majority is able to vote cloture. They will ram these bills through the Senate just as they do in the House, and possibly a lot easier.

So extended debate, filibuster, is used, and that is the great hope that we have against absolute control of the Senate and the House by the executive department. I am not speaking with respect to the present executive department any more than I am of the one we had last time or the one we might have next time; but any of the three branches, with a possible exception of the legislative branch, is most jealous of its powers.

The executive department reaches out and gets all the power that is in sight. The Supreme Court has more or less regarded itself as a super government running the country. Only the legislative branch delegates its power.

As I pointed out a moment ago, and as the distinguished Senator from North Carolina pointed out with respect to President Wilson going to Congress to arm the merchant marine in 1917, think how little a Chief Executive today would pause in ordering something of that sort to be done.

As the distinguished Senator from North Carolina pointed out, it was not many years after that—20-odd years—that Franklin D. Roosevelt had the lend-lease destroyer deal without getting the approval of anyone.

If we fix it so that big government, national government bureaucracy, can get legislation passed through the Senate by a 60-percent vote, later to be followed by a 51-percent vote, the Senate is going to become simply a ceremonial body. As I suggested, if we ever get to the point where we are not allowed to debate issues, there is not much need of coming to the Senate Chamber. There would not be much need of coming to the Chamber if we are not going to be allowed to debate, if we are not going to be allowed to point out the defects and the dangers of legislation, because debate could be cut off with a 60 percent or later possibly 51 percent of the votes of Senators.

The use of extended debate has the result many, many times of improving legislation as it goes through the legislative process.

The Senators who debate questions and issues have made a point to study the issue, study the legislation, prepare amendments, make suggestions, point out the dangers; and by slowing down the mad rush to enact legislation, the Senate can perform a great public service. That right is going to be taken away from the Senate. The Senate is going to stop deliberating on issues because 60 percent of the Senators so decide. Any time that much of a majority can be obtained, the minority does not have any chance.

So extended debate is a defense of the present separation of powers. Little as we have left, let us try to save what we do have.

It is a defense against mushrooming Federal bureaucracy.

It is a defense against big government getting bigger.

I hope that the Senate will not cut off this debate and that, in short order, the matter will be withdrawn from consideration by the Senate, so that we can get down to more important measures.

Mr. President, we heard a lot, and the liberal press had a lot to say, about the logjam of the legislation that existed in the close of the 91st Congress. The filibuster was not because of this logjam solely. As a matter of fact, it played very little part in the logjam. One factor that led to the so-called logjam in the Senate was one of the Senate's own rules, or possibly it would be more accurate to say lack of a rule, and that is the rule which permits adding nongermane amendments to pending legislation.

The social security bill failed of enactment. The import quota bill failed of enactment. The President's family assistance plan failed of enactment. And the strategy there apparently was to take up the popular social security bill—and I do not know that that is going to be so popular when the employers and employees understand that the base of the social security contribution is being widened and raised a great deal and that the contributions are going to have to be made on a higher amount of income. But that bill would have passed the Senate without any difficulty, and actually did pass in the closing days of the Congress, after it was shorn of the import quota bill and the President's family assistance plan, but too late to be passed in the House.

The proponents of the import quota bill, the trade bill, which is certainly a bill which needs to be enacted to protect American jobs in several industries from the dumping of foreign exports from foreign countries imported into our country, added it to the social security bill, or sought to add it to the social security bill.

Then the family assistance plan was put on by amendment. The opponents of the various plans were able to unite and defeat it. But if it had come up separately, final action in all likelihood could have been obtained on each of the bills, just as was done on the social security measure.

The committees of the Senate have done a tremendous job in studying and holding hearings and preparing and drafting legislation. Some of those measures came to the floor really late in the session, and many Senators felt that they needed to study those measures a great deal more.

By the way, the social security bill, when it passes, will be made retroactive, I am told, to January 1. So no one will lose a thing. But these measures, by being put together, were unable to be passed. Some of the bills came out so late in the Senate that they just could not be acted on by the Senate. But if these measures that we had were good, why are they not coming out now? They gained committee approval in the other Congress. Why could they not come out now and be acted on and approved, instead of going through this formality on the Senate rules?

I hope that the effort to change the Senate rule will be abandoned. We have a workable rule. The two-thirds rule is a workable one. It is one that allows legitimate discussion. It is one where a vote to cut off debate can be obtained in 2 days if two-thirds of the Senators so want.

Mr. ERVIN. Mr. President, will the Senator yield for some questions, with the understanding that by so doing he will not lose his right to the floor or have any subsequent remarks he makes counted as an additional speech or otherwise have his rights prejudiced?

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield under those conditions.

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

Mr. ERVIN. I would like to ask the Senator from Alabama if in every instance where the framers of the Constitution made express provision for more than majority vote they did not use two-thirds as the magic number. For example, does not the Constitution provide that either House, that is, the Senate or the House of Representatives, may expel a Member by a two-thirds vote?

Mr. ALLEN. Yes; that is correct, two-thirds.

Mr. ERVIN. Does not the Constitution provide that treaties may be made by the President and become effective if ratified by two-thirds of the Senate?

Mr. ALLEN. Yes; that is correct.

Mr. ERVIN. Does not the Constitution provide that the House of Representatives may impeach a civil officer of the Federal Government and that he can be convicted and removed from office only by a vote of two-thirds of the Senate?

Mr. ALLEN. Yes; that is correct.

Mr. ERVIN. And has not the Senate, ever since 1917, in the exercise of its power to make rules for its own proceedings, used the two-thirds formula as a basis for cloture?

Mr. ALLEN. Yes; that is correct.

Mr. ERVIN. So here, with this three-fifths proposal, we would be introducing another number in the equation, would we not?

Mr. ALLEN. That is correct.

Mr. ERVIN. It would sort of be like changing the 12 apostles to seven, would it not?

Mr. ALLEN. I can see a parallel, yes.

Mr. ERVIN. The Senator was speaking of bills that were not passed at the last session. I ask the Senator if it is not a fact that the social security bill, to which the other bills were proposed to be tied, was not even reported to the Senate for consideration until the 11th day of December, which is just 2 weeks exactly from the time Old St. Nick was supposed to come down the chimney.

Mr. ALLEN. Yes. I believe that was the correct date.

Mr. ERVIN. And it was reported to the Senate, was it not, after the Senate had been in session since the 17th day of January, and at a time after an election had been held, and after 11 new Senators had been elected to the Senate to take the places of others who had been serving up until the date of the election?

Mr. ALLEN. That is correct; yes.

Mr. ERVIN. Demand was made, was it not, that a Senate which had been exhausted by work from the 17th day of January down to the middle of December pass bills which were necessarily written in legal gobbledygook and which no human being can understand until he learned to unscrew the inscrutable?

Mr. ALLEN. Yes, sir.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that it is a good thing for the American people that those bills were not passed under those circumstances?

Mr. ALLEN. Under those circumstances, yes.

Mr. ERVIN. And is not the Senator from Alabama fighting now to make it certain that these bills, which would alter the entire welfare system in the United States, should receive ample debate in this body, so that Senators may understand what those bills provide, and the implications of their provisions?

Mr. ALLEN. They very definitely ought to be debated; yes.

Mr. ERVIN. And if this rule were changed as proposed, 60 Senators, six out of 10, could absolutely silence the other 40 after the bill had been pending before the Senate 48 hours, could they not?

Mr. ALLEN. Yes, they could ram it through.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that the test of a rule or a law is not what good men can do with it, but what evilly disposed men, or men who are impatient, can do with it?

Mr. ALLEN. I think that is a good standard to adhere to.

Mr. ERVIN. I thank the Senator.

Mr. ALLEN. Mr. President, the distinguished Senator from North Carolina has been waiting patiently to address remarks to the Senate on this subject. I apologize to him for consuming so much time. I do appreciate the colloquies that we have had, and the additional information that he has given on this subject. But at this time, in order that the distinguished Senator from North Carolina may gain the floor and speak on this subject, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I commend the Senator from Alabama for a most eloquent presentation of why it is necessary for the Senate to preserve rule XXII in its present form in order to make the Senate of the United States a body independent of the executive, and why it is necessary to keep rule XXII in its present form in order to make it certain that in the Senate of the United States, a substantial minority of the Members of the Senate shall not be subjected to the tyranny of the majority.

Before I proceed with further discussion of the proposed rule change, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER (Mr. FANNIN.) The Senator will state it.

Mr. ERVIN. As I understand the parliamentary situation, yesterday afternoon the Senate did not adjourn, but, on the contrary, it recessed.

The PRESIDING OFFICER. That is correct.

Mr. ERVIN. And as a result of that fact, the motion of the able and distinguished Senator from Alabama to postpone consideration of the motion of the able and distinguished Senator from Kansas to the next legislative day, became the pending question of the Senate when the Senate convened this morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. That being true, the rule of germaneness is no longer applicable?

The PRESIDING OFFICER. It would be applicable for the first 3 hours. That period has expired.

Mr. ERVIN. The reason I asked the question is because I have a statement which I wish to make at this time on the subject of preventive detention as a step backward in criminal justice. I think this is highly important. After I make that statement, I shall continue the debate on the pending business.

The PRESIDING OFFICER. The Chair will state to the Senator from North Carolina that the rule says "on any calendar day." The rule of germaneness applies every day for the first 3 hours at the conclusion of the morning hour or after the unfinished business or pending business has first been laid before the Senate, regardless of whether the Senate had recessed or adjourned.

Mr. ERVIN. Yes. But the first 3 hours having expired—

The PRESIDING OFFICER. The first 3 hours have expired, that is correct.

Mr. ERVIN. Then the rule no longer prohibits the Senator from North Carolina from discussing a nongermane matter?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ERVIN. Mr. President, during the first days of every Congress since I came to the Senate there has been an effort made to change rule XXII. Rule XXII, insofar as it is pertinent to our present debate, is embodied in section 2 of rule XXII.

This subsection reads as follows:

> Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:
>
> "Is it the sense of the Senate that the debate shall be brought to a close?"
>
> And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.
>
> Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

While section 3 contains certain provisions relating to the general question of cloture, it is not necessary to read it as being germane to the particular discussion in which I now wish to engage.

Senate resolution 9, which was presented by the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Kansas (Mr. PEARSON), is couched in the pertinent part in virtually the same words of rule

XXII in its entirety, with the exception of the fact that it provides that the question of bringing the debate to a close shall be decided by three-fifths of the Senators present and voting rather than by two-thirds of the Senators present and voting.

For the information of those who perchance may be readers of the RECORD, I ask unanimous consent that a copy of Senate Resolution 9, proposed by the distinguished Senator from Idaho and the distinguished Senator from Kansas, be printed in the RECORD.

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

S. RES. 9

Resolution amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate

Resolved, That rule XXII of the Standing Rules of the Senate is amended to read as follows:

"1. When a question is pending, no motion shall be received but—

"To adjourn.

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"To lay on the table.

"To postpone indefinitely.

"To postpone to a day certain.

"To commit.

"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

Mr. ERVIN. Mr. President, during a colloquy with the able and distinguished Senator from Alabama I suggested that I found myself in agreement with the conviction of the able and distinguished Senator from Alabama that the resolution proposed by the distinguished Senator from Idaho and the distinguished Senator from Kansas is merely one station on the road to a demand for majority cloture.

The distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Michigan (Mr. HART) have corroborated the views of the Senator from Alabama and the Senator from North Carolina on this point by offering a proposal which they designate as an amendment. This proposal provides, in effect, that at any time after the elapse of somewhere in the neighborhood of 48 hours after a proposal for legislation is laid before the Senate, 51 Senators can effectively silence 49 Senators. In other words, it goes beyond the proposal of the Senator from Idaho and the Senator from Kansas as far as phraseology goes, but it is in complete harmony with the actualities which will result from either the proposal of the Senator from Idaho and the Senator from Kansas, or the Senator from New York and the Senator from Michigan. I will elaborate on my contention in this respect shortly.

Over the years that I have been in the Senate we have had some quite queer reasons given as to why we should change rule XXII. When I first came to the Senate it was said we should change rule XXII because 22 southern Senators could thwart the will of the other 78 Senators of the Senate in respect to the passage of civil rights bills. I respectfully suggest that the fact that cloture was successfully invoked against every civil rights bill that has been proposed and presented to the Senate during the 16 years I have been a Member of the Senate shows that that argument has no validity at this time. Mr. President, you do not need any cloture rule to reduce Southern States to the status of conquered provinces; that has already been done. And, of course, the truth of it is that there was never any substance to the assertion that 22 southerners could thwart the will of 78 other Senators.

I am a southerner and perhaps am not objective in appraising southerners. I am inclined to the opinion that if southerners had more influence in the government of this Nation, we would have a better ruled nation.

On Sunday of this week the mortal remains of a great southerner were buried in the State of Georgia. Everyone who had had the opportunity to observe his action as a Senator over a period of many years concurred in the opinion that he was preeminently qualified by education, by experience, by dedication to fundamental constitutional provisions, and by an unsurpassed moral and political courage to occupy in a brilliant manner the highest office within the gift of our people, namely, the Presidency of the United States. Everyone who is willing to face reality will admit that he was denied that high office notwithstanding his preeminent qualifications for it because he was born and resided in Winder, Ga., rather than Kalamazoo, Mich., or some other place outside the 11 Southern States.

But the argument that 22 southerners could thwart the will of the Senate that was given to alter rule XXII when I first came to the Senate was a specious argument at best. That is true because they never did have 22 southern Senators who stood together in respect to so-called civil rights bills. There were always one or two, or more, who seceded. The truth is the argument that we needed a change in the cloture rule to keep 22 southern Senators from thwarting the will of 78 Senators always reminded me of a cartoon I saw many years ago.

I am sure all Members of the Senate of my vintage, received great pleasure at the time and some illumination from reading the cartoons concerned with the episodes in the fictitious lives of Maggie and her husband Jiggs. I recall one cartoon which showed that Maggie and Jiggs had taken a trip to Spain and Jiggs had found that there was a self-protection society of husbands over there called the Kazook Society.

Every member of the Kazook Society had taken a blood oath that he would come to the rescue of another brother Kazook in the event the brother Kazook was threatened or imperiled by his wife. So Jiggs immediately joined the Kazook Society.

He was walking along the streets of Madrid one day with Maggie, and Maggie became dissatisfied with something Jiggs had done or said, and she immediately started to beat Jiggs. So Jiggs gave the cry of distress to his brother Kazooks. He hollored "Kazook." The cartoon showed about 1,000 Kazooks running to come to the rescue of Jiggs. Maggie took an umbrella and laid them all out.

The last cartoon on that occasion showed Jiggs in the hospital, all swathed in bandages, and he was philosophizing thus:

The idea behind the Kazooks Society is pretty good, but the trouble is it hasn't got enough members in it.

So the South never did have enough Members in the U.S. Senate to thwart the will of 78 Senators from other areas of this country.

The argument that we needed to change rule XXII to keep 22 or fewer southern Senators from thwarting the will of 78 other Senators from other areas of the country never had any substance. It not only reminded me of the cartoon about Maggie and Jiggs, but it also reminded me of the story they tell down in my county about an old custom we have. Under this custom people who have relatives buried in little country church yards are accustomed each year, together, on an appointed day, to remove the weeds and the brairs from the church yard in which the bodies of their relatives are sleeping in the tongueless silence of the dreamless dust. A person who was averse to physical labor hired George to do the physical work that was a part of that very sacred task.

George was stooped down, pulling weeds and briars off the graves, and he started laughing. The man who hired him said, "George, what are you laughing at?" He said, "I am laughing about these words writ on this here tombstone." George's boss said, "I don't see anything funny about those words that are written on the tombstone." George said, "Well, Boss, it says, 'Not dead, but sleeping.'" And George's boss said, "I still don't see anything funny in that." And George said, "Well, Boss, he ain't fooling nobody but himself."

I would say that those who said we needed to change rule XXII because it was necessary to deal with supposedly sinful southerners with respect to civil rights bills were not fooling anybody but themselves when they made that argument. They will admit now, I think, that that observation is correct and that there no longer is any necessity to make any alteration in rule XXII in order to keep 22 southern Senators from thwarting the will of 78 northern, eastern, and western Senators.

The argument is made that we ought to rewrite rule 22—in fact, we ought to rewrite all the rules of the Senate—because these rules were written by the hands of dead men. Then it was pointed out that most of the heritage that was received from the past was like the rules of the Senate in that respect. It was pointed out that the Prophet Moses, who brought the tablets of stone down from the top of Mount Sinai and gave them to the Hebrew people, was sleeping his mortal sleep on the top of Mount Nebo, if I recall my Scripture correctly.

It was also pointed out that King John, who had had Magna Carta wrung from his hands by the barons at Runnymede was sleeping in the tongueless silence of dreamless dust with all those barons who had made that great advance in law, that the Magna Carta, like the tablets of stone, was written by men whose hands had crumbled into dust in the grave.

It was also pointed out that all of the great documents that secured freedom to the English-speaking race, such as the Bill of Rights, had been written by men whose hands had long since crumbled into dust in the grave.

It was pointed out, furthermore, that the Declaration of Independence was written and signed by men who had shuffled off this mortal coil.

The same observation was made about the Constitution of the United States.

And so, at long last, this argument of our brethren who believed that rule XXII should be changed in such a way as to make it impossible for a minority of the Senate to protect themselves and their views and their States and their country from the tyranny of the majority should be rendered meaningless was abandoned.

Those who advocate a change in the rule point out that the proposal provides that even after cloture is voted, as does the present rule, each Senator can speak for 1 hour on the bill under consideration or any amendments to that bill. Therefore, it is theoretically possible to have 100 hours of debate after cloture is imposed.

Two-thirds of the Senate voted to impose cloture on the debate against the Civil Rights Act of 1964. This act contains a provision which is an insult to the first amendment which undertakes to secure freedom of religion to all Americans. It is a provision, which was adopted by a majority of the Senate, which imposed cloture, that provides that while you cannot discriminate against people on account of race or color or national origin, you can take Federal money and use it to discriminate against people on account of religion.

I had some amendments to that bill. I recognized that in the political climate which prevailed in 1964, that bill would pass, and I did the best I could in committee and the best I could on the floor of the Senate to get Senators to listen long enough to see that the amendments I was proposing were meritorious amendments which would have made the bill more in harmony with the fundamental principles of American constitutional law and much more reasonable in their application.

For one thing, I had an amendment which would have prevented the conversion of every agency and every department of the Federal Government handling any Federal funds into lawmaker, prosecutor, judge, jury, and executioner. My amendment provided that the agencies or departments charged with administering Federal programs involved with the use of Federal funds could receive and investigate charges of discrimination, but they would have to report those charges of discrimination to the Department of Justice, and that the Department of Justice should take action to prevent discrimination in the courts, if they found there was a basis for such action.

But the Senate voted cloture, and I had an hour to present about 10 or 15 very good amendments. Virtually all of the Senators who voted to impose cloture absented themselves from the Senate Chamber and would not listen to the arguments of those with whom they disagreed.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. ERVIN. Yes. I am delighted to yield to the distinguished Senator from Texas.

Mr. BYRD of West Virginia. Mr. President, before the Senator yields to the Senator from Texas, if I may have the indulgence of both Senators, would the Senator from North Carolina yield to me first for a unanimous-consent request, with the usual understanding that the Senator not lose his right to the floor, and that it not be counted as an additional speech?

Mr. ERVIN. I am delighted to yield to the Senator from West Virginia under those conditions.

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

ORDER TO PERMIT THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that tomorrow, immediately after the approval of the Journal, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with speeches therein limited to 3 minutes.

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

ORDER FOR RECESS UNTIL 12 NOON TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock meridian tomorrow.

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

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the time for convening of the Senate on tomorrow following a recess be changed from 12 o'clock meridian to 11:30 a.m.

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

ORDER FOR RECOGNITION OF SENATORS MATHIAS AND HARRIS TOMORROW MORNING

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that on tomorrow, following the laying before the Senate of the pending business and the approval of the Journal, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized for not to exceed 15 minutes, and that at the conclusion of his remarks the able Senator from Oklahoma (Mr. HARRIS) be recognized for not to exceed 15 minutes.

That will, of course, come prior to the period for the transaction of routine morning business for which an order has already been agreed to.

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ERVIN. I now yield to the Senator from Texas for a question, colloquy, or statement, with the understanding that I not lose the floor by so doing, and that any subsequent remarks I make on this occasion shall not be counted as an additional speech.

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

Mr. TOWER. Mr. President, I have been following with interest, in the brief time that I have been present in the Chamber, the rationale of the distinguished former jurist from North Carolina, who is the outstanding student of the Constitution in this body, and perhaps any other.

I should like to ask the Senator if he agrees with a statement that was made by William S. White in his book entitled "The Citadel," which was a calculated defense of the Senate as an institution, that the Senate is designed to protect the minority from the precipitous and emotional tyranny of the majority.

Mr. ERVIN. Yes. The author of that book, William S. White, covered the Sen-

ate as a reporter for the New York Times for many years. He is now a distinguished columnist. He is well versed in the history of the Senate and the nation, and I think he has the most understanding mind in respect to the function, the purpose, and the value of the Senate as an institution, of any person of our generation.

Mr. TOWER. Is the Senator from North Carolina aware of a little bit of history as it has been reported—perhaps some of the details are apocryphal, but is the Senator aware of that time subsequent to the promulgation of the Constitution when Thomas Jefferson returned from his post in Europe and called on President Washington, and he asked President Washington the question, "Why is it that in establishing the national government you created a bicameral national legislature?"

At that particular moment, Mr. Jefferson was pouring his coffee into the saucer; and President Washington countered with a question, and asked, "Why is it that you pour your coffee into the saucer?"

Jefferson's response was, "To cool it."

Washington said, "That is precisely why we created a bicameral legislature, so that legislation may be poured from one chamber into the other to cool it."

Mr. ERVIN. I think that is about the most apt illustration which can be given of one of the fundamental purposes of the Senate. One of the fundamental purposes of the Senate, and one of the reasons that we have rule XXII, arises out of the fact that a legislative body composed of as many Members as the House of Representatives is composed of is certain to pass unwise legislation at times. The reason we have the Senate is to enable another legislative body, with the opportunity for more deliberation and more debate, to correct errors in legislation which might be passed by the House of Representatives in a rather hasty manner, under the House rules.

Mr. TOWER. Does not the Senator from North Carolina feel that the concept of representative democracy that is reflected in the composition of the two Houses demands that the Senate deliberate at greater length than the House of Representatives? The House is the more representative body; it is indeed closer to the masses of people than the Senate; it must go back more often to the people for a fresh mandate, and it is the body that should reflect with some degree of dispatch the popular will of the moment; but the Senate, made up of representatives of the States as corporate entities, not made up of representatives of the people as a mass, or based on population distribution, should and must not just reflect the popular will of the moment, but must consider the consequences of legislation passed in the heat of the moment for the future?

Would not the Senator agree that the House of Representatives, with such a large number of Members, must have somewhat tighter rules and must have somewhat more restriction on debate, and must act with somewhat more dispatch, but that the Senate, due to its nature and its composition, should and must deliberate in a more slow and careful way?

Mr. ERVIN. I think the Senator's question points out the mechanism by which the Founding Fathers made it certain, or as certain as they could, that we would have two legislative bodies; one, the House of Representatives, which is elected every 2 years, which comes every 2 years fresh from the people, and which by reason of that fact is more inclined to pass legislation hastily. So, in order to make it certain that they would be responsive to the people, the House rules were written to prevent prolonged House action. But they also created the Senate, and provided that only one-third of the Senators should be chosen at each election, and that all Senators should hold office for 6 years, and two-thirds would always continue in office.

The Senate and its rules were created to make certain that if something was done in a moment of public—I do not like to use the word, but it is expressive—hysteria by the House, there would be an opportunity in the Senate to correct it. Therefore, the Senate would be so constituted, by reason of the terms of its Members and the continuance of two-thirds of them in office at all times, that it would not be driven by popular passion of the moment. So the purpose of the Senate and its rules is to make certain that there is an opportunity to coolly and deliberately deliberate upon what the House has done.

The more I know about the Constitution, the more marvelous its provisions become to me, and I think that the establishment of two legislative bodies is one of the most marvelous provisions in the Constitution. It gave the people an opportunity to express their opinions frequently. It also gave, through the composition of the Senate, a continuity by which the country could be protected against sudden, impulsive things, done on the spur of the moment in a time of hysteria.

Mr. TOWER. Then, would not the Senator agree that either to repeal rule XXII or substantially to alter its provisions to the extent that undue restrictions were placed on debate in this body would in effect thwart the will of the Founding Fathers, the intent of the Founding Fathers, in establishing this body as it is now composed? Would not the Senator also agree that this would be an organic change in the legislative structure of the United States of America and that, really, such a matter, although it is not required that it be so done, would actually be a proper subject for consideration for constitutional amendment, which would be submitted to the people, in their capacity as citizens of the several States, to act upon?

There has been no popular ground swell that I can determine on the part of the people of this country to alter the character and nature and the historical and traditional function of the Senate.

Mr. ERVIN. I think there is no popular demand. We have certain pressure organizations that want to change rule XXII. These organizations like to get their will done and are largely responsible for much of the centralization of Government in Washington today, because they know it is easier to cajole or persuade or coerce one legislative body than it is to do that to 50 State legislatures.

I agree with the implication of the questions of the Senator from Texas, that to substantially modify rule XXII would alter the very purpose the Founding Fathers had in mind when they created the House of Representatives and the Senate, with different tenures of office, different times for election. I cannot think of any greater calamity that could befall our Government.

The Senate of the United States is the last legislative body on the face of the earth which gives a substantial minority the power to express its opinion concerning the proposals that affect the lives of 200 million Americans, and I think that a substantial modification of rule XXII would convert the Senate into the same kind of legislative body that the House is. I say that realizing that the larger membership of the House demands rules different from those of the Senate.

Through my personal experience, I believe I can show the value of the Senate to cool hot legislation, as illustrated by the story which the Senator recounted earlier concerning the conversation between George Washington and Thomas Jefferson.

I served in the House for a short time. We had had a prolonged strike by the United Mine Workers. The piles of coal in the United States had become so low that we had what were called brown-outs in our cities, and we had insufficient coal to keep the patients in hospitals warm, and the public was inflamed by strikes. Then the railroad brotherhoods threatened to go out on strike, to put all the railroads out of operation.

President Truman made a speech before a joint session of the House and Senate and proposed that Congress enact a law drafting all railroad workers into the Army and subjecting them to military control to keep the trains operating. Immediately after his speech, a bill was introduced, debated by the House for about 20 minutes, and passed by the House with only three or four dissenting votes. I confess with shame that I voted for that bill. I trust that the recording angel has dropped a tear and blotted out this legislative sin of mine. I have certainly repented of it many times.

What had we done? We had passed a bill which subjected all the railroad men to the slavery or peonage or involuntary servitude prohibited by the 13th amendment. Fortunately, that bill had to come to the Senate. It was sent over here by a special messenger, with the thought that the Senate would pass it immediately. But we have other rules—not only rule XXII—that afford some protection to this country. We have the rule that a bill cannot be taken up immediately when it comes from the House, without unanimous consent. When that bill came over here, I think the majority of the Senate would have passed it. But when the request was made to call it up for immediate consideration, Senator Bob Taft of Ohio said he objected.

Because of his objection to its immediate consideration, the bill automatically, under the Senate rules, had to go over to the next day. During that night, men reflected on the fact that the

House had violated the Constitution in passing that bill, and it never was enacted, fortunately.

That illustrates the necessity of having a chamber to cool off hot legislation passed by the House.

Another illustration: During the brief time I was in the House, the fighting in the Second World War came to an end, and a natural demand went up from the mothers and fathers of this country to bring our boys home and minimize the number of them being drafted. We had a bill introduced and reported by the committee then called the Military Affairs Committee to extend the draft, with provisions under which no man could be drafted. That was the strangest piece of legislation I have ever perused. That was during the time Stalin was the dictator of Russia. A handful of us felt at that time that it was necessary to keep America strong if America was going to be protected in a very precarious world.

I recall that a great Texan, Ewing Thomason, who was later district judge at El Paso, Representative Wadsworth, of New York, who prior to that time had served in the U.S. Senate—and who, incidentally, was the father-in-law of the distinguished Senator from Missouri (Mr. SYMINGTON)—and I felt that that bill was bad and that it should be changed. Although I was a sort of neophyte Representative, I did the best I could to make a speech against it. In order to speak 4½ minutes against that bill—that was the longest speech I ever made in the House of Representatives, and I had to borrow 2½ minutes from the Democrats and 2 minutes from the Republicans. That is just another thing that sticks in my mind when I think of the efforts to allow a part of the Senate, less than two-thirds, to silence the other Members of the Senate. I think it is essential to the preservation of the Senate as a worthwhile institution to maintain a rule like rule XXII.

Mr. TOWER. I want to thank my distinguished friend from North Carolina for his splendid answer to my question and for his great contribution to this debate. I trust that, in the end, his closely reasoned arguments will prevail.

Mr. ERVIN. I thank the Senator from Texas.

Mr. HART. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. Yes, I am glad to yield to the distinguished Senator from Michigan.

Mr. HART. I heard some of the latter exchange which occurred between the able Senator from North Carolina and the able Senator from Texas. Was that exchange intended to suggest that, as a conscious act by the Founding Fathers when they wrote the Constitution, if they had it to do over again, they would add the requirement of two-thirds to shut off debate, which they did not do, although they selected other areas that compel us to get two-thirds? Although I cannot find it in the Constitution, is it suggested that it is really there?

Mr. ERVIN. Some of the Founding Fathers served in the first Senate and wrote the first Senate rules.

Mr. HART. The exchange I heard dealt with what the Founding Fathers meant when they drafted the Constitution and what they had in mind. I had the feeling, at least by implication, that we would be offending their intentions. It is my understanding that they intended to enumerate those instances where more than a majority would be required of the Senate, such as in treaties, constitutional amendments, or impeachment convictions; but did they overlook the filibuster, or do I misread the Constitution?

Mr. ERVIN. I think it was impossible for the Founding Fathers to conceive that any Senator would ever want to deny a substantial minority of Senators the right to speak. There were 55 delegates to the Constitutional Convention and some of those 55 delegates came to the first Senate of the United States. The Senate which wrote the original Senate rules made no provision whatever for cutting off debate. They thought it was implicit in the words of the Constitution that a Senator should be allowed to debate in order to represent his State. I do not think they ever thought that any movement would ever be made in the Senate to allow 60 percent or 51 percent of Senators to deny other Senators the right to express their honest convictions on any subject of importance. They certainly never contemplated that we would have a rule under which 60 percent or 51 percent, within a period of 48 hours after a legislative proposal had been made, could silence and put an end to debate in the Senate. We would be putting an end to debate when we restrict every Senator to 1 hour because the two-thirds or the 60 percent or the 51 percent who vote to silence the other Senators are not going to argue the bill after cloture is obtained. It is only the minority that would be restricted to arguing for 1 hour. I do not think the Founding Fathers contemplated, to borrow an expression often used by my good friend from Georgia, Senator Russell, on many occasions, a gag on the remainder of the Senators.

Mr. HART. Mr. President, will the Senator from North Carolina yield for another question?

Mr. ERVIN. I am delighted to yield to my friend from Michigan.

Mr. HART. Is it not equally likely that the Founding Fathers thought they were establishing a Senate in which a minority of its membership would have the opportunity to present fully its point of view and then a majority would be permitted to act? Would it not be equally likely, if we could resurrect the Founding Fathers, that they would be appalled to find that this is a legislative body in which one individual can prevent the Senate from ever doing anything, even though the clock of history runs very much faster now than it did nearly 200 years ago?

Mr. ERVIN. An individual cannot do that. It takes a substantial majority. I do not accept the Senator's theory. I have always, in all the so-called filibusters I have participated in, hoped that I could persuade those who disagreed with me of the wisdom of my views and, thus, convert them to my side. I think any Senator, as long as he has a hope that an erring majority will see the light, has a duty to his country to try to point out the light to them and enlarge their vision. Therefore, I think that rule XXII is necessary to secure educational debate in the Senate Chambers.

Mr. President, I am an optimistic man, and when my good friend from Michigan disagrees with me on a crucial matter, I have such a high respect for the judgment of the Senator from Michigan that I harbor the hope in my heart, and the expectation, that I shall be able to persuade him to adopt my sound views instead of pursuing his erroneous views on that particular subject.

Mr. HART. Well, we should not resolve absolutely by arithmetic who in a given deadlocked situation is erroneous, but I always find great difficulty in assuming that we have to resolve that wisdom applies to a third of us and ignorance to two-thirds, because that really is the position we leave ourselves in if we continue to permit one-third who, as the Senator from North Carolina describes himself in those so-called filibusters, are deeply convinced that they are right, and out of that deep conviction prevent two-thirds, who are equally convinced that they are right, from acting.

It is a dilemma which I would resolve, acknowledging that the majority is not always right, as history clearly shows, that it is wise in the conduct of the business of a nation such as ours to permit a substantial majority of this body to act.

The Senator from North Carolina and I have exchanged this disagreement over the years but I am still hopeful of persuading him.

Mr. ERVIN. Let me assure my good friend from Michigan that I expect to support rule XXII in its present form so that the Senator from Michigan can have an ample opportunity to point out the error of my ways and the error of my views, because I want to do right. If the Senator from Michigan can shed any light that will enable me to walk in the path of righteousness, legislatively speaking, I want to see to it that he has ample opportunity to do so.

That is what I am fighting for, to give the Senator from Michigan the same right to persuade me of the error of my ways, when he thinks I am adopting an erroneous view, as I would like to have to persuade him of the error of his ways, if I think that he is in error. He is a highly intelligent man and I think, if I am able to shed light on the subject, that he will follow.

Mr. HART. Mr. President, while the Senator and I are doing this on a specific nomination or legislative proposal, nothing is happening. The occurrences of history continue along without the benefit of the decisions of this body. It is this point that I hope the Senator from North Carolina will consider.

Mr. ERVIN. Mr. President, some of the greatest Senators this country has ever had have had something to say about this matter. One of them whose memory

the Senator from Michigan reveres as much as I do was the late Senator Joseph O'Mahoney.

I heard former Senator Joseph O'Mahoney stand on the floor of the Senate and state that no good legislation had ultimately been defeated by a filibuster, but that much bad legislation had been defeated by filibusters.

In the time that I have been here, I do not know of any legislation that I think was good legislation that was defeated by a filibuster.

Mr. HART. Mr. President, I reply simply by suggesting—not that I expect to have agreement with the Senator from North Carolina—that our country would be the stronger, there would have been none of the cruel scenes that were portrayed on the television, those events might never have occurred if we had not filibustered through a period of some 7 years that I am conscious of and delayed effectively addressing ourselves to the situation that now exists in which there was harsh discrimination against certain Americans as they sought to exercise their rights.

Mr. ERVIN. Mr. President, I do not know of anyone who has ever been denied the right to vote. I will amend that statement. I have never known of anyone who could not have secured his right to vote by laws which antedated the Voting Rights Act of 1965.

Like the Senator from Michigan, I think that every qualified man and every qualified woman is entitled to vote. Before the Voting Rights Act was passed, we had laws upon the books—and we had them there for 100 years—that would have sent to the Federal penitentiary any election official of any State who willfully denied any man who was qualified the right to vote. Instead of using those laws, the Attorney Generals did not choose to use them.

All of the Attorney Generals admitted that. I questioned Mr. Brownell. I questioned Mr. Rogers. I questioned Mr. Kennedy. I questioned Mr. Katzenbach. I questioned Mr. Clark. Every one of them admitted that he had never made any effort to use those laws. They had excellent statutes that had been on the books for 100 years. Notwithstanding this, Congress passed a bill under which the Senate condemned the election officials in 40 counties of my State and the election officials of other States by a bill of attainder which is a legislative declaration of guilt without a judicial trial, although the Constitution prohibits either the Congress or a State from doing that.

The Voting Rights Act of 1965 constituted a bill of attainder which suspended the rights of certain Southern States to exercise their constitutional powers. The Supreme Court upheld the act despite the decision in ex parte Milligan that no doctrine more pernicious was ever invented by the wit of man than the notion that any provision of the Constitution could be suspended under any circumstances. I voted against the Voting Rights Act.

We had rule XXII. That rule did not keep the bill from passing. It did not keep the Senate from suspending the rights of 40 counties in my State.

Notwithstanding the sound decision in ex parte Milligan, the Warren Court upheld the Voting Rights Act of 1965. If Congress can suspend one provision of the Constitution, it can suspend them all and leave us with no effective Constitution.

The Senator from Michigan and I did not agree about those laws. I still think I am right. And I have some consolation. There was an old lawyer in the Midwest who never would concede when a case was decided against him that the court was right. He died leaving a last will and testament. It was argued that he did not possess testamentary capacity. The only evidence offered was that he disagreed with the decisions of the court. The court held that was no evidence of a lack of testamentary capacity. In fact, I think sometimes it is an exhibition of exactly the contrary.

Mr. President, a few moments ago the distinguished Senator from Texas (Mr. TOWER) and I were discussing the writings of William S. White on the subject of rule XXII. I read what William S. White had to say on this subject in his book "The Citadel," starting at page 55, the chapter entitled "The Senate and the Rules":

> THOUGH there is beyond doubt a great deal to be said for "progress," there *are* certain aspects of the progressive current American scene that do not necessarily enrich this best of all possible worlds. The America of the eighteenth century—and the Senate of this Twentieth century no less than of the eighteenth—believed, ideally at least, in something called "playing the game," and that to play the game it is necessary to have, and on the whole to follow, certain rules. In many quarters today this expression, playing the game, may not too safely be used. There is, in widespread conviction, something stuffy, even something spinsterish, in it; and it is best left to the usage of vague ministers, seminarians, a few anglophilish professors of learning and, perhaps, the rather decayed Shakespearean actors.
>
> So, too, with rules. From the teachers of "progressive" schools for the very young to such an unacademic personage as Mr. Leo Durocher there runs a common consent of thought that to obey mere *rules* is unduly harmful to the fine, free human personality and obstructive to its lawful ends. To Mr. Durocher, as a baseball manager, was attributed the most candid possible summation of the cult: "Nice guys finish last!"
>
> The Senate, however, true here as elsewhere to what is now the minority, took the notion at the beginning and persists in it now that while rules of conduct are open to ridicule they are necessary all the same. To refrain from hitting one's grandmother with a spade involves a rule of personal conduct, and it is not a readily expendable rule no matter how much the act of self-abnegation represses the ego. To grant to one's opponent in high political discussion and maneuver each and all of the rights that one demands for himself—this is, uniquely in this country certainly, and perhaps in all the world, a Senate rule.
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> This is not, for example, really the attitude in the House of Representatives, where the will of the majority of the moment is absolute and where it is possible to require the House to act, even upon matters of great moment, in six or four or even two hours, as the hierarchs may decide. It is not really the attitude within the Executive Department—any Executive Department—where intellectual opposition to *any* Presidential course is given extremely small say. It is not, moreover, really the attitude in a Presidential election. The debates that go forward in Presidential campaigns are *on the whole* far less informed and far less tolerant than are great Senate debates.
>
> This is not to say that there is not much of nonsense and worse in Senatorial discussion and it is not to deny that the political literature of the country has often been ennobled by striking and even imperishable passages uttered by Presidential candidates on the stump. What it *is* intended to say here is that in *no* struggle for the Presidency is there that tolerance of dissent, that *essential* search for approximate truth, that is found in major Senate debate.
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> The one, the Presidential campaign address, is at bottom pragmatic, involving at bottom simply a search for votes, entirely honorable as this pursuit may be. The other, the true Senate debate, at bottom is idealistic, no matter how many partisan and personal gains may at the same time be sought in it, involving at bottom an assembly and a synthesis of more nearly impersonal collective thought.
>
> The one, the Presidential campaign address, necessarily begins and ends on a note of advocacy, advocacy of the speaker himself or of his ideas. The other, the Senate debate, indeed begins in a series of advocacies but ends upon the note not of advocacy but of collective judgment.
>
> There could be no debate of this kind but for the fundamental fact that the Senate is the kind of place it is and but for the scarcely less requisite fact that the Senate has the rules that it has.

That is a very significant statement. I will repeat it:

> There could be no debate of this kind but for the fundamental fact that the Senate is a kind of place it is and but for the scarcely less requisite fact that the Senate has the rules it has.
>
> On the first day after the first session of the Institution had at last gathered up a quorum in 1789, a committee of five members, all lawyers, was selected to draw "rules for conducting the business of the Senate." On April 16 that year the committee brought in nineteen rules that for some seventeen decades have in fact governed. Though there have been many alterations and additions since, the whole body of the rules having reached forty in 1884 (and having stayed at forty in 1956), the original nineteen still express the spirit of the place. At the start, as now, the regulations for governing the House were more numerous, more explicit and more detailed.
>
> The Institution for its part set out on the theory that it would always remain a relatively small body. It based all its rules upon the belief that natural courtesy and mutual deference among the members would be the best rule of all—as indeed it has been since the very old days when, sometimes, they gathered about the large fireplace in Federal Hall for their debates.
>
> And since, unlike the House, the Senate is a continuing body, never ending and never wholly overturning from one Congress to the next, the Senate rules go on immutable from one Congress to another. It is not necessary to renew or continue them; there they stand as unshakable in fact, almost, as the Constitution itself.
>
> All that is really necessary to know about them, in a wholly non-technical book such as this, is that not all of them together have one-tenth the force of simple tradition, the tradition that some things are done and some not done—or, if the expression may be forgiven, that in the Institution it is necessary to play the game. There is no purpose here in going into all of them; the gist of two will suffice. One of these forbids a Senator to call another Senator a liar or other-

wise to question his honor. If he does so (as has sometimes happened in fact) a Senator may be made to interrupt his speech, take his seat and resume only "in order," that is, without repeating his violation. The other, the more or less famous Rule XXII, suggests an important change from the original cast of regulations—but the change is more superficial than real.

The Senate set out with no real limitation on how long a man might speak other than the limitation that his own conscience or sense of fitness might suggest. For several years, however, no doubt because of the influence of the British House of Commons, one school argued that it was possible in the Senate for debate to be halted by moving "the previous question," a parliamentary maneuver still widely used in the House of Representatives that halts discussion and brings matters to the voting point.

I digress from the reading of Mr. White's book to remark that on yesterday I called to the attention of the able and distinguished Senator from Alabama a statement made by Senator George H. Moses in which Senator Moses stated that the Senate never did have the previous question in the modern sense of that term. Senator Moses pointed out in that statement that:

Debate in the Senate in its early days had few restraints. The previous question existed, but in a rudimentary form only as modern parliamentarians would regard it. It was itself debatable; it could not be used upon amendments; nor could it be applied while sitting in Committee of the Whole. In this form it stood in the Senate rules for 17 years, during which it was moved only 4 times and only 3 times carried.

Mr. White further states in his book:

In 1806, in order to be absolutely certain about it, the Senate went vigorously on record for no limitation whatever. From 1806 to 1917, then, debate was absolutely free and unlimited except during the interregnum of the War Between the States. Even then, debate could be shut off only on war measures before the Senate.

I digress from further reading at this time to mention that the able and distinguished Senator from Alabama, who has made a very profound study of this subject, pointed out this same factor in his discussion, that there has been no limitation upon debate in the Senate except during the War Between the States.

I resume reading from Mr. White's book entitled "The Citadel."

In 1917, President Woodrow Wilson, angry because Senators Norris, Lane and others had killed by filibuster a wise and brave Administration bill to arm the merchant ships against the Germans, so denounced "the little group of wilful men" that the Institution took what was seemingly a most grave step.

It adopted Rule XXII, by which it was theoretically possible to choke off debate if two-thirds of those Senators present so decreed. Here, however, as so often elsewhere, the Senate advanced to the future only to retreat to the past. For the rule bore within itself the seeds of its own nullification. It was possible by two-thirds to halt debate on a "measure," but, at is turned out, not on a "motion." And there can be no "measure" before the Senate until first there is a "motion" to bring it up. Unlimited debate remained the Senate way.

In 1949, when President Truman was pressing hard for the compulsory civil rights program—to knock out the poll tax, racial discrimination in employment, and so on—liberal Senate forces (and some with designs other than purely liberal) attempted various devices to make the culture, or the so-called "gag," more readily applicable. The theory was that if the filibuster could be broken, the civil rights program could be adopted, since a clear majority seemed to be in its favor.

The *facts* of the case, as I grasped them as a correspondent working close to the scene, were that while support of the Civil Rights Bill undoubtedly was professed by a majority, the true majority was made up between those openly opposed and those secretly opposed and filled with secret hope that somehow the issue could be put aside. The chief difference between the vehemently articulate Southern opposition to civil rights and a good deal of the rest of the Senate, in short, was the difference between harsh candor and no candor at all.

Intermixed in the whole business, moreover, was a not unnatural determination among the Republicans, who had so lately been cast out of power in Mr. Truman's incredible triumph at the polls in 1948, to do nothing to abate the internecine controversy among the Southern and Northern Democrats.

Here at issue was a great deal more than proper treatment for a minority, in this case primarily the Negro minority. Involved was the whole long concept, so closely held by the Senate generally since the outcome of the Federal Convention, of the ultimate supremacy of the individual State. Tragically involved was the sectional bitterness that had come, and had remained in part, from the War Between the States and the Reconstruction. And involved, moreover, was a historical dilemma for small-State Senators, however they might feel individually about compulsory civil rights as proposed by Mr. Truman.

For to promote the idea of cloture is, from the small-State point of view, to sharpen a dangerous weapon. It is, in the nature of the Senate, absolutely necessary for the small States to maintain the concept of the minority's veto power, having in mind that it is only within the Institution that this power can be asserted or maintained. (In the House, for example, New York State has forty-three voices to a single one for Nevada.)

It is only in the light of all these facts that the true nature of the Senate's debate of 1949 on Rule XXII can be understood. It is only in this same light that the contest can be seen as putting at stake a great deal more than a fusty exercise by a group of prolix old men.

The essential struggle lay between those who were determined to make the cloture truly effective and those determined that this should not be so. Long history has plainly indicated that the clamp upon debate simply will not in fact be pressed down, except possibly when the country is at war or in obvious and unarguable peril otherwise, where any *genuinely* adamant and substantial minority is prepared adamantly to resist. (The Calhoun Doctrine of the Concurrent Majority, of which mention has been made before this, stands in the way.)

It is equally clear beyond question to those who long have observed the Institution that where a powerful majority *really wants* a bill it will find a means to have its way, cloture or no cloture.

When, for example, the National Association for the Advancement of Colored People suspects that the combat intentions of some of its professed backers are less than desperately firm its suspicions are quite correct.

The rule existing in 1949—that two-thirds of those voting could put on the cloture but only on a "measure" and not on a "motion"—was, of course, in simple truth no rule at all. The retreat of 1917 before Wilson's sense of outrage had been, in the real sense, no retreat at all. Thus in 1949 the bottom purpose of the liberals—they were called this for convenience though some joining in efforts to harden the rule were hardly more liberal than William McKinley—was to make it possible to halt debate by simple majority. Their interrelated purpose was to do this to a "motion" as well as a "measure."

The Senate traditionalists—in both parties, it should be realized—had for their purpose to do what had been done in 1917: to make it appear that they were not wholly uncompromising, but not to give up anything that fundamentally mattered.

This, indeed, was what was done at the end. It was agreed that hereafter the "motion" as well as the "measure" would fall under cloture's scope. But it was agreed also that thereafter no kind of cloture could be put on any future proposal to alter the rules, by any vote, or on any other matter short of the vote of two-thirds of the *entire* Senate, sixty-four members, instead of two-thirds of those voting, as before. The antifilibuster people had won an ostensible battle only to lose a very real war. Cloture was in practical fact at least as far off as ever, and the Senate in plain fact retained what amounts to unlimited debate.

The liberals of 1949 had to make the most comfortable rationalization they could of the fact that considering the whole slope of Senate history the filibuster has been more often a *liberal* than a conservative device. Indeed, it had been the filibuster led in 1917 by the powerful Norris that had so provoked Wilson.

The conservatives, for their part, had to try to look as innocent as they could in the face of the undoubted fact that to a degree, and subject to the qualifications already noted here, they had taken action tending long to postpone the arrival of total equality of legislation for the Negroes. In protecting the *general* minority right in the deeply governmental sense—in making certain that the Institution would remain the minority's last forum—they had very clearly acted against the interests of a *particular* minority.

All this is a complicated business, indeed, full of the inescapable passions that touch alike upon racial and religious questions.

It is for the present perhaps enough to say only that not in all the great storms that have beset this Republic—not in the First World War, not in the Depression, not in the Second World War, not in the transient ascendancies of any and every White House—has the Senate, as a *whole Senate,* ever really given ground upon the issue of its rules.

Look at them as good or look at them as bad, the outstanding fact is that they remain, deeply unpopular though at times they may be. When, briefly, they were to some extent once abridged and breached, the body of the Institution was like a man with one leg. When the Southerners returned from the War Between the States the full operation of the old way was restored.

And thirty-six years before the rules had made the Senate a shelter to Woodrow Wilson's "little group of willful men" he himself had written, in 1881, of these same rules:

"The Senate's opportunity for open and unrestricted discussion and its simple, comparatively unencumbered forms of procedure, unquestionably enable it to fulfill with very considerable success its high functions as a chamber of revision."

When Wilson spoke as he spoke in 1881 he was speaking as the academician that he

was and concidentally as a Southerner. But when he spoke as he spoke in 1917 he was speaking as a harassed President of the United States.

That ends the chapter on the Senate and the rules.

One of the great Senators, in the real, old-fashioned sense of that much abused term, who ever sat in this body was Senator Joseph O'Mahoney of Wyoming. He was a great Senator. As he stated, himself:

I am a liberal. I have always been a liberal. I have followed Thomas Jefferson. I have followed Woodrow Wilson. I have followed Harry Truman. I have followed Franklin Roosevelt. I have enjoyed supporting Adlai Stevenson. I have always been alined in my votes on the floor of the Senate on the side of liberalism. However, I say to my colleagues in deep sincerity that if they vote to cut off free speech in the Senate they are voting to deprive minorities of the people of the United States, whether they be farmers, whether they be laborers, whether they be small businessmen, or whatever category they may fall into, of the right to representation, and are putting them under a gag rule which is worse by far than rule XXII now on the books.

That is what a true liberal, Senator Joe O'Mahoney, said here on the floor of the Senate on January 9, 1959.

He also, on the same occasion, made this statement:

The issue posed here is not majority rule.

It is not civil rights.

It is not even the general question of the constitutional power of a majority of the Senate to adopt rules or to change rules.

It is only the question whether it is wise to permit a majority of a Senate quorum to impose cloture, that is to say to stop debate of any issue whenever a majority of a Senate quorum is so disposed.

A quorum of the present Senate with 98 Members is 50. A majority of that quorum is 26.

Of course, since that time Alaska and Hawaii have been admitted to the Union, and four Senators have been added to the Senate. Under the proposals made by the Senator from Idaho and the Senator from Kansas, if all Senators are present, 60 Senators can absolutely silence 40 Senators for all practical intents and purposes. That means that the Senators from 30 States can deprive 20 States of the right to have their Senators speak in this body, and it means that they can do that only 48 hours after a proposition is laid down, under the proposed change.

In a colloquy with the distinguished Senator from Alabama, I posed to him the question whether the best test of whether a regulation or a law or a rule is wise or unwise is not this: Not what good men, patient men, prudent men, and considerate men can do with that regulation, law, or rule, but what impatient men can do with it.

Another Member of the Senate who was here in the first years that I served, who rightly bore the reputation of being a great liberal, was Senator Langer of North Dakota. He said, on this subject, back on January 8, 1959, at a time when we had quite a debate on this subject, the following:

I have been advised that another effort will be made to change rule XXII when the 86th Congress convenes.

After 18 years experience in the U.S. Senate, I am unalterably opposed to limiting debate in the Senate, the one place left in this world for free and untrampled discussion. My views upon this have been stated so often on the Senate floor that it is not necessary for me to fully restate them here.

Don't you think it mighty strange when oldtimers like Bob La Follette and Charles McNary and men of their fine type totally rejected the limitation of debate that some Senators on the pretext of passing some civil rights bill, are going to give those opposed to liberal legislation the chance to wreck the passage of liberal bills. As Senator McNary so well stated, "A good bill never has been killed by a filibuster, but many a bad bill has been prevented from becoming a law by a few fighting liberals."

To go back even further into the history of unlimited debate in the Senate, I quote Senator Harris, of Tennessee, who, in 1891, states as follows: "So I assert with absolute confidence that from the 26th day of March 1806, there has been no proposition to limit general debate in the Senate that has not been rebuked as an attack upon free speech and upon the rights of the States and the people and dangerous to well-considered legislation as well as to civil liberty. They have been, as they ought to have been, invariably defeated."

It is interesting to note from Senator Harris' quotation that unlimited debate is most necessary to protect our civil liberty, whereas today the proponents of the change of rule XXII would destroy that protection to civil liberties just because they feel that a civil rights bill cannot pass under existing rule XXII.

I would like to reiterate what I said on the Senate floor on March 11, 1949, in discussing rule XXII when I stated, "I wish to say that during the 8 years I have been here, I have voted for every bill, without exception, calling for the establishment of civil rights in this country. So, today, I wish to make it very plain that I vote to override the decision of the Vice President, I am still a firm, fighting friend of civil rights—just as strong a friend of civil rights as I ever was: and if the Democrats will begin tomorrow or Monday with a really serious effort to carry out Mr. Truman's civil rights program, I assure my friend the distinguished majority leader—

That was Mr. Lucas of Illinois—

that he will find me voting with him every single time. I hope the Democratic Party will do that. I hope they begin on it right away, and never quit until they secure the enactment of that civil rights program. I think they will receive a great deal of support from Senators on this side of the aisle."

I believe that we, the members of the Senate can best understand the great need to have complete debate on the Senate floor if we would study the speeches of our predecessors in office. For example, read the speech of Senator La Follette of March 8, 1917, beginning on page 40 in the CONGRESSIONAL RECORD in which he also quotes from Senator George Gray (Delaware); Senator John Coit Spooner (Wisconsin); Senator Henry Moore Teller (Colorado) who spoke on this subject on the 22d of January 1891. Speeches by other distinguished Senators can be found in volume 116 of the CONGRESSIONAL RECORD, 51st Congress, 2d session, beginning on page 1670 and running through pages 1740, where, in 1841, many distinguished Senators from all sections of the country expressed the great need for unlimited debate.

In closing, I regret to see such fine men as the proponents for a change of Senate rule XXII deceiving themselves in doing something, which if they succeed, I believe they will live to regret.

I wish to quote, also, a statement by William S. White, the columnist, from whose book, "The Citadel," I have read at length. William S. White had this to say:

The ultimate victims of halting Senate debate by simple majority would be any or every minority and any or every minority interest or issue, given a favorable atmosphere for the majority.

Many of the people who advocate making this change in rule XXII will be the ones who will regret it the most.

It is no longer merely a Southern question. Every possible civil rights bill that anyone can think of has already been passed; and it never was possible to prevent their passage, since I have been in the Senate, by a filibuster. The people who are going to suffer the most from this, just as Senator O'Mahoney said, are minorities. They may be small businessmen. They may be farmers. They may be a minority racial group. They may be a minority religious group. We should consider long before we embark upon a proposal to change rule XXII in the manner that these proposals contemplate.

Mr. President, at the outset of my remarks, I stated that in my honest judgment it makes little difference if cloture is made possible at the hands of 60 Senators or at the hands of 51 Senators. In the long run, as a practical matter, it will come to the same end result.

I will explain why I believe that to be true. The most powerful office on earth today is the Office of the President. I say that because the President wields power far beyond the powers which the Constitution vests in him. The President has great powers of persuasion, and it does not make any difference who the President is, whether he happens to be a Democrat or a Republican.

Whenever we get to the point at which three-fifths of the Senators can silence two-fifths, we make it certain that the Senate is going to decrease in the power it exercises in our governmental scheme of things. During my generation, we have seen Presidents usurp or be handed legislative powers by Congress. We have seen Presidents exercise the right to put this country in war, in offensive wars as contra distinguished from defensive wars, notwithstanding that the Constitution of the United States makes it very plain, in my mind, that the President has no power to put troops into combat in what are essentially offensive wars, without the consent of Congress expressed in a declaration of war or in a legislative action equivalent to a declaration of war.

One thing that is passing strange to me, as a Member of Congress in general and of the Senate in particular, is the readiness with which Representatives and Senators abdicate their functions and transfer their power as Federal leg-

islators to the executive branch of the Government. They have come to the point that, nothwithstanding that the Constitution in many respects gives the Senate of the United States an important role in foreign affairs, many men profess the belief that the power to conduct foreign policy resides in the President alone.

Rule XXII, in its present form, secures to a substantial minority of Senators the power to say that the Senate is not going to become the abject servant of the President. I think that as long as it requires two-thirds of the Senators present and voting, we can anticipate that the Senate will remain an independent legislative body and will not become the obedient and subservient servant of the White House. But if we get to the point where 60 Senators instead of 67 can silence debate for the purpose of enacting legislation recommended by the White House, regardless of the political affiliations of the occupant of the White House, we will make the Senate a mere servant of the Executive.

The reason why I say that is this: Presidents have tremendous patronage. Senators are human beings. They have friends who want to be appointed Federal judges. They have friends who want to be appointed to important positions in departments or agencies of the Federal Government. They have friends in the military who desire to be promoted to higher ranks. Through his great power of patronage, the occupant of the White House can persuade some Senators that they can obtain these great benefits and these great honors and these great offices for their friends if they will support the effort of a President to put an end to debate and deny a substantial minority of the Senate the right to stand and continue to oppose legislation desired by the White House which a substantial minority of the Senate think unwise.

Presidents make a tremendous appeal to us, whether we be Democrats or Republicans, on the basis of party loyalty. They say, "This is a party program. This program is necessary to better our position in the forthcoming campaign." Men have many loyalties, and sometimes the loyalties conflict with each other. That appeal is very potent.

We saw it here at the time the Senate was considering the nomination of Abe Fortas to be Chief Justice of the United States. The President even sent a delegation down to interview me, notwithstanding the fact that he knew that like Collins' Ram, I have a head of my own He sent a delegation down to persuade me not to get into any extended debate against the nomination of Abe Fortas. I told the delegation to go back to the White House and tell President Johnson that when I first came to the Senate, Lyndon Johnson was the Democratic leader in the Senate, and he had instructed me never to vote for cloture. I told the delegation to tell him that he taught me that lesson so firmly and so convincingly that I could not eradicate the teaching he gave me when I came here as an immature and inexperienced Senator.

I told the delegation to tell him further that the last time I recalled seeing him presiding in the Senate Chamber as Vice President, there was a threat or a proposal for a motion for cloture, and he called me up to the dais and said, "Just remember, never vote for cloture." I told them to tell him he had a good student down here whom he had instructed only too well about the value of rule XXII, and that I would filibuster against the nomination of Abe Fortas as Chief Justice of the United States.

Well, with all the pressures that the White House at that time was able to bring to bear on the Senate on that point, the only way we could have defeated that nomination was by a filibuster.

The importance of that filibuster to the country is well illustrated by the recent decision construing the Act of Congress which undertook to give 18-year-olds the right to vote in both Federal and State elections.

Section 2, article I of the Constitution, and the 17th amendment, declare in as plain words as can be found in the English language that the only people who are eligible to vote for U.S. Senators and U.S. Representatives are the electors eligible under State law to vote for the members of the most numerous branch of the State legislature. Despite this plain constitutional provision, Justice Black and four other Justices held that Congress had the power to prescribe the qualifications of those who vote for Senators and Representatives.

The second article in the Constitution says in substance that the presidential and vice presidential electors shall be chosen in each State in the manner in which the State legislature may direct. Despite this plain provision of the Constitution, Justice Black and the same four other Justices held that under the Constitution, Congress had the power to prescribe the qualifications for voting for presidential and vice presidential electors.

In other words, five Justices of the Supreme Court placed upon the Constitution an interpretation wholly irreconcilable with the second section of article I and the 17th amendment, and the first section of article II, which state in as plain words as can be found in the English language that the power to prescribe qualifications for voting in Federal elections belongs to the States and not to the Congress. They also repudiated or ignored many sound decisions so holding.

Manifestly, the oath which Supreme Court Justices take to support the Constitution, denies the Supreme Court Justices the power to hold that the Constitution does not mean what it says in plain words, but, on the contrary, means something repugnant to what it does say.

The record shows that Abe Fortas, who had been an Associate Justice of the Supreme Court, and Homer Thornberry, who had served for a time on the U.S. Court of Appeals for the Fourth Circuit, were both judicial activist who were willing to thwart the meaning of the Constitution while professing to interpret it.

If rule XXII in its present form had not served the American people on any other occasion, it stood them in good stead when it resulted directly, in the case of Abe Fortas, in denying him the Chief Justiceship of the United States, and indirectly in the case of Homer Thornberry in denying him the post of an Associate Justice of the Supreme Court.

If rule XXII had not spared our country that calamity, activist Justices who would change the meaning of the Constitution while professing merely to interpret it, would have represented an overwhelming majority on that Court throughout the rest of our generation, and the American people would have been denied the right to constitutional government and would have been ruled by the personal notions of a majority of Supreme Court Justices for years and years and years into the future.

Any provision, any rule, in the Senate that would save the American people from that calamity which would otherwise have befallen them, has my support. That is one reason I stand by rule XXII in its present form.

Mr. President, the hour is growing late. I have not finished this argument. I therefore ask unanimous consent to resume the argument on a subsequent occasion without having these remarks count as a separate speech or subsequent remarks counting as a separate speech.

The PRESIDING OFFICER (Mr. CRANSTON). Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

MESSAGE FROM THE PRESIDENT

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

STATEMENT BY THE DIRECTOR OF THE CENSUS RELATING TO POPULATION—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying papers, was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

Pursuant to the provisions of Title 13, United States Code, section 141(b) and Title 2, United States Code, sections 2a and 2b, I transmit herewith a statement prepared by the Director of the Census, Department of Commerce, showing (1) the population of each State and the District of Columbia as ascertained by the Nineteenth Decennial Census of the population, and (2) the number of representatives to which each State would be entitled under an apportionment of the existing number of representatives by the method of equal proportions.

RICHARD NIXON.

THE WHITE HOUSE, *January 27, 1971.*

THE PENDING BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate, and what is the pending question?

The PRESIDING OFFICER (Mr. CRANSTON). The pending question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consid-

eration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution No. 9, a resolution to amend rule XXII of the standing rules of the Senate with respect to limitation of debate.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer, the able Senator from California (Mr. CRANSTON).

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11:30 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 8 minutes p.m.) the Senate recessed until 11:30 a.m., tomorrow, January 28, 1971.

NOMINATIONS

Executive nominations received by the Senate January 27 (legislative day of January 26), 1971:

ENVIRONMENTAL PROTECTION AGENCY

John R. Quarles, Jr., of Virginia, to be an Assistant Administrator of the Environmental Protection Agency; new position.

U.S. NAVY

The following named officers of the Naval Reserve for temporary promotion to the grade of rear admiral subject to qualification therefor as provided by law:

John H. Pedersen — Graham Tahler
Richard Freundlich — George V. Fliflet
Edwin M. Wilson, Jr. — Eddie H. Ball

MEDICAL CORPS

Ben Eiseman

SUPPLY CORPS

Jack F. Pearse
Robert H. Spiro, Jr.

DENTAL CORPS

George J. Coleman

EXTENSIONS OF REMARKS

INDIANAPOLIS EXPLORER SCOUT TROOP 522 CREDIT TO COMMUNITY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 26, 1971

Mr. BRAY. Mr. Speaker, there is absolutely nothing at all wrong with the youth of America when their natural enthusiasm and energy challenged and channeled into productive, worthwhile pursuits.

The Monsignor Downey Council of the Knights of Columbus, Indianapolis, Ind., sponsors the unit, one of only three in the entire country, which is part of a pilot project scout program to determine having something along the lines of Sea Scouts, but with Army orientation.

I have had the high privilege and pleasure of meeting and talking with this group personally and I have worked with their leaders in every way possible. They are a credit to their community, city, State and country, and I am proud to include the two following articles about them and their projects:

[From the Criterion, Dec. 11, 1970]

EXPLORER SCOUTS SAMPLE RUGGED RANGER TRAINING

(By Mike Keller)

FORT BENNING, GA.—Fort Benning's rugged Ranger course is no "Boy Scout jamboree," but this did not deter 23 Explorer scouts from undergoing various types of Ranger training here recently.

During their short visit, the scouts, who are members of Explorer Post 522 in Indianapolis and sponsored by Msgr. Downey Council Knights of Columbus, received instruction and practical work in basic rappelling and map and compass reading from instructors in the Infantry School's Ranger Department. The young men also viewed a live parachute jump, took part in rappelling exercises on cliffs of Providence Canyon and participated in camping activities.

For these scouts, the experience was particularly meaningful since their post is one of the few in the United States that is practically "all Army" in its organizational structure.

"There are only three others like us in the country," Daniel F. O'Riley, chairman of Post 522, said of his scout "outfit." This is part of a pilot military-oriented scout program to study the workability of having an Army scout unit along the lines of the Sea Scouts."

The Post, which numbers 35 members, has four officers—one captain (corresponding to the president of a club) and three lieutenants—an executive officer (vice-president), a finance officer (treasurer) and an adjutant (secretary). There are also numerous "noncommissioned officer" (NCO) squad leaders and one "senior drill sergeant."

"However, all our scouts start as privates and work their way up," stated O'Riley, who served in the Army himself from 1954 to 1956.

Many of the scouts are not new to Fort Benning, several having been here this summer to participate in similar training with the Rangers.

After their last visit to Fort Benning, Post 522 made it no secret that they enjoyed the trip. The scouts "spread the word" in Indianapolis about their experiences by sending photographs they took during the event to Rotary clubs and other organizations in the city.

One scout who felt that his "second tour" at Fort Benning was worthwhile was Paul Bloom. The first time he was here, Bloom was a bit hesitant to ascend the Ranger's formidable 50-foot rappelling tower—an exercise certain to induce "butterflies" in the stomach of even experienced personnel. On this occasion, however, the young man was eager to go up. Explained the scout "Now, I'm confident I'm not going to fall."

Bloom, who is the son of Mr. and Mrs. Ralph E. Bloom of St. Mark's parish, Indianapolis, had praise for the training he received. "This is the best thing I've done since I've been in scouting," he declared. Bloom attends Southport High School.

Another young man who could find the knowledge he gained here valuable in the future is Steve Treadwell, a senior at Southport. Treadwell, a two-year Explorer veteran, is seriously thinking of enlisting in the Army for Ranger School upon graduation from high school.

"I like it a lot," he said of the training. "It prepares you to go in." Young Treadwell is the son of Mr. and Mrs. H. H. Treadwell of St. Barnabas parish, Indianapolis.

Accompanying O'Riley, an Indianapolis funeral director, to Fort Benning, were Virgil A. Lawson, an industrial engineer with Penn Central Railroad; Armand J. Blanchard, a civil engineer with the Indiana Highway Department; and Air Force Sgt. Michael B. Delaney. All are officials with the Explorer Post.

[From the Indianapolis News, Nov. 26, 1970]

SCOUTS GET RANGER TRAINING

FORT BENNING, GA.—Fort Benning's rugged Ranger course is no "Boy Scout jamboree," but that did not stop 23 Explorer Scouts from undergoing Ranger training here recently.

During their short visit, the Scouts, members of Indianapolis Post 522, received instruction and practical work in basic rappeling, map and compass reading from instructors in the Infantry School's Ranger Department. The young men also viewed a live parachute jump, took part in rappeling exercises on cliffs of Providence Canyon and participated in camping activities.

For these Scouts, the experience was particularly meaningful since their post is one of the few in the United States that is practically "all Army" in its organizational structure.

"There are only three others like us in the country," Daniel F. O'Riley, chairman of Post 522, said of his Scout outfit. "We were selected by the Boy Scouts of America to help establish military-orientated Scout posts. This is part of a pilot program to study the workability of having an Army Scout unit along the lines of the Sea Scouts."

Like military personnel, these "soldier-scouts" wear insignia of rank, which—in their case—ranges from private to captain. And "enlisted" scouts are expected to render the proper courtesies—including the salute—to their "officer" counterparts.

The Post, which has 35 members, has four officers—one captain (corresponding to the president of a club) and three lieutenants—an executive officer (vice-president), a finance officer (treasurer) and an adjutant (secretary). There are also numerous "noncommissioned officers" (NCO) squad leaders and one "senior drill sergeant."

Officers are selected every six months from among the organization's squad leaders.

"However, all our Scouts start as privates and work their way up," said O'Riley, who served in the Army from 1954 to 1956.

The leaders of the post not only insist the boys uphold the goals and ideals of scouting but also act in a proper military manner. "That's 'yes, sergeant!'" a post committeeman barked at an Explorer who failed to address a Ranger NCO by his rank.

Many of the Scouts are not new to Fort Benning, several having been here last summer to participate in similar training with the Rangers. "For them to come back for 'seconds,' they had to be satisfied," Lt. Col.