By Mr. WYMAN:

H.R. 3094. A bill for the relief of the estate of Capt. John N. Laycock, U.S. Navy (retired); to the Committee on the Judiciary.

By Mr. BYRNE of Pennsylvania:

H. Res. 171. Resolution to refer the bill H.R. 2812, entitled "For the relief of Leopold Morse Tailoring Co." to the Chief Commissioner of the U.S. Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code; to the Committee on the Judiciary.

By Mr. CELLER:

H. Res. 172. Resolution to refer the bill (H.R. 2402) entitled "A bill for the relief of Joseph W. Harris," to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, as amended; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

5. By the SPEAKER: A memorial of the General Assembly of the State of South Carolina, relative to daylight saving time; to the Committee on Interstate and Foreign Commerce.

6. Also, a memorial of the General Assembly of the State of South Carolina, relative to amending the National Environmental Policy Act of 1969; to the Committee on Merchant Marine and Fisheries.

7. Also, a memorial of the Legislature of the State of New Hampshire, relative to the establishment of such quotas and tariffs as may be necessary to protect the domestic shoe industry; to the Committee on Ways and Means.

8. Also, a memorial of the Legislature of the State of New York, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

9. Also, a memorial of the Legislature of the State of West Virginia, relative to Federal-State revenue sharing; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

18. Mr. CASEY of Texas presented a petition of Mrs. Rosey Marshall and 10 residents of Houston, Tex., to urge that January 15 be made a national holiday in honor of Martin Luther King, Jr.; to the Committee on the Judiciary.

SENATE—*Friday, January 29, 1971*

(Legislative day of Tuesday, January 26, 1971)

The Senate met at 12 o'clock meridian, 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:

Almighty and ever-living God, as we pause before Thee at noonday, we ask for quiet hearts, clear minds, and spirits strong enough to match the awesome times in which we live and serve. Make us quick to discern needs, wise in solving problems, firm in defense of the right, considerate and helpful to one another. Keep ever before us the needs of the whole Nation. May the vision never be dimmed of the kingdom of God that shall yet come on earth. Send us to our tasks, anointed by Thy spirit, so to live and work that we shall leave behind us a fairer world in which the family of man may grow and flourish.

We pray in the Master's name. Amen.

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.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, January 28, 1971, be approved.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

REPUBLICAN COMMITTEE ASSIGNMENTS

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

The PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read the resolution as follows:

S. RES. 20

Resolved, That the following shall constitute the minority party's membership on the standing committees of the Senate for the Ninety-second Congress.

On Aeronautical and Space Sciences: Mr. CURTIS, Mrs. SMITH, Messrs. GOLDWATER, WEICKER, BUCKLEY.

On Agriculture and Forestry: Messrs. MILLER, AIKEN, YOUNG, CURTIS, DOLE, BELLMON.

On Appropriations: Messrs. YOUNG, MUNDT, Mrs. SMITH, Messrs. HRUSKA, ALLOTT, COTTON, CASE, FONG, BOGGS, PERCY, BROOKE.

On Armed Services: Mrs. SMITH, Messrs. THURMOND, TOWER, DOMINICK, GOLDWATER, SCHWEIKER, SAXBE.

On Banking, Housing and Urban Affairs: Messrs. TOWER, BENNETT, BROOKE, PACKWOOD, ROTH, BROCK, TAFT.

On Commerce: Messrs. COTTON, PROUTY, PEARSON, GRIFFIN, BAKER, COOK, HATFIELD, STEVENS.

On Finance: Messrs. BENNETT, CURTIS, MILLER, JORDAN of Idaho, FANNIN, HANSEN, GRIFFIN.

On Foreign Relations: Messrs. AIKEN, MUNDT, CASE, COOPER, JAVITS, SCOTT, PEARSON,

On Government Operations: Messrs. MUNDT, JAVITS, PERCY, GURNEY, MATHIAS, SAXBE, ROTH, BROCK.

On Interior and Insular Affairs: Messrs. ALLOTT, JORDAN of Idaho, FANNIN, HANSEN, HATFIELD, STEVENS, BELLMON.

On the Judiciary: Messrs. HRUSKA, FONG, SCOTT, THURMOND, COOK, MATHIAS, GURNEY.

On Labor and Public Welfare: Messrs. JAVITS, PROUTY, DOMINICK, SCHWEIKER, PACKWOOD, TAFT, BEALL.

On Public Works: Messrs. COOPER, BOGGS, BAKER, DOLE, BEALL, BUCKLEY, WEICKER.

On District of Columbia: Messrs. MATHIAS, WEICKER, BUCKLEY.

On Post Office and Civil Service: Messrs. FONG, BOGGS, STEVENS, BELLMON.

On Rules and Administration: Messrs. PROUTY, COOPER, SCOTT, GRIFFIN.

On Veterans' Affairs: Messrs. THURMOND, HANSEN, COOK, STEVENS.

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD, in connection with this resolution, an addendum in the form of a listing of the Republican leadership together with the membership on the respective conference committees.

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

REPUBLICAN LEADERSHIP, 92D CONGRESS

Margaret Chase Smith, Chairman of the Conference.
Norris Cotton, Secretary of the Conference.
Hugh Scott, Floor Leader.
Robert P. Griffin, Assistant Floor Leader.
Gordon Allott, Chairman of Policy Committee.

POLICY COMMITTEE

Gordon Allott, Chairman.
Margaret Chase Smith
Norris Cotton
Hugh Scott
Robert P. Griffin
Wallace F. Bennett
Peter H. Dominick
John G. Tower
Roman L. Hruska
J. Caleb Boggs
Clifford P. Case
John Sherman Cooper
Carl T. Curtis
Karl E. Mundt
Strom Thurmond

CAMPAIGN COMMITTEE

Peter H. Dominick, Chairman.
J. Glenn Beall, Jr.
Bill Brock
James L. Buckley
Robert Dole
Paul J. Fannin
Hiram L. Fong
Barry Goldwater
Charles McC. Mathias, Jr.
William V. Roth, Jr.
William B. Saxbe
Robert Taft, Jr.
Lowell P. Weicker, Jr.

COMMITTEE ON COMMITTEES

Wallace F. Bennett, Chairman.
George D. Aiken
Henry Bellmon
Edward W. Brooke
Marlow W. Cook
Edward J. Gurney
Clifford P. Hansen
Mark O. Hatfield

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Jacob K. Javits
Len B. Jordan
Jack Miller
Robert W. Packwood
James B. Pearson
Charles H. Percy
Winston L. Prouty
Richard S. Schweiker
Ted Stevens
Milton R. Young

PERSONNEL COMMITTEE

Roman L. Hruska, Chairman.
Howard H. Baker, Jr.

CALENDAR COMMITTEE

Paul J. Fannin, Chairman.
Howard H. Baker, Jr.
Lowell P. Weicker, Jr.

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

There being no objection, the resolution was considered and agreed to.

APPOINTMENT TO SPECIAL COMMITTEE ON AGING

The PRESIDENT pro tempore. The Chair, on behalf of the Vice President, appoints the Senator from Idaho (Mr. CHURCH) chairman of the Special Committee on Aging.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the transaction of routine morning business for a period of not to exceed 30 minutes, with statements therein limited to 3 minutes.

Mr. MANSFIELD. 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. 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.

THE PRESIDENT'S BUDGET MESSAGE

The PRESIDENT pro tempore. The Chair lays before the Senate the President's budget message. Without objection the message will be printed in the RECORD without being read and will be appropriately referred.

The message was referred to the Committee on Appropriations, as follows:

To the Congress of the United States:

In the 1971 budget, America's priorities were quietly but dramatically recorded: For the first time in 20 years, we spent more to meet human needs than we spent on defense.

In 1972, we must increase our spending for defense in order to carry out the Nation's strategy for peace. Even with this increase, defense spending will drop from 36% of total spending in 1971 to 34% in 1972. Outlays for human resources programs, continuing to rise as a share of the total, will be 42% of total spending in 1972.

The 1972 budget has a historic identity of its own.

- *It provides a new balance of responsibility and power in America* by proposing the sharing of Federal revenues with States and communities on a grand scale—and in a way that will both alleviate the paralyzing fiscal crisis of State and local governments and enable citizens to have more of a say in the decisions that directly affect their lives.
- *It introduces a new fairness in American life,* with the development of national strategies to improve the health care of our citizens and to assure, with work incentives and requirements, an income floor for every family in this Nation.
- *It adopts the idea of a "full employment budget,"* in which spending does not exceed the revenues the economy could generate under the existing tax system at a time of full employment. In this way, the budget is used as a tool to promote orderly economic expansion, but the impact of the resulting actual deficit is in sharp contrast to the inflationary pressure created by the deficits of the late sixties, which were the result of excessive spending that went far beyond full employment revenues. *The full employment budget idea is in the nature of a self-fulfilling prophecy: By operating as if we were at full employment, we will help to bring about that full employment.*

The 1972 budget reaffirms the determination of the Federal Government to take an activist role in bringing about the kind of prosperity that has rarely existed in the American economy—a prosperity without war and without runaway inflation. In the 1972 budget, the Government accepts responsibility for creating the climate that will lead to steady economic growth with improving productivity and job stability.

Of course, our objective of prosperity without inflation cannot be achieved by budget policy alone. It also requires:

—the monetary policy adopted by the independent Federal Reserve System to provide fully for the growing needs of the economy; and

—increased restraint in wage and price decisions by labor and business—in their own and the Nation's interest and as a matter of common sense.

Only by working together can the budget, monetary policy, and common sense in the private sector make orderly expansion the order of the day.

The full employment 1972 budget—expansionary but not inflationary—does its full share to provide a defense strong enough to protect our national security, higher standards of income and care for the poor and the sick, a reorganized and responsive Federal structure, and the basis for a sound prosperity in a full generation of peace.

TOWARD A GROWING NONINFLATIONARY ECONOMY

Economic setting.—When I took office 2 years ago, rampant inflation was the Nation's principal economic problem.

This inflation was a direct result of the economic policies of the period 1966 to 1968, when we were mired in war in Vietnam, and when Federal spending rose sharply. Federal outlays were allowed to exceed full-employment revenues by $6 billion in 1966, $10 billion in 1967, and $25 billion in 1968. Expansive monetary policy in the summer of 1968 helped upset the hoped-for stabilizing impact of an income tax surcharge. The effect of these actions was to turn the thermostat up in an economy that was already hot enough.

My administration acted promptly to move us out of that war and cool the superheated economy.

We controlled Federal spending in 1969 and achieved a budget surplus. Spending was restrained again in 1970. Independently, the Federal Reserve System maintained a monetary policy of restraint which increased in severity throughout calendar year 1969 and continued into early 1970.

The forces of inflation have been durable and persistent—and they remain strong. But their momentum was slowed in calendar year 1969 and early 1970. Excessive demand was eliminated as a source of inflationary pressure during this period. The turnaround of this inflationary trend permitted us to enter the second phase of our plan: to follow more expensive economic policies without losing ground in the battle against inflation.

Budget policy.—Last July, I set forth the budget policy of this administration:

> "At times the economic situation permits—even calls for—a budget deficit. There is one basic guideline for the budget, however, which we should never violate: except in emergency conditions, expenditures must never be allowed to outrun the revenues that the tax system would produce at reasonably full employment. When the Federal government's spending actions over an extended period push outlays sharply higher, increased tax rates or inflation inevitably follow."

The principle of holding outlays to revenues at full employment serves three necessary purposes:

- It imposes the discipline of an upper limit on spending, a discipline that is essential because the upward pressures on outlays are relentless.
- It permits Federal tax and spending programs to be planned and conducted in an orderly manner consistent with steady growth in the economy's productive capacity.
- It helps achieve economic stability by automatically imposing restraint during periods of boom and providing stimulus during periods of slack.

The budget policy of this administration is to keep firm control over Federal spending. The outlay total $229.2 billion in 1972 is the sum of spending for programs that were scrutinized carefully to make certain that they would be managed effectively and efficiently, and that they are essential to carry out present laws or to achieve desirable changes in our national priorities.

If this careful scrutiny were not maintained—if we weaken in our resolve to control spending—we would risk permitting outlays to build up a momentum that will carry them beyond full employment receipts in the longer run, and we would risk losing the ability to restrain

spending in times when a deficit is undesirable.

SUMMARY OF THE 1972 BUDGET

The budget that I propose for 1972 is consistent with the fiscal policy I announced 6 months ago.

THE BUDGET AT A GLANCE

[Fiscal years, in billions]

Description	1970 actual	1971 estimate	1972 estimate
Budget receipts	$193.7	$194.2	$217.6
Budget outlays	196.6	212.8	229.2
Actual deficit (—)	−2.8	−18.6	−11.6
Full-employment surplus	2.6	1.4	0.1
Budget authority	213.0	236.3	249.0

	1969 actual	1970 actual	1971 estimate	1972 estimate
Outstanding debt, end of year:				
Gross Federal debt	$367.1	$382.6	$407.0	$429.4
Debt held by the public	279.5	284.9	302.5	313.1
Outstanding Federal and federally assisted credit, end of year:				
Direct loans [1]	46.5	51.1	53.8	56.5
Guaranteed and insured loans [2]	104.0	106.4	119.4	140.3
Direct loans by Government-sponsored agencies	27.0	37.6	45.4	53.2

[1] Including loans in expenditure account.
[2] Excluding loans held by Government or Government-sponsored agencies.

Budget receipts in 1972 are estimated to be $217.6 billion, $23.4 billion more than 1971, but still below the $229.3 billion of revenue that would be produced if the economy were operating at full employment throughout the year.

The estimates reflect a reduction in revenues of $2.7 billion due to the new tax depreciation rules announced on January 11. These rules are part of our plan to expand the economy and help the Nation achieve full employment without inflation.

Budget outlays in 1972 are expected to be $229.2 billion, an increase of $16.4 billion over the previous year.

The increase in outlays will help move the economy toward higher employment and production. At the same time, outlays are being held to full employment receipts.

I am requesting *budget authority*—the right to make commitments to spend—of $249.0 billion in 1972. Over $170 billion of this total will require new action on the part of the Congress.

REVENUE SHARING: RETURNING POWER TO PEOPLE

During the 1960's, more governmental initiative and power shifted to Washington and away from elected officials in State and local governments. Towards the end of the decade it became apparent that, despite new programs and massive Federal expenditures, government at all levels was not working well.

When this administration took office, I directed that an intensive review of our governmental system be made. We found that State and local governments were breaking down under an incredible fiscal burden. We also found that the red tape involved in the narrow categorical grant system made it almost impossible for the Federal Government to be effective and responsive to the needs of individuals in different localities.

The financial squeeze on State and local governments is acute, and shows no sign of becoming less painful. These governments rely mainly on receipts from consumer and property taxes, which have not grown nearly as fast as the demand for State and local government services. As a result, combined State and local debt has increased by over 600% since 1948.

The Federal Government helped meet some of this demand by increasing its financial aid, largely through grant programs, which now accounts for 18% of State and local revenues.

The results of grant programs have been impressive in some cases. But the grant structure has become a haphazard collection of hundreds of separate programs, each with its own policies, its own requirements and procedures, and its own funding.

Such a complicated method of providing Federal assistance is not only inefficient, but it:

—*restricts the freedom* of State and local governments to spend funds in accordance with their priorities;

—*is unresponsive* to the needs of specific local situations because the funds are distributed and regulated by guidelines that do not—perhaps cannot—sufficiently take account of differences among local communities; and

—*separates resources and responsibility*, because State and local governments have the responsibility for providing services, but, all too often, they do not have the money to provide those services. The Federal Government dominates the field of income taxation, and its redtape restricts the discretion of State and local governments over the services they provide.

Clearly, not enough authority over the use of resources for federally assisted programs is now lodged at the State and local level. More of the power—and the responsibility—for using federally collected funds must be given to elected officials in these governments.

The need for remedying this situation is urgent. The time for reform is now.

Local freedom of action.—I propose a revenue sharing plan to give State and local governments the money they need to deliver the services that can best be performed by government closest to the people.

This is how the new "freedom of action" plan will work:

In the first full year of the plan, $16 billion will be directed to the States and localities, in a way that will enable them to decide as never before how that money will be spent.

Of this amount, $5 billion will be in the form of *general revenue sharing*, without restrictions. This will all be "new" money, without matching requirements and with the decision on how it is to be used exclusively a State and local matter.

The remaining $11 billion will be in the form of *special revenue sharing*, with the discretion on how it will be used within each of six broad subject areas strictly a State and local matter. These areas are:

—Urban community development,
—Rural community development,
—Education,
—Manpower training,
—Law enforcement, and
—Transportation.

The hobbling restrictions now on much of the Federal aid in these areas would be removed, along with matching requirements that presently force localities to spend their own matching money on low-priority projects for fear of "losing" available Federal aid.

To emphasize the importance of the special revenue sharing funds, the change from the present tightly restrictive categorical grants to special revenue sharing in the six broad areas will be accompanied by an *increase* of $709 million in the amounts budgeted for 1972 for Federal aid to States and localities. But even more important is the fact that these governments would have far greater freedom of action in deciding how money is to be spent within each of the six areas. For example, although the Federal Government would designate the total amount of special revenue sharing for education, the State or local area would decide how much is to be spent on new textbooks, new schools, equipment, or other matters of priority to it in the field of education.

In this way, both general and special revenue sharing will redirect the control of State and local decisions on $16.1 billion to the States and localities affected most by those decisions. This is about half of Federal Government aid, excluding public assistance grants, to States and communities—a historic and massive reversal of the flow of power in America.

Budget authority proposed for revenue sharing plan, first full year

Description	*Billions*
General revenue sharing	$5.0
Special revenue sharing:	
Urban community development	2.0
Rural community development	1.0
Education	3.0
Manpower training	2.0
Law enforcement	0.5
Transportation	2.6
Total	16.1

We must make provision at the outset of this freedom of action plan for both growing State and local needs and growing State and local capacity to manage their affairs.

The new funds for general revenue sharing will grow in years to come because they will be tied to the Federal personal income tax base. As that tax base expands, more unrestricted money will flow to States and localities.

To help State and local governments develop greater capacity to plan and manage their own affairs, I will send to the Congress a planning-management assistance plan, which will provide $100 million to help these governments make their own long-range plans and enhance their capability for the efficient use of their growing revenues.

In essence, this is what revenue sharing will do:

—*for the individual taxpayer*, it will provide a stronger voice in how his tax money is spent locally, new confidence in government that comes from more "citizen control," and the hope that, in some States and locali-

ties, taxes may be reduced, or that the rising cost of government can be met without raising taxes;

—*for State and local governments,* it will not only help meet the current financial crisis, but will also wipe out rigidities and delays in Federal aid and permit them to build their capacity to respond to local needs;

—*for our federal system,* it will provide new strength by assigning services to the level of government best equipped to perform them; and

—*for all our people,* it will provide a means of encouraging local diversity and experimentation within the framework of our great national purposes.

Of course, these revenue sharing proposals will not be the vehicle for any retreat from the Federal Government's responsibility to ensure equal treatment and opportunity for all. The proposals I send to the Congress will include the safeguards against discrimination that now accompany all other Federal funds allocated to the States.

This massive revenue sharing proposal is central to my philosophy of giving people the opportunity to become more involved in the decisions that affect their lives. The magnitude of the problem calls for this kind of bold move; by acting decisively and without delay, we will strengthen our Federal system and respond better to the needs of our people.

Welfare reform.—One of the first steps in our review of the Federal system was to sort out those activities that are appropriate for the Federal Government from those that are best performed at the State and local level or in the private sector. We decided early on one primary Federal responsibility—providing, with a combination of work incentives and work requirements, an income floor for every American family.

We knew beforehand that the existing welfare system was in desperate need of reform. We also knew that the existing system imposes a crushing and growing financial burden on States.

My welfare reform proposals, described later in this message, are an integral part of our effort to give people the ability to make their own decisions, to build the capacity of State and local government, and to encourage more orderly national growth.

By building a floor under the income of every family everywhere in America with Federal funds, we provide each dependent family a new dignity, we help State and local governments finance what is now their fastest growing expenditure, and we remove one magnet that has already drawn too many persons to our congested cities.

In government operations, form should follow function. Just as revenue sharing decentralizes power to meet one need, welfare reform sets a basic national standard to meet a different need. The decision to centralize or decentralize should be based on which method best serves the larger purposes of 206 million Americans.

Revenue sharing and welfare reform are of a piece: the level of government best equipped to respond should respond in a way that raises standards and contributes to the sum of personal freedom and human dignity.

RESTORING CONFIDENCE IN GOVERNMENT

In seeking ways to reform the federal system, I have paid particular attention to the ability of the executive branch of the Federal Government to produce the results intended by the Congress and the President.

In 1971, the Federal Government will employ almost 2,900,000 civilians, operate thousands of separate programs, and spend $212.8 billion. Through its tax laws, credit activities, grant programs, and in other ways, the Government affects millions of people and influences the disposition of many more billions of dollars than it controls directly.

Toward the end of the sixties, there was mounting evidence that our Government was so complex, clumsy, and unresponsive, that it was becoming unable to meet the needs and priorities of the people or to use efficiently the funds entrusted to it.

This must not be permitted in America.

We have already taken actions to improve the organization and management of the Federal Government and, thereby, make it more efficient and responsive.

But we must do more. The Federal Government is not organized properly to deal with the Nation's most significant problems in the domestic area. Programs that should be joined together to achieve common goals are fragmented among different departments and agencies, impairing the capacity of Government to respond effectively to urgent national needs. Modernization of that structure will restore vigor to our federal system, permitting a constructive partnership among Federal, State and local governments.

In the next few months, I shall propose sweeping legislation to help achieve these goals by merging seven existing departments and several independent agencies into four departments:

—a Department of Natural Resources,

—a Department of Human Resources,

—a Department of Community Development, and

—a Department of Economic Development.

These new departments will match the domestic programs of the Federal Government with the objectives each is intended to fulfill:

—the balanced and constructive use and conservation of the land and other natural resources of the Nation;

—the development and well-being of individuals and families;

—the quality of urban and rural communities as places for people to work and live; and

—the maintenance and strengthening of the American economy.

To continue the modernization of the Federal Government, I will also ask an extension of the President's reorganization authority. We must seek to expand current efforts to shift operating responsibility for Federal programs out of Washington and closer to the people these programs are designed to serve.

To fulfill its responsibilities, the Federal Government must attract, develop, and retain capable career executives. We must have a more effective manpower planning and utilization system. I shall propose legislation to establish a Federal Executive Service which will permit:

—more effective career executive search;

—flexibility in the allocation and assignment of available talent; and

—strengthened executive development programs and policies.

By improving the organization and management of government, we will make it more responsive to the needs of the people and the new priorities of the Nation.

REFORMING THE BUDGET PROCESS

Reform of the budget process is long overdue. Fifty years have passed since the Federal budget system currently in use was adopted. The system was a major step forward in 1921. Because of congressional inaction, it has become a travesty a half-century later.

Enactment of appropriations 6 months or more after the start of the fiscal year they are supposed to cover is evidence of a major weakness. I have sent two budgets to the Congress. In each, I have had to formulate budget proposals for the year ahead without knowing what the Congress would provide in its action on the prior year's budget, which was transmitted 11 months earlier. Even now, as this message is being written, action on last year's appropriations request for one department has not been completed.

I have, therefore, had to act on parts of the budget without knowing the totals that would result. This is an intolerable situation, but one that the Congress seems to accept as the normal way of doing business. It completes action on appropriation bills over a 10- to 12-month period without any goal or determination of the total expenditures that will result after the last bill is passed.

Excess in the number and detail of appropriations often diverts attention to minutiae. It also impairs the ability of agency heads to manage their agencies responsibly and economically.

The budget is our principal instrument for coordinated management of Federal programs and finances. Close cooperation between the executive and legislative branches is needed now to make the budget an efficient and effective instrument for this purpose. Therefore we must seek a more rational, orderly budget process. The people deserve one, and our Government, the largest fiscal unit in the free world, requires it.

Furthermore, Federal credit programs which the Congress has placed outside the budget—guaranteed and insured loans, or loans by federally sponsored enterprises—escape regular review by either the executive or the legislative branch. The evaluation of these extra-budgetary programs has not been fully consistent with budget items. Their effects on fiscal policy have not been rigorously included in the overall budget process. And their effects on overall debt management are not coordinated well with the overall public debt policy. For these reasons, I will propose legislation to enable these credit programs to be reviewed and coordinated along with other Federal programs.

TOWARD A FULL GENERATION OF PEACE

Our goal is a full generation of peace in which all nations can focus their energies on improving the lives of their citizens.

To achieve this, we must continue to work in close cooperation with our allies, move from confrontation to negotiation with those with whom we differ and—together with our allies—maintain enough military strength to deter aggression. Sufficient and effective programs of military and economic assistance to help our friends help themselves are an integral part of our program.

National security.—This Nation's strategy for peace will—as it must—be based upon a position of military strength. The purpose of this strength is to prevent war; and, to this end, we will negotiate with those whose vital interests and polices conflict with our own.

We are pursuing negotiations on strategic arms limitations, on Vietnam, on Berlin, and on the Middle East. These negotiations are difficult and often slow, but we have the stamina and commitment necessary to proceed with patience and purpose.

As we carry on negotiations, we couple them with other efforts to achieve the same goal. The Vietnamization program is an example, and we are making good progress. By this spring, our authorized troop strength will have been cut approximately in half since the time I took office, and we will continue to bring American troops home.

Supporting these efforts, the military forces of this Nation and its allies will provide the armed might necessary to deter aggression or to deal with it effectively where necessary. We expect our allies to do more in their own behalf, and, in the spirit of the Nixon doctrine, many are taking steps in that direction. But we must also do our share. The kind of partnership we seek to forge works both ways. We have a vital interest in peace and stability abroad and we plan to maintain the capabilites necessary to protect that interest.

Our withdrawals from Vietnam and the change in our general purpose force planning and strategy permit a smaller force structure than in the past. At the same time, the preoccupation with Vietnam has limited our ability to meet some of our military needs elsewhere, particularly in NATO. We must be certain that our military forces are combat-ready and properly equipped to fulfill their role in our strategy for peace. In addition, we face formidable Soviet nuclear and conventional forces, including increased naval forces, and a further rise in the costs of our military equipment and personnel.

For these reasons, I am recommending an increase of $6 billion in budget authority for military and military assistance programs. This Nation has the will and the resources to meet its vital national security needs. At a time when we are urging our allies to do more and when our potential adversaries may seek military advantage, I cannot in good conscience recommend less.

We often think of military strength primarily in terms of equipment and massive organizations. While these are important, attracting and holding able citizens in the Armed Forces is the key to an effective and efficient military force. The service of Americans in uniform is worthy of respect, and I am dedicated to the goal of making all such service voluntary. This budget, and subsequent legislation which I will recommend to the Congress, will make significant progress toward ending reliance on the draft.

Foreign assistance.—Our present foreign assistance programs were established for a world that has long since changed. I will propose legislation to adapt them to the conditions of the 1970's.

We must clearly distinguish the varied purposes of foreign aid—the security of the United States and friendly nations, the long-term development of lower income countries, and humanitarian needs—and make possible a realistic assessment of our progress toward each. In 1972, our assistance programs will:

—promote a strong partnership among nations and a vigorous leadership role for multilateral development institutions;

—recognize that other nations have a growing ability and responsibility to determine their own development priorities;

—continue security assistance at a higher level than in recent years in order to help friendly nations meet the responsibility for their own defense; and

—improve coordination of our humanitarian assistance efforts.

These changes will carry out a major theme of U.S. foreign policy—less direct U.S. involvement in the affairs of other nations, less potential for friction and resentment, and a stable world order more conducive to lasting peace.

MEETING HUMAN NEEDS

The proposals that I submit today are a major step forward in the reform of our Nation's efforts to meet the needs of its 206 million citizens. They will introduce a new fairness into American life by providing:

—a basic income floor under every family with children in this Nation;

—health care to help make needed services possible for all of our people when and where such services are required;

—better systems of support for education and manpower training; and

—continued progress in assuring the civil rights of all citizens, and in controlling crime.

Income strategy.—Last year was one of great promise for the long-term income security of American families. Some of that promise reached fruition in the reform of unemployment insurance and food stamp programs:

- Unemployment insurance was extended to 4.8 million additional Americans, including farmworkers and hospital workers, and special extended benefits were established to be triggered automatically by adverse economic conditions.
- Food stamp benefits were improved by establishing national eligibility standards, requiring family allotments large enough to purchase an adequate diet, providing free food stamps to the poorest recipients, and automatically raising benefits with increases in the cost of living.

However, much of that promise was left unrealized. As I have pointed out, in 1972 I will redouble my efforts to make essential and fundamental reforms in income maintenance programs. First, and foremost, I will seek:

- *Basic welfare reform.*—Last year I proposed that our archaic and demeaning welfare system be reformed. A landmark plan that would have accomplished this was approved by the House but did not come to a vote in the Senate.

  The urgency of the need for welfare reform grows with every passing day. I have already stressed the need for early enactment of the Welfare Reform Act of 1971 by the 92d Congress.

  This plan would remove the principal evils of the existing system by:
  —setting national eligibility standards;
  —balancing strong training and work requirements with equally strong training and work incentives;
  —giving financial relief to the States; and
  —establishing a Federal floor under benefit payments for *all* needy families with children, including those with working fathers, for the first time.
- *Social security improvements.*—I will propose a significant reform of the social security system, providing *automatic* adjustments for increases in the cost of living. Such an adjustment now calls for a 6% benefit, effective retroactively to January 1, 1971, to cover the cost of living increase since January 1, 1970. I will also propose increases in widows' pensions.

Beyond these basic reforms, I will seek to harmonize related income maintenance programs with the principles of our income strategy. This will include:

—reform of services provided to welfare recipients to encourage greater accountability and effectiveness in the use of funds, and to establish national standards for foster care, with new incentives for the adoption of handicapped children; and

—proposals to put railroad retirement funds on a financially sound basis.

Improving health care.—During the current session, I will send a message to the Congress that will set out a national health strategy for the seventies and propose significant changes in the Federal role in the Nation's system of health care.

This strategy will seek to expand preventive care, to train more doctors and other health personnel, and to achieve greater equity and efficiency in the delivery of health services. It will include a new health insurance program for all low-income families with children.

The budget reflects in a preliminary way the emphasis that this administration will place on health in 1971, with:

—an increase of $100 million to ac-

celerate greatly the search for a means of preventing and curing cancer;
—a vigorous effort to find a cure for sickle cell anemia;
—a $95 million increase in Federal support for schools that train our Nation's health manpower; and
—a rational policy of using Federal resources to help bring the rapid increase in medical care costs under control.

The budget also provides for:
—a substantial improvement in the quality of medical care provided to veterans with service-connected injuries;
—expansion of services for mothers and children, Indians and Alaska natives, and women who cannot afford family planning services;
—expanded programs to combat drug abuse and alcoholism;
—emphasis on assuring purity of foods and drugs; and
—encouraging greater use of less costly services and facilities in delivering medical care.

Community safety and crime prevention.—My commitment to the reform and revitalization of our system of criminal justice is supported by this budget. The budget proposes a 32% increase in outlays to improve law enforcement, to make our judicial system fairer and more efficient, and to raise the effectiveness of correction and rehabilitation. In this way, we will:
—step up the war on organized crime and the gambling operations that finance it;
—destroy major criminal systems that import and distribute narcotics and dangerous drugs;
—strengthen local law enforcement through the special revenue sharing fund for this purpose;
—continue the antihijacking campaign to protect the Nation's air travelers;
—expand our correctional improvement programs to develop more innovative correctional institutions, and improve probation, parole, and other community-based services; and
—develop, in cooperation with State and local governments, ways to provide more accurate information on law enforcement activities.

Guaranteeing civil rights.—The ideals of our Nation require that the civil rights of *all* citizens be respected, regardless of race, sex, religion, or national origin.

My budget for 1972 proposes to strengthen our efforts to eliminate discrimination in private as well as Federal employment, in activities supported by Federal assistance to State and local governments and other recipients, in education, in housing, and in other aspects of society.

We will take these specific steps to improve the lives of all our people:
—increase by more than 50% our efforts to prevent employment discrimination by Federal contractors and other private employers;
—increase nearly threefold the Federal assistance to school districts that are desegregating;
—reorganize the field operations of the Equal Employment Opportunity Commission to make more effective efforts to halt discrimination in private employment;
—focus the activities of the Civil Service Commission to assure equal Federal employment opportunities for all our citizens, with special emphasis on opportunity for Spanish-surnamed Americans;
—serve 46 localities with conciliation assistance through the Community Relations Service;
—expand administration of the fair housing and equal opportunity laws to increase residential housing choices for all Americans; and
—increase by 15% funds to agencies to assure nondiscrimination by recipients in their use of Federal assistance.

Education and manpower training.—The education and manpower training programs proposed in this budget reflect my determination to find better ways to carry out Federal programs. Special revenue sharing is proposed for both of these vital areas. I will also submit major reform proposals to:
—reform Federal aid programs for higher education to increase their effectiveness;
—direct more funds to students from lower income working families;
—establish a National Institute of Education for research and development; and
—provide additional training opportunities and strong incentives under the Welfare Reform Act of 1971 for employable welfare recipients to undertake suitable employment or job training.

Research and development on social problems.—The Office of Economic Opportunity will emphasize its leadership role in research, development, and evaluation in social programs.

IMPROVING OUR ENVIRONMENT

The improvement and prudent use of our physical resources is vital to our Nation's prosperity and to the goal of helping all Americans enjoy a clean environment, adequate housing, and a better standard of living. In 1972, outlays to achieve these objectives will increase by $2.4 billion to $26.1 billion. The actions that I am proposing will:
—expand my administration's vigorous efforts to protect and enhance the quality of our environment and recreation resources;
—revitalize housing and community development programs; and
—increase Federal research and development efforts.

Environmental quality.—The primary responsibility for protecting and enhancing the environment lies with State and local governments, industry, and the public, but the Federal Government must—and will—provide vigorous leadership.

During the past year, this administration moved forcefully to exercise that leadership:
- Major Federal pollution control and abatement activities were consolidated in a new Environmental Protection Agency;
- The Council on Environmental Quality was given a major role within the Executive Office of the President to advise on environmental problems and on national policies to deal with them;
- New legislation to strengthen national efforts for reducing pollution was proposed to the Congress; and
- Funds for major environmental quality programs were increased significantly.

Pollution control and abatement programs will get even greater attention in the 1972 budget. Outlays will be increased by $764 million. Budget authority will rise even more, by $1.3 billion. The higher amounts will provide for:
—doubling grants for municipal waste treatment facilities;
—curbing pollution from Federal facilities;
—expanding EPA pollution control operations, including implementation of new air quality and solid waste legislation; and
—developing new pollution abatement techniques.

Legislation is again proposed to create the Environmental Financing Authority, which will assist communities that have difficulty in borrowing at reasonable rates to meet their share of the cost of water pollution control facilities.

I shall shortly propose, in a special message to the Congress, a series of further measures to control pollution and improve the quality of our environment.

Recreation.—Greater opportunity for leisure is valued highly in America and, as a result, the demand for recreation facilities is growing. The 1972 budget proposes a substantial increase in grants to help State and local governments provide some of these facilities.

I am recommending that the Land and Water Conservation Fund be fully funded to provide:
—grants of $280 million to help States and localities meet local recreation needs; and
—appropriations of $100 million for Federal acquisition to preserve nationally significant natural and historic areas.

I propose that the urban open space program be more than doubled, to $200 million, to provide more recreational areas in and near our cities.

Cultural activities.—I have again recommended that we double the appropriation for the National Foundation on the Arts and the Humanities, so that we can bring the benefits of these great cultural efforts to an increasing number of people throughout the country.

Housing.—The housing industry has already begun to lead our economic expansion. Fiscal and monetary actions taken in the past year have resulted in a significant easing of mortgage interest rates. Federal policy must help this industry meet the pent-up demand for housing.

The effectiveness of our housing programs will not be improved by merely continuing to increase Federal subsidies. The programs must be simplified and fitted into a rational framework. Inconsistencies must be removed, along with the obsolete rigidities in statutes that at times prevent programs from operating at all.

The administration will again propose legislation to carry out these badly needed reforms, which I urge the Congress to enact.

Community development.—I will also propose reform of the community development programs of the Department of Housing and Urban Development, and of certain economic development programs of the Departments of Agriculture and Commerce. Narrowly defined categorical grant programs in this field have frequently conflicted with local priorities and unnecessarily generated red tape.

With special urban and rural revenue sharing programs, we will permit localities to plan and carry out community development in accordance with their own needs.

Initial funding of the new urban program will begin at a level of $1 billion for the second half of 1972, upon enactment of the necessary legislation. An additional $2 billion appropriation is anticipated for 1973, when the program will be in effect for a full year. Rural development revenue sharing will be $1 billion in the first full year.

Science and technology.—Science and technology can make major contributions to the public by developing creative solutions to a wide range of national problems that will help us all enjoy a better life. I am proposing in this budget a substantial expansion in outlays for federally supported research and development.

While a large portion of this increase is needed to strengthen our defense capabilities I am also recommending substantial increases in civilian areas to:

—make greater use of our scientific and engineering capabilities and resources to cope with major national problems such as pollution, crime, health, transportation, and other environmental and social problems;

—strengthen research essential to the advancement of our technology and economic productivity; and

—increase our investment in fundamental science which leads to the long-term progress of our society.

As an example of the concern of this administration for the use of science and technology in the public service, I am recommending that the budget for the National Science Foundation be increased from $506 million in 1971 to $622 million in 1972. A significant portion of these added funds will be directed to research on pressing national problems.

THE LONGER VIEW

Federal budget decisions must be made with an awareness of their influence on the economy and on resource allocation in the future as well as the present.

Too often in the past, consideration of objectives and priorities focused only on Federal spending. Only immediate issues, rather than longer term goals, were considered. And this fact was ignored: when we increase the priority of some programs, the relative priority assigned to others must be reduced. In short, the sum of the resources allocated to the various functions—such as health, education, defense—cannot exceed the total resources that we command.

Looking to the future, we find that resources likely to be available to the Nation grow more rapidly than the expenditures required by existing commitments. But our freedom to use these resources will shrink as we approach each future year and make financial or program commitments in the interim. Thus, the allocation of each year's resources is largely a reflection of our past priorities.

As we make choices this year, we will be determining the use our available resources and expenditures in future years.

The resource allocation questions that the Nation will answer—either explicitly or by default—are:

- Shall we increase the available margin by ending some existing commitments?
- Who should use the margin—the Federal Government, State and local governments, or private citizens?
- To what objectives should the available margin be applied?

In answering these questions, the Nation will be setting its priorities for the future.

My preferences are clear. *One great objective of my administration is to increase the role of private citizens and State and local governments in allocating our national resources in accordance with individual and local needs. Another great objective is to set minimum standards to make certain that every American family in every locality is treated with a fairness that reflects the national conscience.*

Ours is not a regimented economy, nor will it be, Yet, we cannot ignore the influence of the budget on the economy and on the use of our national resources in the present and in the future. To do so is to take the chance that government spending will preempt resources that should be left to be used by private citizens or State and local governments.

In the last few decades, the Federal Government, disturbingly, has taken over the determination of how too many of the Nation's resources will be allocated. In spite of the Federal Government's domination, resources have not been appropriately allocated to overall national needs. Instead, they have been allocated by a process in which small additions were usually made in existing programs, and a few new categorical grant programs were created each year. These new grants were generally aimed at alleviating some narrow problem—without reference to the Nation's real need in that general problem area.

I have in this budget proposed the outlines of a new process for allocating funds according to national priorities.

Instead of continuing "more of the same" to more than a hundred narrow categorical grant programs, I have proposed replacing them with six *special* revenue sharing programs designed to deal with major national problems. These are problems that have different characteristics in different parts of the country. With these special revenue sharing funds, State and local governments can set their priorities within the national objective, design a solution fitted to their particular needs, and solve their problems locally.

The *general* revenue sharing program provides unrestricted funds to State and local governments to achieve our Nation's top domestic priority—the creation of a system of government that is effective and responsive to the needs of all of the American people. General revenue sharing will allow State and local governments to overcome their immediate fiscal crises and to come to grips with those problems that concern their citizens most.

The revenue sharing programs which I have proposed result from shared goals, provide federally shared revenues, and involve shared Federal-State-local responsibility for solving America's most important problems. Our system of government must be one of shared goals—shared revenues—shared responsibilities.

CONCLUSION

The 1972 budget befits a strong, free, compassionate, and enlightened Nation.

- It reverses the trend of the past decade toward Federal domination of the Nation's decisions, and begins to make government more responsive to the will of the people.
- It recognizes that a strong defense is vital to all our objectives, most of all to the attainment of peace.
- It provides the resources needed to meet the Nation's commitments at home, with a new standard of fairness to the poor and sick.
- It accepts the principle that budget policy, together with monetary policy and the active cooperation of the private sector, must be used to help achieve full employment in peacetime with relative price stability.

This budget expresses our fiscal program for the New American Revolution—a peaceful revolution in which power will be turned back to the people—in which government at all levels will be refreshed, renewed, and made truly responsive. This can be a revolution as profound, as far-reaching, as exciting, as that first revolution almost 200 years ago.

RICHARD NIXON.

JANUARY 29, 1971.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of 42 United States Code 2251, the Speaker had appointed Mr. HOLIFIELD, Mr. PRICE of Illinois, Mr. ASPINALL, Mr. YOUNG of Texas, Mr. EDMONDSON, Mr. HOSMER, Mr. ANDERSON of Illinois, and Mr. MCCULLOCH as members of the Joint Committee on Atomic Energy, on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF RECEIPTS AND DISBURSEMENTS TO APPROPRIATIONS FROM DISPOSAL OF MILITARY SUPPLIES, EQUIPMENT, AND MATERIEL, AND LUMBER AND TIMBER PRODUCTS, DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a re-

port of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and materiel, and for expenses involving the production of lumber and timber products, for the quarter ended September 30, 1970 (with an accompanying report); to the Committee on Appropriations.

PROPOSED LEGISLATION TO ESTABLISH THE FEDERAL CITY DEVELOPMENT CORPORATION

A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to establish the Federal City Bicentennial Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes; to the Committee on Interior and Insular Affairs.

FINAL REPORT ON BASIC NATIONAL RAIL PASSENGER SERVICE

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report designating a basic system of intercity rail passenger service, dated January 28, 1970 (with an accompanying report); to the Committee on Commerce.

REPORT ON FINAL VALUATIONS OF PROPERTIES OF CERTAIN CARRIERS

A letter from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, a report on the final valuations of properties of certain pipeline carriers (with an accompanying report); to the Committee on Commerce.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

A letter from the National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, their annual report, for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller of the United States, transmitting, pursuant to law, a report on fair prices paid for small purchases by the Department of Defense, dated January 29, 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE RAILROAD RETIREMENT BOARD

A letter from the Chairman, United States of America Railroad Retirement Board, transmitting, pursuant to law, a report on positions in grades GS–16, 17, and 18 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF THE U.S. ATOMIC ENERGY COMMISSION

A letter from the Atomic Energy Commission, transmitting, pursuant to law, a report of the Commission for 1970 (with an accompanying report); to the Joint Committee on Atomic Energy.

PROPOSED LEGISLATION TO CHARGE FEDERAL AGENCIES FEES FOR THE LICENSING OF NUCLEAR POWER REACTORS

A letter from the Chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to authorize the Commission to charge Federal agencies fees for the licensing of nuclear power reactors (with accompanying papers); to the Joint Commission on Atomic Energy.

GENEVA PROTOCOL OF 1925—EXECUTIVE UNDERSTANDING NO. 1

Mr. NELSON submitted Executive Understanding (No. 1); which was ordered to be printed in the RECORD as follows:

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS, OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE

Understanding intended to be proposed by Mr. NELSON with respect to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925:

At the end of the resolution of ratification, insert the following: "It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the protocol, that the terms of the protocol prohibit the use in war of chemical herbicides."

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

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

S. 432. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Salmon Falls division, Upper Snake project, Idaho and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. BENNETT:

S. 433. A bill for the relief of Weldon Thompson; to the Committee on the Judiciary.

By Mr. PROUTY (for himself, Mr. DOMINICK, Mr. GRIFFIN, Mr. JAVITS, Mr. PACKWOOD, Mr. SAXBE, Mr. SCOTT, and Mr. SCHWEIKER):

S. 434. A bill to establish a National Institute of Education, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. ERVIN:

S. 435. A bill for the relief of Fan Zu Ming; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 436. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Finance.

S. 437. A bill for the relief of Mrs. Maria Jose Pereira; to the Committee on the Judiciary.

S. 438. A bill to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. HOLLINGS when he introduced S. 436 and S. 437 appear below under appropriate headings.)

By Mr. SPONG:

S. 439. A bill granting and ceding to the city of Alexandria, in the State of Virginia, certain waterfront land along the Virginia shoreline of the Potomac River; to the Committee on the Judiciary.

By Mr. CHILES:

S. 440. A bill to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title; to the Committee on Finance.

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

By Mr. McGOVERN:

S. 441. A bill for the relief of Blandina Salvador;

S. 442. A bill for the relief of Christina Bangcawayan;

S. 443. A bill for the relief of Sotirios Zontanos;

S. 444. A bill for the relief of Miguel Apaza; and

S. 445. A bill for the relief of Sam C. H. Shum; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 446. A bill to establish the National Advisory Committee on the Oceans and Atmosphere; to the Committee on Commerce.

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

By Mr. ANDERSON:

S. 447. A bill to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. METCALF:

S. 448. A bill to provide that the appropriation requests of certain regulatory agencies be transmitted to Congress; to the Committee on Government Operations.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 449. A bill to repeal section 372–1 of title 25, United States Code, relating to the appointment of hearing examiners for Indian probate work, to provide tenure and status for hearing examiners performing such work, and for other purposes;

S. 450. A bill to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian community; and

S. 451. A bill to provide compensation to the Crow Tribe of Indians, Montana, for certain lands embraced within the present boundaries of the Crow Indian Reservation, for the validation of titles, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 452. A bill to provide that in determining the amount of retired pay, retirement pay, or retainer pay payable to any enlisted man, all service shall be counted which would have been counted for the same purposes if he were a commissioned officer; to the Committee on Armed Services.

S. 453. A bill to amend the Tariff Schedules of the United States to accord the Trust Territories of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States;

S. 454. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business; and

S. 455. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Finance.

S. 456. A bill to amend the War Claims Act of 1948 and the Trading With the Enemy Act to provide for the submission of certain claims and the reinstatement of certain claims, and

S. 457. A bill to provide cost-of-living allowances to judicial employees stationed outside the continental United States or in Alaska and Hawaii; to the Committee on the Judiciary.

S. 458. A bill to provide credit under the Civil Service Retirement Act for periods of separation from the service of certain employees of Japanese ancestry during World War II; to the Committee on Post Office and Civil Service.

(The remarks of Mr. INOUYE when he introduced S. 453 and S. 455 appear below under the appropriate headings.)

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

S. 459. A bill to provide for the establishment of the Puukohola Heiau National Historic Site, in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 460. A bill to provide that unincorporated territory of Guam shall be represented in Congress by a Territorial Deputy to the House of Representatives; to the Committee on Interior and Insular Affairs.

S. 461. A bill to require the payment of prevailing rates of wages on Federal public works on Guam; to the Committee on Labor and Public Welfare.

S. 462. A bill to include Guam within the purview of the Federal Unemployment Tax Act and related provisions of the Social Security Act; to the Committee on Finance.

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

By Mr. MONDALE:

S. 463. A bill for the relief of Lau Siu Chsung;

S. 464. A bill for the relief of Freny Rustom Irani;

S. 465. A bill for the relief of Mrs. Hang Kiu Wah;

S. 466. A bill for the relief of John R. Cochrane;

S. 467. A bill for the relief of Teresa Blaszczyk;

S. 468. A bill for the relief of Miss Inkeri Perkkio;

S. 469. A bill for the relief of Bernard Claude Mignot;

S. 470. A bill for the relief of Peter Nicholas Pagotelis;

S. 471. A bill for the relief of George Buentipo; and

S. 472. A bill for the relief of Rachid Jabbra; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 473. A bill to amend the Automobile Information Disclosure Act to make its provisions applicable to the possessions of the United States; to the Committee on Commerce.

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

By Mr. INOUYE (by request):

S. 474. A bill to amend the Federal Aviation Act of 1958, as amended, to authorize air carriers to engage in bulk air transportation of persons and property; to the Committee on Commerce.

By Mr. INOUYE:

S. 475. A bill to extend the benefits of the Veterans' Preference Act of 1944 to persons serving in the Armed Forces of the United States during peacetime; to the Committee on Veterans' Affairs.

By Mr. NELSON:

S. 476. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to provide for an identification system for prescription drugs for human use; to the Committee on Labor and Public Welfare.

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

By Mr. COOK (for Mr. TOWER):

S. 477. A bill to authorize the Secretary of the Army, or his designee, to convey to the State of Texas certain lands at the Fort Bliss Military Reservation in exchange for certain other lands; to the Committee on Armed Services.

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

By Mr. WILLIAMS:

S. 478. A bill for the relief of Rosa Luisa Giordano;

S. 479. A bill for the relief of Carmela LaGalia;

S. 480. A bill for the relief of Mr. Migirdic Civan; and

S. 481. A bill for the relief of Fabio Costantino; to the Committee on the Judiciary.

By Mr. PELL (for himself and Mr. TOWERS):

S. 482. A bill to establish a commission to study the usage, customs, and laws relating to the flag of the United States; to the Committee on the Judiciary.

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

By Mr. KENNEDY:

S. 483. A bill to amend the Military Selective Service Act of 1967 to provide for a fair and random system of selecting persons for induction into military service, to provide for the uniform application of Selective Service policies, to raise the incidence of volunteers in military service, and for other purposes; to the Committee on Armed Services.

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

By Mr. HATFIELD (for himself, Mr. CHURCH, Mr. CRANSTON, Mr. MCGOVERN, and Mr. PROXMIRE):

S. J. Res. 20. Joint resolution repealing the Military Selective Service Act of 1967; to the Committee on Armed Services.

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

By Mr. ANDERSON (for himself, Mr. METCALF, Mr. MCGOVERN, Mr. BURDICK, Mr. MOSS, Mr. FANNIN, Mr. MONTOYA, and Mr. GRAVEL):

S.J. Res. 21. Joint resolution to provide for the appropriation of funds to assist school districts adjoining or in the proximity of Indian reservations, to construct elementary and secondary schools and to provide proper housing and educational opportunities for Indian children attending these public schools; to the Committee on Interior and Insular Affairs.

S. 432—INTRODUCTION OF A BILL AUTHORIZING THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE PROPOSED SALMON FALLS DIVISION, UPPER SNAKE RIVER RECLAMATION PROJECT

Mr. JORDAN of Idaho. Mr. President, on behalf of myself and my distinguished colleague Senator CHURCH of Idaho, we introduce for appropriate reference, a bill to authorize the construction, operation, and maintenance of the proposed Salmon Falls Division, Upper Snake River reclamation project, Idaho, as described in the Secretary of the Interior's feasibility report on the project, House Document No. 91–359.

The lands of the Salmon Falls Division lie on the south side of the Snake River in southern Idaho. The landowners have been struggling for many years to wrest a living from these fertile but water deficient lands. Their immediate neighbors, whose lands are served by the Twin Falls canal system, have enjoyed the prosperity and socioeconomic benefits of a highly successful irrigation project. The plan of development proposed by the Bureau of Reclamation would offer a similar irrigation water supply to the lands of the Salmon Falls Division, which lie adjacent to but higher than the Twin Falls Canal.

The problem in this area was primarily one of finding an adequate source of water and a means of delivering it to the land. The landowners have attempted to provide their own facilities to irrigate these lands. They have drilled wells and utilized the limited surface runoff to the maximum extent, but the water supply is both inadequate and undependable, and very severe shortages, especially of late-season water, occur nearly every year.

The Snake River in southern Idaho is one of the Nation's most intensively used streams. The natural regimen of the river has been extensively altered by operation of storage reservoirs which conserve spring floodflows for irrigation season use. Only in years of above-normal runoff are there flows in the river which are surplus to existing water rights and needs. In normal years and dry years the natural and regulated flows of this reach of the Snake River are completely appropriated.

However, north of the river, under the Snake River plain, lies an enormous and productive ground water aquifer, easily capable of providing all the water needed to supplement the existing works in the Salmon Falls area so that the lands may realize their full productive capacity. The Bureau's plan would include a pumping plant near Milner Dam on the Snake River, a main canal and distribution system, and an auxiliary well field. Water would come from three major sources: existing ground water and surface water facilities within the service area; Snake River flows, when available, with regulation in existing reservoirs; and ground water pumping from an auxiliary well field to the extent needed each year to supplement the other sources.

The Secretary of the Interior's feasibility report suggests that the auxiliary well field might be developed in the North Side Canal Co.'s irrigated area north of the river to make the water required for the Salmon Falls Division available in the Snake River. The pumped water could be delivered to the North Side canals and laterals, thus reducing the quantity of water the company would need to divert from the Snake River and making that quantity of water available for use by Salmon Falls Division. Section 5 of the bill is designed to provide absolute guarantees of protection to the rights and interests of the water users if this plan for exchange of water is adopted. If it should prove to be too difficult to obtain the agreement of the North Side Canal Co.'s landowners to this plan, the Bureau's studies of alternative plans indicate that other well fields can be developed to accomplish the same purposes at no greater construction cost than the recommended plan.

The Salmon Falls Division would enhance the ecologic and environmental resources of the area. The parched lands naturally support only desert-type vegetation, and the limited use of the land under present conditions is not conducive to social and recreational activities or to desirable living conditions.

The idle lands provide some favorable habitat for upland game and birds. The plan would improve wildlife conditions by developing nonirrigable areas with small water impoundments, protective vegetation, and other habitat enhancement measures.

The landowners are practically unanimous in their support for this reclamation project, and in their willingness to operate and maintain the system when it is finished and to pay as much as they can toward the construction costs. I am very proud of these people for their industry, persistence, and patience over the years as they have tried to develop their lands and to force the desert to produce.

They deserve all the help we can give them.

I hope the Congress will see fit to enact this legislation during this session. It will provide an effective use of a land and water resource, thereby contributing to the well-being of the local, regional, and State economy and enhancing the environment. It has a favorable benefit-cost ratio, even under today's stringent criteria, and the reimbursable costs will be repaid by the beneficiaries with financial assistance from revenues derived from the Federal Columbia River power system as provided by law.

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

The bill (S. 432) to authorize the Secretary of the Interior to construct, operate, and maintain the Salmon Falls Division, Upper Snake project, Idaho, and for other purposes, introduced by Mr. JORDAN of Idaho (for himself and Mr. CHURCH), was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, I join my colleague from Idaho (Mr. JORDAN) in introducing a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Salmon Falls Division of the Upper Snake River reclamation project.

The proposed Salmon Falls Division is located south of the Snake River in the vicinity of Twin Falls, Idaho.

Lands in the project have been farmed for many years. The Salmon tract area of the project was developed for irrigation under the Carey Act and first received irrigation water in 1910. Unfortunately, the project area has always suffered from an insufficient water supply. Records show that the existing Salmon River Canal Co., in spite of repeated and costly measures to conserve water and develop new supplies, has never had an adequate supply for its entire service area, and in a great many years less than half of the area can be adequately served.

The proposed Salmon Falls Division offers the only hope of developing a full water supply. The present supplies of the Salmon River Canal Co. would be augmented under the project plan by additional surface supplies from the Snake River and a tributary and, in times of severe shortages, through the development of ground water sources.

When a similar bill was introduced in the last Congress, concern was expressed by some of the local people, and in the comments of the Bureau of the Budget as well, about the proposal in the plan to exchange groundwater supplies for surface water now being used by irrigators north of the Snake River. Additional studies by the Bureau of Reclamation have shown that a feasible project plan can be developed without the exchange arrangement. In view of this further information the Office of Management and Budget stated that it has no objection to enactment of the bill. I am confident that the project will receive widespread local support as well.

The existing irrigation supplies to 49,400 acres will be supplemented and full supplies will be provided to 14,700 acres. The project will also offer an opportunity to enhance the habitat for upland game birds. The costs of fish and wildlife measures would be shared by the Idaho Fish and Game Department.

The Bureau of Reclamation's studies show that the plan is technically feasible and that the irrigation costs can be returned to the Treasury in full from water user payments and available hydroelectric power revenues as required by law. The project has a ratio of total benefits to costs of 2.31 to 1.00.

The economy of the project area is basically agricultural. The important communities of the area are heavily dependent upon farm produce processing plants. Irrigation is an essential factor in balanced operations, and the Salmon Falls Division will help to stabilize and expand this rural area's economic base.

Mr. President, I hope my colleagues will recognize the benefits which accrue to the Nation from the ability of small cities and rural areas to absorb population growth. I urge them to support sound development programs such as this, and hope that this measure will receive speedy and favorable action by the Senate.

S. 434—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL INSTITUTE OF EDUCATION, AND FOR OTHER PURPOSES

Mr. PROUTY. Mr. President, it is a pleasure for me as the ranking minority member of the Education Subcommittee to introduce today my first education bill during the 92d session of Congress. In doing so, I join with the President in again proposing that we establish a National Institute of Education. Those who join with me as cosponsors are Senators DOMINICK, GRIFFIN, JAVITS, PACKWOOD, SAXBE, SCOTT, and SCHWEIKER.

During March of last year, the President delivered an address calling for education reform. Among the recommendations he made at that time, was one calling for the establishment of a National Institute of Education to carry on research and development. In support of the President, I was proud to sponsor legislation that would authorize the creation of such an agency. A number of the members of the Education Subcommittee joined me then and I hope that all will do so now.

Unfortunately, action was not taken on that bill last year, even though response to this idea was quite favorable. Therefore, I am again requesting my colleagues to join in support of this measure. I do so with increased conviction that we need a centralized agency to carry out the education research that can revitalize our educational system. At the present time, our research efforts in education are fragmented and there is no focal point or coordinating body to effectively utilize what little work is being done in this area. With the creation of a unified agency related to the Office of Education, I believe we can expand our activities in educational research and, more importantly, utilize the results in a better manner.

Last year the President noted that we spent less than one-half of 1 percent of our education budget on research compared with 5 percent of our health budget and 10 percent of our defense budget. Since then, there has been little improvement. However, there has been substantive analysis of the ways in which a National Institute of Education could improve the situation. Such an analysis was conducted as a special study by the Office of Education. The final report of that study is due January 31 of this year.

Although plans for a National Institute must continually change to reflect new needs, even the preliminary findings and recommendations are helpful.

The report spells out in clear language four major areas of concern to the Institute. These are: First, pressing educational problems such as compensatory education; second, basic education R. & D.; third, education techniques and practice; and, fourth, research coordination and dissemination of information.

The need for a special agency organized to handle these concerns is also addressed in the report. We have a formal education system comprised of nearly 20,000 school districts and 2,500 institutions of higher education. Although each of these independent operational units is dependent upon new ideas and techniques for continual growth, there is no centralized source of such information or authority. Within many of these units independent attempts are made to attack the problem. However, coordination of operating programs is difficult and overall planning for long-term objectives is practically impossible. Within the Office of Education itself, research efforts are also somewhat fragmented. There is also room for better coordination with research activities conducted in other agencies.

The need is as the President stated it last year—our educational institutions "need an objective national body to evaluate new departures in teaching that are being conducted here and abroad and a means of disseminating information about projects that show promise."

I am convinced that the National Institute proposed in this bill can do the job. It would be able to conduct basic and applied research in-house with a staff nucleus of interdisciplinary experts. Present problems of insufficient staff resources would be relieved by giving the Director special authority to hire and compensate staff exempt from civil service regulations in accordance with models established by NIH and NSF. It would also conduct a major portion of its research by contract with universities, nonprofit institutions, and other organizations. It would also coordinate activities with other agencies and help set priorities for research and experimentation.

The internal structure of the Institute as envisioned in the study would reflect these program areas by consisting of three main directorates paralleling objectives one through three.

Even though such projections are only tentative, they indicate how existing

fragmented efforts could be more efficiently united.

Overall, the agency would assume responsibility for research activities now conducted by the National Center for R. & D. in the Office of Education. As a separate agency, the NIE would complement the operational programs run by the Office of Education. Led by an executive level V Director, the NIE would have a distinct organizational identity to enhance its visibility and flexibility. Coordination with OE would be assured by delegating responsibility for the NIE within HEW to the Commissioners of Education. A National Advisory Council of distinguished scientists, educators, and laymen would also insure that educational research in the Institutes achieves a high level of sophistication and efficiency consistent with its goals.

Mr. President, it is a great tragedy that there is still so much we do not know about the learning process itself. Education is the key to equal opportunity and to an open democracy. We cannot tolerate continual inefficiency and timelags in knitting new ideas and techniques into practice. We need to concentrate our efforts on improvement of the educational system and money alone will not help. As we increase our research expenditures in the future, we must be sure to have a mechanism capable of absorbing and directing this growth. I believe the National Institute of Education proposed can help us to take these steps forward. I ask unanimous consent at this time to have the bill, a section-by-section analysis, and other material relating to the bill included in the RECORD after my remarks.

The PRESIDING OFFICER (Mr. CHILES). The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis and other material relating to the bill will be printed in the RECORD.

The bill (S. 434) to establish a National Institute of Education, and for other purposes, introduced by Mr. PROUTY, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Welfare and ordered to be printed in the RECORD, as follows:

S. 434

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 "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or economic status. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process. The purpose of this Act is to establish a National Institute of Education to conduct and support educational research, and disseminate educational research findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary").

(b) Section 5316 of title 5, United States Code, relating to positions in Level V of the Executive Schedule, is amended by adding the following paragraph at the end thereof: "Director, National Institute of Education, Department of Health, Education, and Welfare."

FUNCTIONS OF THE INSTITUTE

SEC. 4. The Secretary, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education.

EMPLOYMENT OF PERSONNEL

SEC. 5. The Secretary may appoint and compensate without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of such title, relating to classification and general schedule rates, such technical and professional personnel as he deems necessary to accomplish the functions of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 6. (a) The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of educational research in the United States, and present to the Secretary such recommendations as it may deem appropriate for the strengthening of such research and the improvement of methods of collecting and disseminating the findings of educational research;

(2) advise the Secretary and the Director of the Institute on the development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Act;

(3) conduct such studies as may be necessary to fulfill its functions under this section; and

(4) prepare an annual report to the Secretary on the current status and needs of educational research in the United States, which the Secretary shall transmit to the President with such recommendations as he may make.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of 15 members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of the Act, and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute shall also serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The Council is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 7. (a) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit private agency or institution, in accordance with agreements between the Secretary and the head thereof, on a reimbursable basis or otherwise.

(b) Payments under this Act to any individual or to any organization, institution, or agency may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(c) The Secretary is authorized to accept gifts to the Institute and to apply them to carry out his functions under this Act; and is similarly authorized to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(d) Funds available under this Act shall be available for transfer to any other Federal department or agency (including constituent agencies of the Department of Health, Education, and Welfare) for use (in accordance with an interagency agreement) by such agency (alone or in combination with funds of that agency) for purposes for which such transferred funds could be otherwise expended by the Secretary under this Act, and the Secretary is likewise authorized to accept and expend funds of any other Federal agency for use under this Act.

(e) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–

5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

APPROPRIATIONS AUTHORIZED

SEC. 8. There are authorized to be appropriated for the fiscal year ending June 30, 1972 and for each fiscal year thereafter, such sums as may be necessary to carry out this Act, which shall remain available until expended.

The material submitted by Mr. PROUTY is as follows:

SECTION-BY-SECTION ANALYSIS OF NATIONAL INSTITUTE OF EDUCATION ACT

SECTION 1. SHORT TITLE

Section 1 of the bill provides that this legislation may be designated by the short title of "National Institute of Education Act".

SECTION 2. FINDINGS AND DECLARATION OF POLICY

Section 2 declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class. In order to further this purpose the bill would establish the National Institute of Education to conduct and support educational research, and disseminate educational research findings throughout the Nation.

SECTION 3. ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

Section 3 would establish a National Institute of Education within the Department of Health, Education, and Welfare, under a level V Director appointed by the President with the advice and consent of the Senate.

SECTION 4. FUNCTIONS OF THE INSTITUTE

Section 4 would direct the Secretary, acting through the Institute, to conduct, and collect and disseminate the findings of, educational research (defined to include research, planning, surveys, evaluations, investigations, developments, and demonstrations in the field of education); to train individuals in such research; to aid such research through grants to, or other appropriate arrangements with, public or private organizations or individuals; and to promote the coordination of educational research and research support within the Federal Government. The section would also authorize the Secretary to construct or provide for the construction of facilities required to accomplish the bill's purposes. The Secretary may procure through appropriate contract any of the functions (such as conduct of research) that the section would instruct him to perform directly.

SECTION 5. EMPLOYMENT OF PERSONNEL

Section 5 would authorize the Secretary to appoint and compensate, without regard to the civil service and classification laws, such technical and professional personnel as he deems necessary to accomplish the functions of the Institute. The provision is modeled upon 42 U.S.C. 1873(a), which provides a similar authority to the Director of the National Science Foundation. It is contemplated that one way the Secretary will make use of this authority is to appoint persons of distinguished qualifications in the field of education, or in a field having application to education or research, as Fellows of the National Institute of Education.

SECTION 6. NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

This section would provide for the establishment of a National Advisory Council on Educational Research and Development. The Council would advise the Secretary and the Director of the Institute on the status of educational research in the United States, and present appropriate recommendations to the Secretary with respect thereto, as well as advise the Secretary and the Director on the development of programs to be carried out by the Institute and on matters of general policy arising in the administration of the bill. The Council would also prepare an annual report to the Secretary on the current status and needs of educational research in the United States, which the Secretary would transmit, with his recommendations, to the President.

SECTION 7. GENERAL PROVISIONS

Section 7 contains general administrative provisions which include authority in the Secretary to utilize the services and facilities of the Federal Government and of public or non-profit private agencies or institutions, authority to accept gifts, and a provision making the Davis-Bacon Act applicable to construction projects assisted under the bill.

SECTION 8. APPROPRIATIONS AUTHORIZED

The bill would authorize to be appropriated for the fiscal year June 30, 1972, and thereafter, such sums as may be necessary, which would remain available until expended.

NATIONAL INSTITUTE OF EDUCATION ACT

The Act would create a high level new agency in the Department of HEW devoted to research and development in education: The National Institute of Education. The Institute would have authority to carry out a wide range of research and related activities: research, development, demonstration, dissemination, planning, evaluation, researcher training, construction, and coordination among other agencies. Public and private agencies and individuals of all varieties are eligible for funds.

The bill makes special provision for a high level director and staff:

An Executive level V Director, Presidentially appointed with advice and consent of the Senate;

A staff which may, at the Secretary's discretion, be exempt from regular civil service requirements;

A Presidentially appointed National Advisory Council on Educational Research and Development to advise on policy issues.

Funds available to the Institute could come from several sources:

The authorization of such sums as may be necessary for each fiscal year beginning with FY 1972;

The authority allowing the Secretary to accept gifts to the Institute;

The authority allowing transfer of funds from other Federal agencies to the Institute. The Institute may also transfer its funds to other agencies for the purposes of the Act.

THE NATIONAL INSTITUTE OF EDUCATION

In March 1970, the President called for the creation of a National Institute of Education as a "focus for educational research and experimentation in the United States." Pointing to the pressing need for reform and revitalization in American education, the President declared, "As a first step toward reform, we need a coherent approach to research and experimentation. Local schools need an objective national body to evaluate new departures in teachings that are being conducted here and abroad and a means of disseminating information about projects that show promise."

Our system of educational research and development has produced a number of important breakthroughs affecting the state of education. And yet research and development in education has never received enough attention to make it the full partner for progress our schools need so poignantly. In comparison to health research for example, it has commanded meager resources and recruited but a small community of researchers.

Since 1959, the Nation has spent less than $1 billion on educational research—and $14 billion on health research.

Today research and development receives barely three percent of the education dollar—and 4.6 percent of the health dollar.

In 1968, the number of man-years devoted to research and development came to 5,390 in education—and 59,500 in health.

The number of researchers working on education is only four or five thousand—and 30,000 receive support from the National Institutes of Health.

Insufficient resources and personnel have not been the only hindrances to a vigorous educational research and development effort. Education researchers have traditionally been associated with psychology, sociology, and the like—few have been drawn from a range of other disciplines now understood to have particular relevance to education—physiology, chemistry, computer sciences, statistics, etc. Education research has been concentrated too heavily on a few university campuses—most of it has been conducted in some 200 such institutions. Very little has emerged from other kinds of institutions.

Finally, education research has lacked the leadership of its own national agency with high visibility and favored institutional status. The creation of a National Institute of Education would place leadership in just that kind of agency.

The Institute would have power to carry on a broad range of research and development activities, including most of those now carried out in the Office of Education's National Center for Educational Research and Development. The new agency would be placed within the Department of HEW as an entity separate from the Office of Education. Although responsibility for it would be delegated to the Commissioner of Education for coordination purposes, the Institute's distinct organizational identity would permit it special visibility and flexibility.

The Institute would be led by an Executive level V director, to be appointed by the President and confirmed by the Senate. A National Advisory Council on Educational Research and Development, also Presidentially appointed, would bring together prominent representatives of education, research, science, business, and the public to advise the Director on Institute policy.

The Director would have special authority to hire and compensate staff exempt from civil service regulations. This would permit the Institute to evolve the kind of special staffing patterns other outstanding reasearch and development agencies such as National Science Foundation and the National Institutes of Health have found so successful in attracting top researchers. For example, this civil service exemption will allow distinguished scholars and educators whose permanent career commitments are to universities or school systems to serve at the Institute on a short-term basis.

Most of the activities now vested in National Center for Educational Research and Development would be the complete responsibility of the Institute. The NIE would take responsibility for basic research and development, research and development centers and regional education laboratories, researcher training, and experimental schools. In addition to these activities, the NIE would conduct a small portion of in-house research. And the new agency would devote more resources to exploring radically new approaches to education's critical problems. The Office of Education would probably retain responsibility for education, policy research relating to OE programs, statistical gathering, some demonstration, and a share of dissemination activities serving both agencies.

An increase in funds for educational research and development would accompany establishment of the NIE. $90 million is now spent under the Cooperative Research Act. In FY 1973, the first year of the Institute's full operation, the agency's budget is expected to begin at $150 million rising to about $250 million in five years.

In conclusion, the NIE will have special qualities enabling it to exert leadership for a more vigorous and effective educational research and development system. Its high level directorship will allow it particularly distinguished leadership. Its personnel authority and separation from the Office of Education will allow the Institute flexibility in evolving patterns of staffing and operation suited to a successful research and development agency. And its visibility as a new and distinct agency will help it to draw national attention to itself and, in the process, to progress in educational research.

Undoubtedly, these changes will come gradually, quietly; we cannot ask more. Without taking the giant forward step of creating a National Institute of Education, we can expect little impetus for far-reaching improvements in the capacities of educational research and development, and in our capacity to find better methods to educate Americans.

S. 436—INTRODUCTION OF A BILL TO ALLOW A TAX CREDIT AGAINST INCOME TAX TO INDIVIDUALS FOR CERTAIN EXPENSES INCURRED IN PROVIDING HIGHER EDUCATION

Mr. HOLLINGS. Mr. President, the future of America is, I believe, directly dependent upon the education of its citizens. As our population grows, more and more demands are made for an educated people to meet the challenges of our complex society. As our standard of living increases, more and more people are demanding to be educated. But our Nation faces one of the greatest financial anomolies of our time. Although more people need to be educated and want to be educated, we do not have the financial wherewithal to accomplish it.

College age students throughout our Nation are faced with the prospect of not being able to pursue higher education because their parents simply cannot afford the financial burden; banks are not granting educational loans because they can get better interest rates elsewhere, and the cost of education continues to soar. The cost of education will continue to grow. As high as college expenses are at the present, the amount to cover tuition and fees now covers, on the average, only one-third of the total instructional cost for 1 year at a private college and only one-fourth of these costs at a public college.

Clearly, without endowments, public funds, contributions from alumni and private foundations, most of our institutions of higher learning would be financially bankrupt. Long overdue pay increases for college professors and instructors and the rising cost of constructing new buildings increase total cost factors. The increasing number of high school graduates from lower income brackets are demanding a college education, which in turn absorbs immense amounts in the form of scholarships and loans. While private donations are rising, they still do not meet the demand. In 1969, three out of every four colleges raised their tuition to meet these costs. The institutions cannot possibly absorb the greater share of these costs. Consequently, parents and students must shoulder the burden of these educational expenses.

Crippling inflation has in many cases wiped out long-term savings plans of parents for the college education of their children. High interest rates and tight money preclude adequate student loan programs. In my own State of South Carolina there are 56,000 students enrolled in higher education, which is 3,000 higher than the year before. I have literally hundreds of letters in my files from students and parents complaining that they will not be able to continue their education without the benefit of some financial assistance. I am sure that this experience is true throughout the Nation. The most frightening fact, in reality, is that educational costs are spiraling above the normal increases in the cost of living, and higher than average wage earner's salary.

Today I am reintroducing a bill which I feel offers a realistic step in solving some of the financial problems relating to higher education. It is clearly within our national means to achieve. This bill would embody the elements of tax reform and relief by permitting a tax credit for money spent on higher education. It would have the merit of removing some of the demands on existing Federal and private loan, grant, and scholarship programs. I do not believe that strong argument will be found against the proposition that the future of America rests in the minds and abilities of her youth. If this country, through its economic policies, permits a condition to exist which precludes college education even to middle-income families, we have taken a backward step in preparing for our future. To those who would argue that such a plan would cut the Federal budget as another expenditure, I would suggest to them that it is an investment we cannot afford to ignore. Although we have over 8 million people enrolled in institutions of higher learning, at this present minute there are literally hundreds of thousands more who would like to be so engaged but are financially precluded. Certainly the likelihood of a young man or woman attending college is directly related to family income. On the other hand, when the family is faced with the prospect of spending in excess of $15,000 for a 4-year education per child, it is unrealistic to imagine that a population can continue to maintain the staggering financial burden for college education.

Mr. President, unless we take such measures to adequately prepare today's youth for tomorrow's leadership, we will be depriving our Nation of the substance that has helped to make this Nation great. It is incumbent upon the Congress to not only recognize the problem, but affirmatively act to solve it.

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

The bill (S. 436) to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education, introduced by Mr. HOLLINGS, was received, read twice by its title, and referred to the Committee on Finance.

S. 438—INTRODUCTION OF A BILL TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. HOLLINGS. Mr. President, I am introducing a proposal similar to one which I introduced last session (S. 4096), but which the Senate was not able to consider owing to shortness of time. My proposal is for a simplification of the manner in which public eating places notify patrons when they serve margarine which is colored yellow. This involves a small, but, I believe, useful change in the Federal Food, Drug, and Cosmetic Act, one which will benefit all parties concerned.

The present law requires that an eating place do two things to notify patrons when it is serving yellow margarine. It must post a sign on the wall or make a statement in the menu, and it must identify each serving by appropriate labeling or by a triangular shape.

I know of no other law, Federal or State, which requires such a double notification. Single notification should be ample. My bill, like that of the last session, would simply require that any single one of three forms of notice must be followed.

Margarine has become an established food in the American diet. Per person consumption of margarine is estimated by the Department of Agriculture to reach 11 pounds this year; that of butter, 5 pounds. One reason for the increasing need for and use of margarine is that butter consumption has been generally decreasing as our dairy farmers have found better markets for their milk in fluid milk, cheese, and ice cream. Another reason is that butter is price supported and is, therefore, not actively competitive with margarine in the consumer market. The average retail prices of margarine and butter in principal cities for the period January–November 1970 is reported by the Bureau of Labor Statistics to have been 30 cents and 87 cents, respectively.

Certainly, we all take pride in the growth of our modern dairy industry. It is one of our basic agricultural enterprises. Milk is one of the basic foods used by man. My proposal in no way is intended to burden the marketing of dairy products. I believe it is a step toward easier and, therefore, improved compliance and enforcement of the margarine notice law.

The status of margarine is vastly different now from what it was when the existing law was enacted in 1950. Margarine has become the leading table spread, used by most American families. In recent years, it has drawn the recommendation of many physicians for certain dietary purposes. At the same time, many more Americans than ever before are taking their meals out. The American restaurant business is preparing and serving a larger proportion than ever before of the meals Americans consume.

The double notice in the Federal law stems from a desire in Congress to assure that patrons would be informed as to whether they were receiving margarine or butter. Some prefer one, some the other, and the aim was to inform. However, the double notice has been difficult to enforce. Undoubtedly, many restaurant managers have been confused by it. It is an unnecessarily complicated way of achieving the object of notification. As such, it is a burden on those eating places which for one reason or another may wish to make margarine available to patrons. To the extent that it discourages eating places from making this particular food available to patrons who desire it, it is burdensome to consumers. It cannot be said that the Federal double notice has been very successful.

We are in an era of increasing consideration of consumer protection. During the past several years Congress has considered much labeling legislation and has approved important changes in our laws. Not once has any one suggested double labeling or double notice for any product. It does not make sense. On the contrary, a real objective has been to seek the greatest possible uniformity between Federal and State laws, so as to make consumer information simpler to provide and easier for consumers to use.

In this respect the double notification requirement for margarine is not uniform. It is obsolete. Most States have a legal requirement in this specific area and must have found some single form of notice sufficient. Several, in the course of making basic changes in their margarine laws after the old Federal taxes were removed in 1950, as a subordinate consideration and mainly for legislative convenience adopted the double requirement. But most States saw no reason to do so. The result is an even greater complication of one area of consumer protection law.

The enforcement agency, the Food and Drug Administration, in a hearing on August 10, 1970 by the House Interstate and Foreign Commerce Committee on a similar proposal, (H.R. 12061) concurred with the single notice change. Indeed, the agency is seeking to encourage States to enforce this part of the Federal law as a part of its effort to improve enforcement generally. The result is that most States find they must enforce the Federal double requirement on top of their own single requirement.

My bill would initiate simplification at the Federal level. I am sure that those States with single notice will be helped in their enforcement by this change, and that those with double notification will feel freer to go to single notification if they believe this will be advantageous to consumers.

The bill I am introducing differs from the one I introduced last session in one particular: it allows the restaurant manager to use any one of three notices—wall sign, menu notice, or identification of serving. It does not include the option to use, also, triangle-shaped servings. I am dropping the triangles in concurrence with the decision of the House.

I recognize that there are some who wish to expand the area of the Federal law to extend notification to other products. I am sure such proposals will receive careful consideration. However, my proposal is concerned only with margarine, and I urge it be kept separate and distinct, and on its own merits. The margarine law, itself, should not be modified to include other products. It is a very special law, and there are basic differences between margarine and other products which are generally classed as nondairy or imitation.

First. Margarine is a food with a long-established Federal definition and standard of identity. The products usually referred to as nondairy or imitation have no such legal basis. Margarine is in law and in modern acceptance not nondairy or imitation but margarine or oleomargarine. This is an important distinction in consumer law and should be maintained.

Second. Margarine is a staple food in wide use for many years. Its form, packaging, and functions are relatively simple and clearcut. The terms "nondairy" or "imitation" are blanket terms to cover a considerable variety of products. They are completely different from margarine in form and function. Their consumption importance is not comparable.

Third. Margarine notification is well founded in Federal and in most State laws. The product itself is the subject of special laws in most States which spell out labeling, packaging, composition, and other aspects in detail. There is no such comparable body of regulatory law for these and other products. State laws in this area are difficult to rationalize in a uniform sense; they appear to range from outright prohibitions to ordinary regulatory measures. Perhaps this subject deserves more study before any Federal legislation is enacted. At any event, to bracket such products with margarine in Federal law is to introduce complexity and possibly confusion.

For these reasons I earnestly urge those who wish to propose regulation of these other products to keep them separate from the margarine law. They will receive careful consideration as a separate subject, which indeed they are.

This bill is a simple, technical change which has three objectives: First, to provide better consumer protection by making the law easier to comply with and to enforce, second, to simplify in one respect the burden of regulations on our expanding and important eating-out industry, and third, to encourage uniformity in Federal and State regulation in this area.

Mr. President, I ask unanimous consent that certain portions of Report No. 91–1526 issued September 29, 1970, from the House Committee on Interstate and Foreign Commerce concerning H.R. 12061 be printed in the RECORD, together with the bill I now introduce.

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

The bill (S. 438) to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes, introduced by Mr. HOLLINGS, was received, read twice by its title, referred to the Commitee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 407(c) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 347(c)), is amended by deleting the language thereof and substituting the following:

"(c) No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place, or (2) a notice that oleomargarine or margarine is served is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items, or (3) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine."

The material presented by Mr. HOLLINGS is as follows:

OLEOMARGARINE IDENTIFICATION IN PUBLIC EATING PLACES

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 12061) to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, beginning on line 8, strike out ", or (4) each separate serving thereof is triangular in shape".

PURPOSE OF LEGISLATION

The purpose of this legislation is to provide for adequate notice to patrons of public eating places that colored oleomargarine is being served.

CHANGES IN EXISTING LAW

Under the existing provisions of Section 407(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 237(c)), a public eating place is required to give dual notice that colored oleomargarine is being served. (1) The restaurant must display either a conspicuous sign stating that colored margarine is served or have a statement on the menu to that effect, and (2) the establishment must also mark each individual serving of colored oleomargarine or cut each individual serving into triangular shapes.

The bill does not eliminate the Federal requirement of notification; it merely simplifies the required notification by replacing the present dual-notice requirement with a single-notice requirement.

COMMITTEE AMENDMENT

Your committee agrees that simplification of the notice requirement that colored oleomargarine is being served to customers in a public eating place is desirable. The present requirement of dual notice makes enforcement unnecessarily complicated and is not needed to adequately inform customers. It is also hoped that simplification of the Federal requirement will encourage uniformity among the various State laws on this subject.

The bill, as introduced, would have required a single notice to customers by any one of the four methods set forth in existing law. In the course of its deliberations, however, your committee concluded that servings of colored oleomargarine in triangular shape would not alone serve as adequate notice to the customer that oleomargarine was being served. Therefore, your committee amended

the bill to remove the fourth alternative type of notice.

The bill, as amended, provides that the notice to the customer that the eating establishment is serving colored oleomargarine should be given by any one of three methods: (1) a notice displayed prominently and conspicuously in the eating establishment and in such manner as to be likely read and understood; or (2) a notice on the menu set forth in type or lettering not smaller than that normally used to designate the serving of other food items; or (3) a label on each separate serving identifying it as oleomargarine.

HEARINGS

Hearings were conducted by the Subcommittee on Public Health and Welfare on August 10, 1970. All interested persons were given an opportunity to be heard and a number of additional statements in support of this legislation were filed for the record. All witnesses who testified or who submitted statements supported this legislation.

AGENCY REPORTS

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 10, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of June 13, 1969, for a report on H.R. 12061, a bill "To amend the Federal Food, Drug, and Cosmetic Act, and for other purposes."

This Department recommends that the bill be passed.

The bill provides for the identification of colored oleomargarine, when served at a public eating place, by:

1. A prominently displayed notice;
2. A notice on each menu;
3. A notice on each individual serving; or
4. Cutting individual servings into triangular shapes.

The present act requires identifying colored oleomargarine served in restaurants by:

1. A prominently displayed notice or a notice on each menu; and
2. A notice on each individual serving or by cutting individual servings into triangular shapes.

The bill would allow restaurants to use any one of the four identification options. We feel this is adequate to protect the public from being misled or deceived.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET,
Washington, D.C., February 4, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This in in response to your request for the views of the Bureau of the Budget on H.R. 12061, a bill "To amend the Federal Food, Drug, and Cosmetic Act, and for other purposes."

The bill would permit restaurants to give notice that oleomargarine is being served by one of four alternatives: (1) displaying a conspicuous notice; (2) printing a notice on the menu; (3) identifying each separate serving with a label; or (4) serving each portion in triangular shape. Section 407(c) of the Federal Food, Drug, and Cosmetic Act presently requires that notice be given by one of the first two alternatives and additionally by one of the second two alternatives.

Reports on H.R. 12061 are being forwarded to your committee by the Department of Agriculture, Commerce, and Health, Education, and Welfare.

In its report HEW indicates that any of the first three alternatives should adequately protect the consumer. It recommends, however, against the inclusion of the fourth alternative since it doubts that this option alone sufficiently informs the customer that he is being served oleomargarine.

We concur generally in the views of the Department of Health, Education, and Welfare on the bill.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF COMMERCE,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., March 23, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department with respect to H.R. 12061, a bill to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes.

H.R. 12061 would amend the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 347(c), as amended); that act presently requires the server to identify colored oleomargarine or margarine served at a public eating place by following two of the four identification methods specified in the act. Either a notice that oleomargarine or margarine is served must be prominently and conspicuously displayed or this information must be printed on the menu. In addition, the margarine or oleomargarine must either be labeled as such or be served in a triangular pat shape. These provisions were enacted as part of the so-called 1950 oleomargarine amendments to the Federal Food, Drug, and Cosmetic Act to protect the consumer from having margarine substituted for butter with no identification of the substitution provided (U.S. v. 856 cases, labeled "Demi", D.C.N.Y., 1966, 254 F. Supp. 57). H.R. 12061 would require a server to comply with only one of these four provisions, rather than a combination of two of the four.

The Department of Commerce has no objection in the enactment of H.R. 12061.

We understand that there is less concern today than previously as to the need for identifying oleomargarine and margarine in a public eating place. The use of margarine has reached an increasingly high degree of acceptance by the consuming public because of such considerations as price, improvement in the product, and the belief that margarine has a lower cholesterol count than butter.

The extent to which public eating places would choose to use the triangular shape for margarine pats as the sole means of identification is difficult to determine. (This is the only one of the four alternatives that does not identify margarine in writing.) Consumers, as yet, may not be generally aware that the triangular shape of pats signifies margarine.

On balance, however, we believe that requiring notification by any of the four alternatives should afford reasonable protection to those persons who wish to know if margarine rather than butter is being served.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

JAMES T. LYNN,
General Counsel.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., February 20, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of June 13, 1969, for a report on H.R. 12061, a bill "To amend the Federal Food, Drug, and Cosmetic Act" concerning the serving of oleomargarine in public eating places.

This bill would provide that no person shall serve colored oleomargarine or colored margarine at a public eating place, regardless of whether there is a charge, unless (1) a notice that oleomargarine or margarine is served is displayed conspicuously, or (2) a notice that oleomargarine or margarine is served as set forth in the menu in type not smaller than that used to list other food items, or (3) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (4) each separate serving is triangular in shape.

Section 407 of the Federal Food, Drug, and Cosmetic Act presently requires a dual notice to restaurant customers that margarine is served. A restaurant may use either a conspicuous sign or a menu statement, in conjunction with either serving portions with labeling identifying the article as margarine or serving portions which are triangular in shape.

H.R. 12061 would amend the Act to permit restaurants to choose any one of the four ways stated above to give notice that margarine is served, rather than the two options now required.

We would have no objection to amending the Act to require only a single notice in restaurants that margarine is served. A prominently displayed sign, a conspicuous notice in the menu, or labeling stamped on or accompanying individual portions should adequately protect the customer against deception. However, we would recommend against inclusion of the fourth option, i.e., serving individual portions which are triangular in shape. We doubt that this option alone sufficiently informs the customer that he is being served margarine.

We are advised by the Bureau of the Budget that there is no objection to presentation of this report from the standpoint of the Administration program.

Sincerely,

ROBERT H. FINCH,
Secretary.

S. 440—INTRODUCTION OF A BILL TO INCREASE EARNINGS ALLOWED WITHOUT PENALTY TO SOCIAL SECURITY BENEFITS

Mr. CHILES. Mr. President, my face-to-face contact with many thousands of people in my home State of Florida, a State with a large number of retirees, has strongly reinforced my conviction that we must increase the amount of money an individual may earn without being penalized on his social security payments. I am convinced this situation has reached the critical stage for our elderly citizens. Therefore, I am introducing today a bill which would allow an annuitant to earn $3,000 per year, as compared to the present amount of only $1,680, without suffering deduction from his benefits. I would hope we could act expeditiously on this matter in the interest of our senior citizens.

It seems to me that our present requirements severely discourage people

from working who want to work and need to work. It is difficult, if not impossible, for our retirees to exist on their small fixed incomes. It is not fair to ask them to forfeit the social security benefits they have earned; it is not fair to suffer the indignity of living without even the necessities. We cannot ignore the fact that while these people have only small fixed incomes, today's living costs continue to spiral.

Another factor of almost equal importance is that these restrictions on social security earnings are causing us to lose valuable talents that could benefit business and industry and discourage the concept of self-sufficiency, a concept we should be encouraging in every possible way.

Mr. President, the bill I am introducing is intended to at least ease these conditions. It is little enough that we allow our elderly to work at an honest job and earn up to $250 per month without losing some of their social security benefits. It is my sincere and earnest hope that this legislation will gain necessary attention from and action by my colleagues to provide deserved relief for our senior citizens.

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

The bill (S. 440) to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title, introduced by Mr. CHILES, was received, read twice by its title and referred to the Committee on Finance.

S. 446—INTRODUCTION OF A BILL TO ESTABLISH THE NATIONAL ADVISORY COMMITTEE ON THE OCEANS AND ATMOSPHERE

Mr. HOLLINGS. Mr. President, I am introducing today a bill to establish a National Advisory Committee on the Oceans and Atmosphere. This bill would establish a committee of 21 members, to be appointed by the President and drawn from State and local government, industry, science, and other appropriate areas. Members would serve 3-year terms. The committee would undertake a continuing review of marine and atmospheric science and service programs of the United States, advising the Secretary of Commerce with respect to the program's purpose of the National Oceanic and Atmospheric Administration. My bill calls for an annual report to the President assessing the status of the Nation's marine and atmospheric activities. And if the President requests, other reports may be submitted by the Committee from time to time.

Mr. President, the National Oceanic and Atmospheric Administration was established pursuant to Reorganization Plan No. 4 of 1970, and came into effect on October 3, 1970. NOAA brings together the principal civilian agencies of the Federal Government involved with increasing our knowledge and use of the marine environment and its resources. While the recommendation for such an agency originated with the Commission on Marine Science, Engineering, and Resources, it is to the special credit of the Nixon administration that they saw the worth of the recommendation and took the action to put it into effect.

In submitting his Reorganization Plan No. 4, the President recognized the importance of establishing an advisory group to NOAA. The President stated that, upon approval of Reorganization Plan No. 4 he would request the Secretary of Commerce to establish a National Advisory Committee on the Oceans and the Atmosphere. Those of us in the Senate and the House of Representatives who have been supporting the efforts to create a strong national oceanic and atmospheric program have felt that the Advisory Committee should have a statutory foundation, and that the members of the committee should be appointed by the President in order to attract men of the highest caliber and professional qualifications. The bill that I introduce has been endorsed by the administration. It has been drafted in a spirit of bipartisan cooperation to insure the enactment of legislation that will fulfill the recommendations of the Commission on Marine Science, Engineering, and Resources and of President Nixon.

Mr. President, this Nation's involvement in the oceans is a partnership between many elements of government, both Federal, State, and local, of industry, conservation interests, and many other private organizations. Each is contributing substantially to the fulfillment of the promise of the oceans, each has a significant role to play in the future. The National Advisory Committee will provide a mechanism for interchange of views between the Federal Government and the broad national marine community. Periodic appointment of new members at 3-year intervals will insure that fresh ideas are available to the Secretary of Commerce and to the National Oceanic and Atmospheric Administration. The establishment of NOAA and the Advisory Committee is a first step toward a coordinated national oceanic and atmospheric program which promises to pay great dividends for the United States.

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

The bill (S. 446) to establish the National Advisory Committee on the Oceans and Atmosphere, introduced by Mr. HOLLINGS, was received, read twice by its title, and referred to the Committee on Commerce.

S. 453—INTRODUCTION OF A BILL TO ACCORD TO THE TRUST TERRITORY OF THE PACIFIC ISLANDS THE SAME TARIFF TREATMENT AS IS PROVIDED FOR INSULAR POSSESSIONS

Mr. INOUYE. Mr. President, the neglect of our responsibilities to the citizens of the Trust Territory of the Pacific Islands has been a shameful chapter in our history. Their welfare has been entrusted to the United States, but except for recent periods of concern, their needs have been ignored and forgotten.

We have a special obligation to the inhabitants of the Trust Territory of the Pacific. Under a United Nations mandate, we are responsible for the welfare of the people there. Many, if not most, Americans are probably unaware that the United States even has a trusteeship for this vast area. Fewer still know that we have not fulfilled our fiduciary responsibilities in a manner that befits the wealthiest and most powerful nation in the world. The economy of the scattered islands is poorly developed, as are educational and sanitation facilities.

As a first step to remedy that situation, I am today introducing a bill to exempt most goods of the trust territory from the tariffs and duties now imposed on such goods entering the United States from this area. American Samoa, Guam, and the Virgin Islands currently enjoy tariff preferences for the entry of their goods into the United States. A proposal to treat the trust territory similarly has been made in previous Congresses but has always failed to be enacted. Equal treatment for the people of the trust territory is long overdue, and I urge expeditious consideration of this bill.

The trust territory has few duties, and these apply only to specific commodities such as tobacco, liquors, and petroleum. Of the $13,572,052 imported into the trust territory in fiscal year 1968, the American share was approximately 50 percent. Trade is not a one-way street, and reciprocal treatment of trust territory products is only just.

Concern in the past has been expressed about the possibility that tariff preference areas will become an assembly point for foreign produced goods, thereby giving them an advantageous position in the American market. To prevent this, the bill would provide for a 50 percent foreign materials limitation on the duty free goods imported into the United States. Similar restrictions exist on goods imported from Guam and the Virgin Islands.

We can demonstrate our intent to fulfill our obligation to the people of these islands and to end the neglect which has marred our past relationship. The time to act is now.

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

The bill (S. 453) to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States introduced by Mr. INOUYE, was received, read twice by its title and referred to the Committee on Finance.

S. 455—INTRODUCTION OF A BILL TO ALLOW A DEDUCTION FROM GROSS INCOME FOR CERTAIN EXPENSES INCURRED IN THE ADOPTION OF A CHILD

Mr. INOUYE. Mr. President, today I am introducing for appropriate reference a bill that would permit a taxpayer who adopts a child to receive a deduction from gross income for the medical, legal, and other expenses incurred in the adoption process to a maximum of $1,000.

This bill is being introduced to equalize tax treatment of parents who expend funds in having children. Natural parents are allowed a deduction on all medical expenses in having a baby. However, a taxpayer who adopts a child may not treat his expenses in a similar manner. Enactment of this bill would only be a matter of equity.

Under this bill, the taxpayer may deduct up to $1,000 for expenses incurred in accordance with applicable State or Federal laws. These include social or adoption agency fees, court costs, attorney's fees, and other necessary expenses. In some cases these costs can be prohibitive; 10 percent of income is not unusual. For young families these expenses can be sufficient to deter adoption since they usually face other financial obligations.

In addition to equitable tax treatment, this bill would also have the desirable effect of encouraging adoptions. On the whole, the number of adoptions lags behind the number of children available. This problem is particularly serious among minority groups. By increasing the number of adoptions, we can also relieve city and State adoption agencies of the high costs of raising a child in foster homes or institutions.

This measure is a companion bill to that introduced by Representative CLEMENT ZABLOCKI. The bill has received the endorsement of numerous adoption agencies throughout the Nation. I hope that Congress gives this bill serious study and favorable consideration in this session.

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

The bill (S. 455) to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer, introduced by Mr. INOUYE, was received, read by its title, and referred to the Committee on Finance.

S. 460, S. 461, AND S. 462—INTRODUCTION OF BILLS RELATING TO THE TERRITORY OF GUAM

Mr. INOUYE. Mr. President, the territory of Guam has been a U.S. possession since 1898 and became an organized, unincorporated territory in 1950, when Congress enacted the Guam Organic Act. At that time Guamanians became U.S. citizens and were granted certain powers of self-government. A 21-member unicameral legislature biennially elected at large, passes laws on local matters. However, Guam does not have a Representative in the U.S. Congress, although it does have an official, elected representative to serve as a liaison between the people of the territory and the Congress. In November 1970 the citizens of Guam voted for their first popularly elected Governor and Lieutenant Governor.

All these events have been evidence of the growing political maturity of Guam. I am happy to see that increasing attention and assistance are given to Guam, but the people of Guam are still being denied the benefit of a number of laws which other citizens of the United States enjoy. The people of Hawaii can understand well the difficulties which Guamanians face, for we also labored for many years under the burdens placed upon us as inhabitants of a territory.

Today I am introducing three bills to correct a number of inequities Guam's citizens face. The first bill would provide for a Territorial Deputy to represent Guam in the House of Representatives. The Deputy must be 25 or older, a qualified voter of Guam, a resident of the territory for at least 5 years prior to the election. Furthermore, he may not be a candidate for any other office at the election in which he seeks election as Deputy and may not have been convicted of a felony unless he has received a pardon. Guam's Deputy would receive the same privileges of the Resident Commissioner for Puerto Rico except for staff size and staff salaries. I believe that it is only just for citizens of the United States to have representation in the Congress which passes the fundamental laws by which their lives are governed.

My second bill would extend to Guam the provisions of the Davis-Bacon Act. This act provides that laborers and mechanics employed on the construction or repair of public buildings of the United States and the District of Columbia be paid what is known as the prevailing wage in the area. This bill would include the territory of Guam under the coverage of this act. When both Hawaii and Alaska were territories, the provisions of the Davis-Bacon Act were extended to them in June 1940. The workingmen of Guam deserve no less consideration from the Congress.

My third bill would include Guam under the national unemployment compensation program that is administered by the Federal Government. Hawaii and Alaska benefited from this act at the start of the program. I have received a petition from the 10th Guam Legislature requesting that Guam be included under this program. The cost of this measure to the Federal Government will be minimal since the employers and employees of Guam would pay into the fund and benefits would not be received until 2 years after the date of the first collections.

I hope that the Congress will move rapidly to consider these long overdue bills.

The PRESIDING OFFICER (Mr. CHILES). The bills will be received and appropriately referred.

The bills were received, read twice by their titles and referred as follows:

S. 460. A bill to provide that the unincorporated territory of Guam shall be represented in Congress by a Territorial Deputy to the House of Representatives; to the Committee on Interior and Insular Affairs.

S. 461. A bill to require the payment of prevailing rates of wages on Federal public works on Guam; to the Committee on Labor and Public Welfare.

S. 462. A bill to include Guam within the purview of the Federal Unemployment Tax Act and related provisions of the Social Security Act; to the Committee on Finance.

S. 473—INTRODUCTION OF A BILL TO EXTEND THE AUTOMOBILE DISCLOSURE ACT TO THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES

Mr. INOUYE. Mr. President, today I am reintroducing a bill to extend the provisions of the Automobile Disclosure Act to the territories and possessions of the United States: the Trust Territory of the Pacific Islands; American Samoa; Guam; the Virgin Islands; and Puerto Rico.

The Automobile Disclosure Act of 1958 requires the manufacturer of a new automobile, prior to the delivery of any new automobile, to attach a label to the windshield of the automobile with certain price data concerning the particular automobile. One required piece of information, for example, is the suggested retail price of the automobile. Other information includes the suggested retail price of optional equipment and shipping costs. This law has been in effect since 1958 for all 50 States and the District of Columbia. The bill that I am introducing today would extend this labeling requirement to those cars sold in the U.S. territories and possessions.

Many residents of these noncontiguous territories have contacted me to urge that such legislation be adopted. The legislature of Guam has adopted a resolution requesting the Congress to extend the provisions of this Automobile Disclosure Act to Guam. The Governors of the Commonwealth of Puerto Rico and the Virgin Islands have also expressed to me their support of the legislation.

Last year the Committee on Commerce received a favorable report from the Department of Transportation, which endorsed the objective of the legislation.

I believe that the citizens of these areas are entitled to the same protection and information as their counterparts in the 50 States. Although no action was taken in 1970, I hope that my bill will receive expeditious action in the current Congress.

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

The bill (S. 473) to amend the Automobile Information Disclosure Act to make its provisions applicable to the possessions of the United States, introduced by Mr. INOUYE, was received, read twice by its title and referred to the Committee on Commerce.

S. 476—INTRODUCTION OF THE DRUG IDENTIFICATION ACT OF 1971

Mr. NELSON. Mr. President, today I am reintroducing legislation which I first proposed in October of 1969, to establish a uniform coding system for all prescription drugs to make immediate identification of a drug possible in cases of accidental or intentional overdose.

This measure was introduced in the 91st Congress as S. 3096. Prior to this first introduction such a plan had been endorsed by the then Secretary of Health, Education, and Welfare, Robert Finch,

after he had reviewed a blue ribbon report on prescription drugs.

I am now happy to see that this concept was also specifically endorsed by President Nixon in his first special message to the 92d Congress on January 26, 1971. It is my hope that these and other bipartisan expressions on behalf of this legislation, combined with the widespread public support which exists for the concept of drug identification, will insure that this subject receives early consideration in the new Congress.

Immediate identification of a drug could mean the difference between life and death when a young child or mentally disturbed person takes an accidental or intentional overdose.

Symbols and numbers should be imprinted on each and every drug today to tell what drug it is, who made it and what strength it is.

The National Drug Identification Act would require all prescription drugs—tablets and capsules—to bear a specific designation assigned by the U.S. Department of Health, Education, and Welfare to indicate the name of the drug, the name of the manufacturer, the dosage and the manufacturer's lot number.

With an identifying code on every tablet and capsule, proper treatment or antidote could be administered without delay in case of an overdose.

The tremendous increase in the number of different drugs now being dispensed to the American public clearly points to the need for a national system of drug identification. When different dosage forms are included in the count, the number of prescription drugs now available comes to approximately 21,000.

The code system which I am proposing would make it possible for a physician to identify a drug prescribed by another physician in a different city or State and could help in avoiding potential errors or substitution in medication.

Hospitals and nursing homes would benefit by being able to collect already distributed but unconsumed drugs and return them to their pharmacies for future use.

Several large pharmaceutical companies have already initiated coding systems by stamping designations on individual tablets and capsules.

Drug firms could use the coding system to facilitate the recall of unsafe or ineffective drugs, as well as improving information on sales, marketing, and standardizing designations for prepaid plans, insurance claims, welfare programs, and data processing.

Under this plan, a comprehensive drug code index would be compiled by the Department of Health, Education, and Welfare and distributed to hospitals, nursing homes, poison control centers, State and local health departments, physicians, and pharmacists. The Department has already begun implementation of a voluntary drug code system, which could form the basis for this expanded drug identification plan.

I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 476) A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to provide for an identification system for prescription drugs for human use, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 476

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 "Drug Identification Act of 1971."

DECLARATION OF POLICY

SEC. 2. For the purpose of protecting the public health the Congress hereby finds and declares that there is a vital need to provide for the ready identification of prescription drugs in order to facilitate drug recalls and prevent drug mixups. Identification of drugs is also necessary so that the proper treatment when such drugs are accidentally ingested. Clear and distinct coding of prescription drugs in interstate commerce without the corresponding identification of drugs in intrastate commerce would seriously depress and burden interstate commerce in drugs. Therefore the Congress further finds and declares that the identification of drugs in intrastate commerce is necessary to make the identification of drugs in interstate commerce effective.

SEC. 3. The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following new section:

"IDENTIFICATION CODE FOR PRESCRIPTION DRUGS

"SEC. 504. (a) All drugs subject to section 503(b)(1) of this Act shall individually bear a logotype, symbol, or other identifying mark which shall be conspicuously and legibly placed on such drug and clearly identifying the manufacturer, compounder, processor, or other source of such drug. Such manufacturer, compounder, processor, or other source of such drugs shall register such logotype, symbol, or other identifying mark with the Secretary. The Secretary may refuse to register or revoke such registration if such logotype, symbol, or other identifying mark does not, in the opinion of the Secretary, clearly identify the source of such drug.

"(b) In order to prevent drug mixups, facilitate drug recalls, and provide for the ready identification of drugs accidentally ingested by children so that the proper antidote or treatment can be quickly administered, all drugs subject to section 503(b)(1) of this Act shall individually bear in a conspicuous manner, a code, which if known, would show the identity of the particular drug, and the strength (dosage form) of such drug. Such code shall use only numbers or letters (or any combination thereof) in accordance with regulations which the Secretary is hereby authorized to promulgate.

"(c) The Secretary may, pursuant to regulations, establish a uniform code or system of coding for the purposes of this section and may require registration and advance approval of a code prior to its use in accordance with this section.

"(d) The Secretary may, pursuant to regulation, when he deems it to be in the public interest, require that the code also identify the particular lot from which the drug was manufactured in addition to the information required in subsection (b) of this section.

"(e) The manufacturer (or other source) of a drug subject to section 503(b)(1) of this Act shall make available upon request to all persons licensed to administer or dispense such drugs an index of the code required pursuant to this section which shall list the drugs, strength (dosage form) or any other information the code may be required to identify pursuant to this section which such numbers, letters (or combination thereof) represent.

"(f) The index to the code required to be made available shall identify the trade name and established name (as defined in section 502(e)(2) of this Act) of the drug together with the applicable code numbers, letters or combination thereof.

"(g) Registration of a logotype, symbol, or other identifying mark, or an identification code (including coding for manufacturing lot numbers) as required pursuant to this section or regulations promulgated under this section shall be registered (together with an index to such code as required pursuant to subsection (e) of this section) with the Secretary as an appendix to the registration required under section 510 of this Act, unless the Secretary shall designate otherwise.

"(h) No person shall manufacture, process, sell, deliver, or otherwise dispose of any drug subject to section 503(b)(1) of this Act which does not bear (1) a logotype, symbol, or other identifying mark which is properly registered with the Secretary pursuant to subsection (a) of this section, and (2) a code of numbers, letters (or any combination thereof) which shall identify the source, name, and manufacturing lot number of such drug as required under this section.

"(i) No person shall manufacture, process, sell, deliver, or otherwise dispose of any drug which is marked with a code, if the numbers, letters (or combinations thereof) which are used do not correspond with the designation for such product in the index of such code.

"(j) The Secretary shall exempt from the operation of this section (1) drugs in liquid or ointment form and (2) any other drugs or class of drugs if it is impracticable for such drug to bear an identifying mark or code because of the size, composition, or other relevant aspect of such drug: *Provided,* That no exemption shall be granted under this section if, in the opinion of the Secretary, such exemptions would be inconsistent with the protection of the public health.

"(k) The Secretary may authorize manufacturers, compounders, and processors of drugs subject to section 503(b)(1) of this Act to comply with this section by placing the logotype, symbol, or other identifying mark and the coding required by this section on individual packets or packages containing no more than one capsule or tablet.

SEC. 4. (a) Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end thereof the following:

"(r) The manufacture, compounding, processing, sale, delivery, or other disposition of a drug in violation of section 504."

(b) Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end thereof the following:

"(p) If it is a drug subject to section 503(b)(1) of this Act and fails to bear a logotype, symbol, or other identifying mark or an identification code in accordance with the provisions of section 504 of this Act."

SEC. 5. Section 301(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(0)) is amended by inserting "(1)" immediately after "(o)" and adding at the end thereof the following:

"(2) In the case of a drug subject to section 503(b)(1) of this Act which is distributed or offered for sale in interstate commerce, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any person licensed by applicable State law to admin-

ister or dispense such drug a copy of an index to the code required pursuant to section 504 of this Act, if such person has made a written request for such index."

S. 477—INTRODUCTION OF A BILL RELATING TO TRANSFER OF LAND BETWEEN THE STATE OF TEXAS AND THE DEPARTMENT OF THE ARMY

Mr. COOK. Mr. President, on behalf of the Senator from Texas (Mr. TOWER), I am introducing a bill to give authority to the Secretary of the Army to transfer certain land in the city of El Paso, Tex., to the State of Texas. I ask unanimous consent that a statement, prepared by the Senator from Texas (Mr. TOWER) be printed in the RECORD, together with a letter from Mr. Harry B. Kelton, Director, Texas National Guard Armory Board, explaining this transaction.

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

The bill (S. 477) to authorize the Secretary of the Army, or his designee, to convey to the State of Texas certain lands at the Fort Bliss Military Reservation in exchange for certain other lands, introduced by Mr. COOK (for Mr. TOWER), was received, read twice by its title, and referred to the Committee on Armed Services.

The statement and letter are as follows:

STATEMENT BY MR. TOWER ON TRANSFER OF LAND BETWEEN THE STATE OF TEXAS AND THE DEPARTMENT OF THE ARMY

Mr. President, I am sponsoring today a measure which would give authority to the Secretary of the Army to transfer certain land in the City of El Paso, Texas, constituting part of Fort Bliss, to the State of Texas in return for a similar piece of land near the Fort Bliss area. I have been assured that this language is agreed upon by the Secretary of the Army and the proper authorities in the State of Texas. The terms of the transfer are succinctly stated in the measure, and the needs of the United States Army are adequately safeguarded.

This measure is designed to improve the facilities and the capabilities of Fort Bliss, the Texas National Guard, as well as the City of El Paso itself. This measure has been preagreed to by the concerned parties, and it is my hope that the Senate will be able to proceed to an early consideration of this request. I thank the Senators for their attention.

TEXAS NATIONAL GUARD
ARMORY BOARD,
Austin, Tex., December 18, 1970.

Re: Request for Land Exchange, Fort Bliss, Texas

Hon. JOHN TOWER,
United States Senate,
Washington, D.C.

DEAR SENATOR TOWER: On 15 July 1970, the Commanding General, Fort Bliss, initiated a request, which has been forwarded through military channels to the Secretary of the Army, concerning an exchange of land consisting of 20 acres on Fort Bliss for some 18.275 acres of property owned by this Board in near downtown El Paso, adjacent to Fort Bliss.

It is our understanding all intermediate headquarters have approved the exchange and the matter is being held in the office, Chief of Engineers, pending approval of Congressional Armed Services Committees (since the values of the lands exceed $50,000.00).

This is to request your assistance in expediting the forwarding and early Congressional consideration of the land exchange in view of the fact that we have plans approved for the construction of a new armory on one of the two sites, depending on the Committees' actions, and expect Federal matching construction funds in the immediate future. See attached copy of National Guard Bureau letter.

Incidentally, the 18.275 acres the Army would acquire from this Board is a part of a 25-acre tract, and the remaining six acres are to be conveyed to the City of El Paso for an important City-State-Federal freeway. If the exchange is not considered favorably, and it would then become necessary to build the armory on the present site, this Board may be forced to require the City to provide a very expensive access to the freeway before it would agree to the highway conveyance.

It has been our experience in matters of this urgency that interest usually is generated by a Congressional inquiry. Therefore, this is to suggest contact with the office, Chief of Engineers, as mentioned above.

Thanking you in advance, I am

Sincerely yours,

HARRY B. KELTON,
Director.

SENATE JOINT RESOLUTION 20—INTRODUCTION OF A JOINT RESOLUTION TO REPEAL THE MILITARY SELECTIVE SERVICE ACT OF 1967

Mr. HATFIELD. Mr. President, yesterday I introduced legislation which if passed would repeal the Military Selective Service Act of 1967. However, there was a misprint in the legislation, so I would like at this time to reintroduce the joint resolution in its correct form. In order that there be as little misunderstanding as possible, I ask unanimous consent that the proposal be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. CHILES). 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. 20) repealing the Military Selective Service Act of 1967, introduced by Mr. HATFIELD (for himself and other Senators), 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.J. RES. 20

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Military Selective Service Act of 1967, as amended, is repealed effective December 31, 1971.

ADDITIONAL COSPONSORS OF A BILL

S. 31

At the request of the Senator from Wisconsin (Mr. NELSON) the names of the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 31, to provide during times of high unemployment for programs of public service employment for unemployed persons, to assist States and local communities in providing needed public services, and for other purposes.

SENATE RESOLUTION 20—SUBMISSION OF A RESOLUTION TO APPOINT MINORITY MEMBERS TO THE STANDING COMMITTEES

Mr. SCOTT submitted a resolution (S. Res. 20) to appoint minority Members to the standing committees, which was considered and agreed to.

(The remarks of Mr. SCOTT when he submitted the resolution appear earlier in the RECORD under the appropriate heading.)

SENATE RESOLUTION 21—ORIGINAL RESOLUTION REPORTED TO PROVIDE ADDITIONAL FUNDS FOR THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. MANSFIELD (for Mr. MCGEE), from the Committee on Post Office and Civil Service, reported the following original resolution (S. Res. 21); which was referred to the Committee on Rules and Administration:

S. RES. 21

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Post Office and Civil Service, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government Department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such Department or agency

SEC. 2. The expenses of the Committee under this resolution shall not exceed $225,000.

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee.

SENATE RESOLUTION 22—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON PUBLIC WORKS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to report on behalf of my able senior colleague (Mr. RANDOLPH) from the Committee on Public Works, a resolution authorizing additional expenditures by the Committee on Public Works for inquiries and investigations.

The PRESIDING OFFICER (Mr. CHILES). The report will be received.

The resolution (S. Res. 22), which reads as follows, was referred to the Committee on Rules and Administration:

S. RES. 22

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under Rule XXV of the Stand-

ing Rules of the Senate, the Committee on Public Works, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $600,000, of which amount not to exceed $32,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29th, 1972.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

SENATE RESOLUTION 23—SUBMISSION OF A RESOLUTION CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURES BY, THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. McGOVERN. Mr. President, I send to the desk a resolution authorizing expenditures and continuing the Select Committee on Nutrition and Human Needs. Yesterday the select committee voted unanimously, by a vote of 9 to 0, to offer this resolution.

In order to expedite consideration of the resolution, I have conferred with the chairman and the ranking minority member of the Committee on Labor and Public Welfare. With their approval, and without establishing a precedent under the procedures of the Senate, and with clearance of the leadership on both sides, I ask unanimous consent that the resolution be referred directly to the Committee on Rules and Administration.

The PRESIDING OFFICER (Mr. CHILES) Is there objection? Without objection, it is so ordered.

The resolution (S. Res. 23), which reads as follows, was referred to the Committee on Rules and Administration, by unanimous consent:

S. RES. 23

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 29, 1972.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State, and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. The expenses of the committee under this resolution shall not exceed $280,000, of which amount not to exceed $10,000 shall be available for the procurement of the services of individual consultants or organization thereof.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 24—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA FOR INQUIRIES AND INVESTIGATIONS

Mr. EAGLETON, from the Committee on the District of Columbia, reported the following original resolution (S. Res. 24); which was referred to the Committee on Rules and Administration:

S. RES. 24

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the District of Columbia, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 3. Expenses of the committee under this resolution, which shall not exceed $155,850, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 25—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE FOR INQUIRIES AND INVESTIGATIONS

Mr. HART (for Mr. MAGNUSON) submitted the following resolution (S. Res. 25); which was referred to the Committee on Commerce:

S. RES. 25

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $———, of which amount (1) not to exceed $——— shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $——— shall be available for the training of the professional staff of such committee, or any subcommittee thereof (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 26—SUBMISSION OF A RESOLUTION TO PROVIDE FOR A STUDY OF MATTERS PERTAINING TO FOREIGN POLICY OF THE UNITED STATES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT submitted the following resolution (S. Res. 26); which was referred to the Committee on Foreign Relations:

S. RES. 26

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $———, of which amount (1) not to exceed $——— shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended); and (2) not to exceed $——— shall be available for the training of the professional staff of such committee, or any subcommittee thereof (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 27—SUBMISSION OF A RESOLUTION CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURE BY, THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH submitted the following resolution (S. Res. 27); which was referred to the Committee on Rules and Administration:

S. RES. 27

Resolved, That the Special Committee on Aging, established by S. Res. 33, Eighty-seventh Congress, agreed to on February 13, 1961, as amended and supplemented, is hereby extended through February 29, 1972.

SEC. 2. (a) The committee shall make a full and complete study and investigation of any and all matters pertaining to problems and opportunities of older people, including but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill or otherwise have legislative jurisdiction.

(b) A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

SEC. 3. (a) For purposes of this resolution, the committee is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to require by subpena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents, (5) to administer oaths, (6) to take testimony orally or by deposition, (7) to employ personnel, (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, and (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 4. The expenses of the committee under this resolution shall not exceed $380,000, of which amount not to exceed $17,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

SEC. 5. The committee shall report the results of its study and investigation, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972. The committee shall cease to exist at the close of business on February 29, 1972.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 28—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION FOR A STUDY OF MATTERS RELATING TO PRIVILEGES AND ELECTIONS

Mr. BYRD of West Virginia (for Mr. CANNON) submitted a resolution (S. Res. 28), authorizing additional expenditures by the Committee on Rules and Administration for a study of matters relating to privileges and elections, which was referred to the Committee on Rules and Administration.

(The remarks of Mr. BYRD of West Virginia when he submitted the resolution appear later in the RECORD under the appropriate heading.)

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, how much time remains under the previous order for the transaction of routine morning business?

The PRESIDING OFFICER. About 2 minutes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business, with statements therein limited to 3 minutes, be extended for an additional 15 minutes.

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

AUTHORIZATION FOR SENATORS TO SUBMIT NAMES OF COSPONSORS OF BILLS AND RESOLUTIONS AT THE DESK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, for the remainder of the first session of the 92d Congress, all Senators may be authorized to submit names of cosponsors of bills and resolutions at the desk without having to make such request from the floor.

The PRESIDING OFFICER (Mr. CHILES). Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR RECOGNITION OF MAJORITY LEADER AND MINORITY LEADER IN EACH DAILY SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the remainder of the first session of the 92d Congress, immediately following disposition of the reading of the Journal in each daily session there be 3 minutes set aside for the recognition of the majority leader and 3 minutes set aside for the recognition of the minority leader, or those acting on their behalf, if they so desire, prior to the recognition of other Senators.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, my request anent recognition of the majority and minority leaders at the beginning of each daily session is made with their approval.

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

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

ADDITIONAL STATEMENTS OF SENATORS

APOLLO 14

Mr. COTTON. Mr. President, on Sunday, the attention of all the world will be focused again on Cape Kennedy, where three courageous American astronauts will be rocketed into orbit aboard Apollo 14 for a flight to the moon.

The prayers and hopes of people everywhere go with Navy Capt. Alan B. Shepard, Navy Comdr. Edgar D. Mitchell, and Air Force Maj. Stuart A. Roosa, who are privileged to embark upon one of mankind's greatest adventures. All of the preparations and all of the scientific knowledge in the world cannot take away from the fact that they do this at great personal risk.

I feel certain that the State of Texas and the community of Hereford are, indeed, proud of their native son, Commander Mitchell.

I am equally confident that the State of Colorado is as proud of Major Roosa, the man from Durango.

And finally, this I can convey with absolute assurance. There are no bounds to the pride the State of New Hampshire and the community of Derry have in Alan Shepard.

That is the subject to which I will address myself today.

It is an appropriate quirk of destiny that New Hampshire, which opened the gate to American independence 200 years ago, also provided the native son who opened the whole universe to these United States. Alan Shepard was the Nation's first man in space. On May 5, 1961, he soared into the atmosphere aboard Freedom 7, a vehicle which, by today's standards, probably is considered horse and buggy. His ride was a short one—15 minutes—and he traveled only 302 miles.

He exclaimed: "Boy, what a ride!"

As months passed and space science and space vehicles became more sophisticated, Americans wondered what had become of Alan Shepard. They were disturbed to learn that he had developed an ear infection and had been sidelined. There were reports that he never would fly in a space vehicle again. Somehow, it seemed he deserved more than that.

They can tell you something about persistence in the Granite State—and Alan Shepard is a true native son. For 9 productive but painfully frustrating years, the man who had pioneered space for the Nation stayed with the program, contributing to other flights from the ground but biding his time in an often forlorn hope of one more space journey. He became America's oldest astronaut.

Now Alan Shepard's impossible dream is about to come true. His health has returned and on Sunday he will be in command of Apollo 14—destination, the moon. If I may echo his own comment made 9 years ago,

Boy, what a ride!

Today, on behalf of the State of New Hampshire—and all America—I salute Alan Shepard, a man whose dedication and determination inspire the world.

My hopes for smooth sailing go out to Apollo 14 and its crew and I join in earnest prayer for their safe return.

THE CALIFORNIA RURAL LEGAL ASSISTANCE PROGRAM

Mr. MANSFIELD. Mr. President, the decision on whether the California rural legal assistance program is to continue is imminent. I believe that the record of this organization and the services that have been provided to the rural poor by it have been described as exemplary by members of the California bar. When the legal services program was established by the Congress, its purpose was to provide the same type of legal assistance to the poor which can be readily afforded by the rich. There should be no inhibition on the part of those providing these services as to the type of case they may bring to protect the rights of the poor; this should be especially true if a State agency is abridging the rights of an individual and an appropriate civil remedy is available; if the wealthy could under the circumstance bring a civil action against the State, the poor should have that remedy as well. The California rural legal assistance program on occasion has provided such a service.

I strongly urge and hope that a decision will be made by the administration to continue to provide these services and to fund the California rural legal assistance program. At a time when the institutions of our society are being questioned by a growing segment of the population, it is organizations such as the legal services program which bring a new dimension of viability to our legal institutions. To deny that added dimension at this time can only be considered regressive.

THE PRESIDENT'S BUDGET PENTAGON SPENDING

Mr. HART. Mr. President, while the President's budget which we received today may include several innovations, it appears to be business as usual when it comes to Pentagon spending.

Those who might have thought the Nation was approaching a turn of the corner of military spending will find little to encourage them in the new budget.

The administration seeks $77.5 billion in Pentagon-related spending—up about $1 billion.

Equally disturbing, the administration request for new Pentagon spending authority—authority which influences spending in future years—is up about $6 billion to $80 billion.

We will be told that as a percentage of the total budget, Pentagon spending is decreasing, and that in light of inflation, the Pentagon budget request for an increase is modest indeed.

Those arguments would have more merit if all our pressing domestic needs were being met. That, of course, is not the case.

Those arguments would have more merit if the Nation did not possess already an overkill capacity and if there had not been so many cases of waste involved in the process of creating that overkill.

Those arguments would have more merit if the Nation were not in the process of winding down its costly military involvement in Southeast Asia—at least I pray that is still our policy.

It now appears that any "peace bonus" resulting from our withdrawal from Southeast Asia is going into the Pentagon rather than the domestic budget. In other words, the $1 billion increase in the overall Pentagon budget represents only a portion of the increase in non-Vietnam Pentagon spending.

And the argument that inflation justifies an increase in the Pentagon budget might have more merit if Pentagon spending were not so inflationary.

Speaking of the proposed budget deficit, the President said:

The full employment budget idea is in the nature of a self-fulfilling prophecy: By operating as if we were at full employment, we will help to bring about that full employment.

I have no argument with that statement, but the concept of self-fulfilling prophecies should not be used selectively.

The contention that inflation justifies an increase in Pentagon spending also is an idea in the nature of a self-fulfilling prophecy: By continuing to expand Pentagon spending we continue to expand the most inflationary type of Government spending which in turn creates a new justification for an inflation-induced increase in the Pentagon budget next year.

Mr. President, just in terms of the economy, a dollar spent on Pentagon hardware adds a dollar to the economy but no goods or services to the marketplace.

A dollar spent on education helps prepare people for more productive employment; a dollar spent on renewal of our cities and our housing adds to a community's tax base; a dollar spent on improving the delivery of health care helps reduce the soaring cost of medical care.

Those are the areas into which we should put any Vietnam "peace bonus" and an even greater percentage of our resources.

Certainly we need an adequate Pentagon budget, but in determining the scope of such a budget, Congress should study the Pentagon requests as closely as it will study revenue-sharing proposals. Many of us intend to do just that.

LEGAL SERVICES FOR THE POOR

Mr. ALLOTT. Mr. President, among the many problems which have made people—in the President's words—"fed up" with Government are problems associated with misguided and sometimes illegal activities by persons involved in providing federally sponsored legal services for the poor. Fortunately, the Nixon doctrine for domestic affairs, outlined eloquently in the President's state of the Union address, points to the real source of the problem and to the most promising path to a solution.

Mr. President, it is now clear that there is a Nixon doctrine in domestic affairs as well as in foreign affairs.

In both kinds of affairs the purpose of the Nixon doctrine is to place responsibility and power where it belongs—in the hands of the local citizens and their local representatives. In foreign affairs the Nixon doctrine calls for helping determined people to solve their own problems, while avoiding commitments which require the U.S. Government to try the impossible task of solving all problems by itself.

In domestic affairs the Nixon doctrine calls for using Federal resources to enable local governments to solve problems at a local level.

As the President said in the state of the Union address:

The idea that a bureaucratic elite in Washington knows best what is best for people everywhere and that you cannot trust local governments is really a contention that you cannot trust the people to govern themselves.

With this statement, the President stated an enduring theme of Republican philosophy—the doctrine that that government is best which is closest to the people.

Mr. President, I want to urge that special priority be given to applying the Nixon doctrine in domestic affairs to the problem of reorganizing, and thereby improving legal services for the poor.

In Louisiana, in California, in Colorado, and in numerous other States the story is the same. There is a general feeling that the various federally sponsored legal services programs are not serving the poor with maximum efficiency.

From every region in this Nation come reports that the efforts of some legal services offices are being misdirected, and sometimes used in ways that are patently contrary to the letter and intent of the law.

There is enough smoke of criticism and dissatisfaction to indicate that there is a fire of real abuse in the legal services operation. For this reason I urge the Office of Economic Opportunity to cooperate with Governors and other State and local officials in recasting the legal services programs along lines which reflect the best thinking of those officials who are closest to the problems in particular localities.

It is particularly important that we respect the wisdom and judgments of Governors in this matter. It would be most unfortunate if, with the eloquent words of the President still fresh in our minds, the Federal bureaucracy insisted on ignoring and overriding the recommendations of local officials who have become increasingly exasperated by the inefficiencies and abuses associated with certain facets of the legal services programs.

The central theme of the Nixon doctrine for domestic affairs is that it is time for the Federal Government to stop dictating and start listening to and learning from local leaders. I suggest that the place to begin applying the Nixon doctrine is in dealing with federally sponsored legal services.

SENATOR KENNEDY RESPONDS TO 1972 BUDGET PROPOSAL

Mr. KENNEDY. Mr. President, the hallmark of the new budget is the shadow of the 1972 election which hangs over it. In this case, at least, political necessity seems to be the mother of economic invention. The full employment budget is the result, and it represents an abject surrender of the game plan we have heard so much about in the last 2 years.

In fact, with only a $0.1 billion difference between proposed spending and full employment receipts, the President is pushing the concept of the full employment budget to the limit of its logic. The threat of a new round of inflation has become more ominous, and there is special urgency now in our repeated calls in Congress for the administration to adopt a realistic program of voluntary wage and price restraints.

I am also concerned over the harsh way in which the budget treats some of our most important domestic programs. Predictably, defense spending is reverting to its old upward habit. Vital urban programs are being cut to make way for revenue sharing. There is no move toward an innovative job and employment program. And, even the $1 billion increase proposed for health programs is an empty promise when we realize that the vast majority of the funds will go for uncontrollable costs in medicare and medicaid, instead of into realistic health reform.

I look forward to analyzing the details of the budget, but I am apprehensive that our important priorities are not being met.

DR. ROBERT M. WHITE

Mr. HOLLINGS. Mr. President, yesterday the President submitted the nominations of Dr. Robert M. White to be Administrator of the newly formed National Oceanic and Atmospheric Administration, Mr. Howard W. Pollock, former Congressman from Alaska to be Deputy Administrator of NOAA, and Dr. John W. Townsend, Jr., to be the Associate Administrator of NOAA.

I need not repeat to this body how important the oceans are to the United States. I have spoken about it frequently in the past year as we have tried to foster marine programs and strengthen our Federal administration of those programs. I am particularly pleased that the President has nominated Dr. White to be the first Administrator of the National Oceanic and Atmospheric Administration, and I want to compliment the President on his wise choice. Dr. White joined the Government as head of the Weather Bureau when my distinguished friend Luther Hodges was the Secretary of Commerce. When the Weather Bureau, the Coast and Geodetic Survey, and the Central Radio Propagation Laboratory were reorganized in 1965 to become the Environmental Science Services Administration, Dr. White was named its first Administrator. And an excellent Administrator he proved to be. As a member of the Commission on Marine Science, Engineering, and Resources he performed distinguished service, devoting long hours and providing much of the energy that led to that excellent blueprint for the future of marine programs, "Our Nation and the Sea." I wish to announce that the Committee on Commerce will hold confirmation hearings on these three nominations, as well as on that of Dr. James Wakelin to be Assistant Secretary of Commerce for Science and Technology, on Tuesday, February 9, beginning at 11 a.m.

Mr. President, the President has made a superb choice in nominating Dr. Robert White to be the first Administrator of NOAA. Now I hope the Administration will support Dr. White's budgetary requests for a strong, innovative program of marine science and services.

THE 53D ANNIVERSARY OBSERVANCE OF THE INDEPENDENCE OF THE UKRAINE

Mr. DOMINICK. Mr. President, despite the suffering and subjugation which resulted from World War I, it was a time for countries such as the Ukraine to break the chains which had held numerous nationality groups under alien regimes in their homelands in eastern and central Europe. On January 22, 1918, the Russian czar was overthrown, and the Ukrainian leaders proclaimed their independence, bringing into existence the Ukrainian National Republic.

From its beginning, the new Republic was faced with serious threats and difficulties, the most severe of these being the Communist government in the Kremlin. Freedom for the 40 million Ukrainians was short-lived, as they were soon beset with a series of invasions and raids on their rich natural resources from Germany, Austria-Hungary, France, Poland, and finally the Soviet Union. In November 1922, the Republic bowed to Russian control, and since that time, the country has been effectively sealed off from the main stream of the world. Today, the desire for independence survives through the efforts of the Congress of the Organization of Ukrainian Nationalists who are celebrating the 53d anniversary of the independence of the Ukraine.

It is hard for those of us who live in a free land to believe that such examples of colonialism and subjugation of nationalities can exist. To Americans, suppression and colonialism have become anachronistic terms in an enlightened age. Yet the Ukrainian struggle for independence demonstrates vividly the plight of many of our Eastern European neighbors.

No government can turn its back on the denial of human rights to any people or nation, nor can we remain indifferent as we see native cultures, languages, and intellectual leadership systematically eradicated. For this reason, I am glad to join with my colleagues in saluting the courage and drive of the Ukrainian people who still celebrate their brief rise to independence in hopes that once again they may realize their goal of freedom.

URBAN COALITION PREPARES ALTERNATIVE NATIONAL BUDGET

Mr. PROXMIRE. Mr. President, this morning we have received the President's budget message. It is a very comprehensive message which will require careful study. I am sure we will have many questions about it and doubtless some disagreements.

FULL EMPLOYMENT BUDGET CONCEPT

There is one respect in which we already know that the President's budget accepts a concept which economists and the Joint Economic Committee have been advocating for over 2 decades. This is in its use of the full employment budget concept as an analytic tool. For some 20 years or more, the Joint Economic Committee has urged the use of a full employment budget concept. By this is meant the examination of revenues and expenditures as they would be if the economy were at full employment. This year these estimates have been included in the budget document. This is an important step forward. One of its main features is that it places a ceiling on expenditures.

This week the Joint Economic Committee heard testimony regarding another document which I consider historic. Mr. Sol Linowitz, the chairman of the National Urban Coalition, appeared before the committee and described the alternative budget formulation which the coalition is preparing. In preparing this document, the coalition has consulted with urban leaders throughout the country and found out what they think our budget priorities should be. Their full budget document will be available in a week or two.

When the Urban Coalition's budget becomes available, we will have for the first time an explicit and carefully spelled out alternative to the President's budget. This is precisely the type of framework for choice which the Joint Economic Committee has worked so hard to promote through its extensive studies of national priorities. This framework will enable us to choose systematically between alternative patterns for use of limited Federal resources. This will be an immense help in promoting an orderly annual assessment of our spending priorities.

DEFENSE CUT ADVOCATED

The main outlines of the Urban Coalition's budget are included in Mr. Linowitz' testimony this week before the Joint Economic Committee. He projects both our needs and our resources for 5 years ahead. One important conclusion that he reaches is that a $20 billion cut in defense spending is both possible and desirable within the next 5 years. The Urban Coalition did not pick this number out of a hat. It was developed in consultation with outstanding experts, including several former high Defense De-

partment officials. Their assessment of our real national security requirements will be invaluable.

I ask unanimous consent to have Mr. Linowitz' testimony before the Joint Economic Committee printed in the RECORD. I hope every Member of Congress will study it, and I hope every Member of Congress will also obtain and study the Urban Coalition's full budget when it becomes available.

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

STATEMENT OF SOL M. LINOWITZ

Mr. Chairman, I welcome this opportunity to appear before your Committee and to participate in the Committee's continuing efforts to discover more democratic and rational procedures for making public choices. Your hearings have helped stimulate a long overdue reexamination of the ways in which we govern ourselves.

The dominant theme to emerge from the recent period of American critical self-analysis has been the call for a systematic formulation of national priorities. Increasingly, it has been recognized that rational government decision-making is impossible without clearly stated goals and priorities to guide resource allocation.

From its inception in the riot-torn summer of 1967, the National Urban Coalition emphasized this need for explicit consideration of where we wish to go as a nation. The Coalition's original statement of purpose expressed the conviction that reordered national priorities were a prerequisite to the achievement of the Coalition's principal objectives: the restoration of America's deteriorating cities and the reunification of our divided society.

More than three years have elapsed since that declaration. Both the Johnson and Nixon Administrations have endorsed the call for an open and systematic review of the nation's priorities. And the great majority of public interest organizations in this country have reaffirmed those endorsements.

But very little has happened.

Instead of producing reordered national priorities, this avalanche of talk has produced more talk.

Instead of becoming a guide to new public decision-making processes, the call for new priorities has become a fashionable cliche.

Everyone has been quick to brandish the phrase "reorder national priorities" when pressed about his or her program for solving America's problems. But no one has yet demonstrated how to transform this slogan into substantive public policy changes.

Our failure to move beyond rhetoric stems from repeated attempts to define national goals in the abstract rather than in terms of the public resources required to achieve those goals. Resources are limited; choices must be made; and priorities are therefore necessary.

In short, if future talk of new priorities is to serve as more than balm for social conscience, we must apply it to our single most important instrument for relating goals to scarce resources: the national budget.

Defining national priorities without reference to the national budget is like trying to interpret a constitution without reference to the institution it is to govern. Nothing is left but platitudes, empty rhetoric which everyone accepts but which has no real meaning.

Confusing the demand for change with the substance of change leads to a politics of incantation. It is a politics that relies on the repetition of general demands rather than concrete plans for allocating public resources to produce desired social change.

And not surprisingly, the result has been the frustration, disillusionment and despair we have witnessed in recent years.

To escape this rhetorical dead end, the National Urban Coalition embarked on a project never before attempted by a non-governmental organization—the effort to construct a comprehensive alternative federal budget matching revenue and expenditures for each of the next five years.

Our main purpose was to demonstrate how resources would have to be reallocated both within the federal budget and between the private and public sectors to accomplish our goal of making the cities better places in which to live.

But this was not our sole purpose for undertaking this ambitious project. We also wanted to focus attention on two fundamental flaws in the present budget-making process which interfere with the re-ordering of national priorities.

The first is what might best be called the "let's-see-what-we-gave-them - last - year-and-give-them-a-little-more-this-year" approach. Encrusted in the fragmented committee system of Congress, this approach to marking up each successive federal budget makes major resource reallocations by the legislative branch virtually impossible. Congress today can do little more than tinker with bits and pieces of the budget handed to it by the Administration.

The second flaw is the lack of public participation in the budget process.

Both the executive branch's federal budget proposal and the Congress' appropriations response are written behind closed doors. America's most important public decisions are reached in secret—implying that the public is either not sufficiently competent or trustworthy to have a say in such critical national choices.

Recent opinion polls published by Louis Harris reveal that the American public, in fact, does hold views which ought to play a prominent part in setting public priorities.

For example, 61% of all Americans would like to see less federal money spent for national defense and the space program; only 14% want more resources devoted to these areas. Yet spending for both is expected to increase in the President's forthcoming budget.

Twice as many Americans oppose cutting funds for anti-poverty programs than favor cuts. Yet there are indications that there may be sizeable cutbacks in the war on poverty.

Why then should public officials be surprised at the fact that a growing number of citizens feel alienated from their government?

In composing its alternative federal budget, the Urban Coalition sought to demonstrate on a microcosmic level how the budget process could be opened to broad public participation.

Our constituents—the members of the Coalition—were actively involved every step of the way. They initiated, rejected, revised and reexamined. No goal or concommitant allocation of resources was adopted without their careful scrutiny. Draft after draft was discussed at length with leaders representing business, labor, local government. Blacks, Mexican-Americans, American Indians, White ethnic groups, religion, education, youth, women, local Urban Coalitions, and social-welfare organizations. On January 11, the National Urban Coalition Steering Committee culminated these months of deliberation by approving a statement of national priorities setting forth six major goals to pursue between now and 1976:

To achieve full employment with a high level of economic growth and reasonable price stability—all of our other policy goals depend upon it.

To provide all citizens with an equal opportunity to participate in American society and in the shaping of governmental decisions affecting their lives.

To guarantee that no American will go without the basic necessities: food, shelter, health care, a healthy environment, personal safety, and an adequate income.

To rectify the imbalance in revenues between the federal government and state-and-local government.

To assure adequate national security against military threats from abroad.

To meet our obligations to assist in the economic development of the world's lesser developed nations.

Within the next two weeks the complete version of this alternative budget will be ready for release. I would be pleased to provide a copy to the Committee at that time for possible inclusion in the record.

One central fact emerged from this budget-writing experience: *proposals for solving major national problems are useless unless advanced in the context of the realities of the American economy and the federal budget.*

For example, everyone concedes that the financial plight of our states and cities is a critical national problem: projections of the 1975 gap between state and local expenditure needs for providing high quality services and expected revenues range as high as $100 billion. And nearly everyone is prepared to place the provision of additional revenue to eliminate that gap high on the list of national priorities.

But unless this commendable "wish" to rescue our states and cities is followed by concrete proposals for reallocating public resources, nothing is accomplished. This, I might add, is why we have so little to show for our urban restoration efforts in recent years other than volumes of rhetoric and broken promises.

There are a number of possible strategies for filling this revenue gap expected by 1975. President Nixon suggested the broad outlines of one approach in his State of the Union message last Friday. He proposed a 25 percent increase in present federal aid to states and localities, with $5 billion of the total $7 billion in the form of "no-strings-attached" shared revenue distributed to states primarily on the basis of population.

Final judgment on the proposal will have to await the announcement of more details. The President's suggestions, properly structured, could provide an important element in a federal effort to fill the present revenue gap. I would like to outline briefly a more comprehensive strategy for the next five years based on the Coalition's alternative federal budget. For in order to deal with the fiscal problems of the states and cities on more than a piecemeal basis, a multi-year approach is necessary.

Economic growth is the first prerequisite of our strategy. If the economy returns to a full employment level by 1973 and stays there, state and local tax revenue under existing laws will increase by $6 billion a year as a result of increased corporate and personal income. As you know, state and local tax revenue registered no growth in 1970 as a result of the stagnating national economy.

Second, shifting certain present state and local expenditure responsibilities to the federal level would reduce the gap substantially. State and local spending for welfare and Medicaid will reach approximately $30 billion by 1975. Our alternative federal budget proposes a cash assistance program and a National Health Insurance program to replace the present welfare system and Medicaid respectively. Both of these programs would be financed entirely by the federal government.

This shifting of responsibilities would cut the revenue gap $30 billion by 1975.

Third, we believe the federal government can and should expand its grant-in-aid pro-

grams to the states and localities. Subtracting current federal expenditures for welfare and Medicaid—programs whose costs would be absorbed in the future by our cash assistance and National Health Insurance proposals—federal grants-in-aid now total $19 billion.

Our budget calls for increasing that total to $34 billion by 1975, a proposal which would reduce the projected 1975 revenue gap another $15 billion.

Fourth, a public service employment program such as the one recently vetoed by President Nixon represents another important form of fiscal relief. It would provide states and cities with the funds to train and hire employees needed to staff essential services state and local budgets cannot now support in areas of real demand such as health, education, police protection and pollution control.

We recommend a public service employment program by 1975 of 875,000 jobs at a cost to the federal government of $4 billion.

Implementing all of the above proposals would still leave a sizeable disparity between state and local expenditure needs and revenues in 1975 should the states and localities succeed in substantially increasing the quality of their services.

It is unrealistic to expect Washington to make good whatever difference remains even if federal resources of that magnitude were available. For Congress might understandably be hesitant to turn over huge sums of discretionary federal tax dollars without assuring they contribute to the achievement of nationally defined objectives.

Therefore it is highly probable that restoring fiscal health to state and local governments will require increased revenue-raising efforts by these jurisdictions themselves. The federal government can help and encourage. But it cannot and should not do the job alone.

Accordingly, we are recommending two modest revenue sharing programs which will contribute to bridging the expenditure-revenue gap while providing incentives for states and cities to increase the yields from their own tax base:

The first is a general sharing plan to divide $5 billion in federal revenue among those states with graduated state income taxes. States without such a tax would be ineligible to receive any of these funds. Pass-through provisions to ensure the cities a fair share of the funds also would be mandatory.

The second program is one of general aid to education. It would provide the states and localities with an additional $4 billion by 1975. Like our general sharing plan, this education assistance would be tied to changes in state and local tax practices: under our proposal, states would have to assume at least 55% of combined state and local education costs to be eligible. This would have the dual effect of reducing the pressure on overburdened local property taxes while providing public education a tax base with greater growth potential.

Specifying the forms federal relief could take, however, is only half the task. Any responsible proposal for rescuing our states and cities from their financial duress must include a plan for raising the additional resources required for this fiscal relief as well as for the other expenditure increases we recommend in our budget.

To summarize, this additional revenue could be collected from the following four sources:

First: vigorous national economic growth which would produce additional federal tax revenues of nearly $75 billion between now and 1975.

Second: cuts in existing federal programs such as our recommendations to reduce the military budget $20 billion by 1975 and the agricultural subsidy program by $1 billion.

Third: elimination of inequities in the federal tax system.

And fourth: a federal 10% tax surcharge on personal and corporate income beginning in 1974 which, given our assumptions about economic growth and tax reform, would yield about $17 billion in additional federal revenues by 1975. Imposition of this surcharge would only make sense *after* we had returned to a full-employment economy and *after* reform had rendered the federal income tax graduated in reality as well as in theory.

Mr. Chairman, the content of this strategy is subject to debate. But the process for devising it is not.

Public problems cannot be attacked nationally except in terms of conflicting needs competing for limited resources. At the national level this means defining problems in the context of the entire federal budget; calculating expenditure decisions both in terms of available resources and spending alternatives.

Yet, as this Committee is well aware, Congress lacks a vantage point for such a comprehensive view. For at no time is the federal budget considered in its entirety on Capitol Hill.

Therefore, it is clear that a necessary condition for reordering national priorities must be the creation of appropriate structures in Congress for examining the budget as a whole.

Towards this end, the National Urban Coalition will welcome the opportunity to present our alternative budget in public sessions before the full Appropriations Committee of each house. If the members of this Committee believe it would be helpful to establish this precedent we would be pleased to have your assistance.

LEGAL VIEW OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on April 2, 1969, Senator J. WILLIAM FULBRIGHT, chairman of the Senate Foreign Relations Committee, indicated that in his view the committee could resume consideration of the Genocide Convention at any time the members wished. He noted:

The committee's disposition may be influenced if the American Bar Association were to recommend ratification.

On December 9, 1969, the Section on Individual Rights and Responsibilities of the American Bar Association, under Chairman Jerome J. Shestack, recommended that the ABA house of delegates enact a resolution calling for the ratification of the Genocide Convention by the Senate. The 41-page report which accompanied the resolution expanded on five major areas:

The Genocide Convention is a document of human liberty consistent with and in furtherance of the American tradition.

An international convention or treaty is the most suitable form of addressing the dangers of genocide.

The Genocide Convention properly focuses both on states, and on individuals.

The Genocide Convention is in all respects consistent with the Constitution, the laws and the ideals of the United States.

The Genocide Convention remains an issue of current importance.

On February 19, 1970, just a few days before the house of delegates of the American Bar Association was to vote on whether to change its position on the subject of ratification, President Nixon requested the Senate to renew its consideration of the Genocide Convention and to grant its advice and consent to ratification. The President asserted:

We should delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever. By giving its advice and consent to ratification of the Convention, the Senate of the United States will demonstrate unequivocally our country's desire to participate in the building of international order based on law and justice.

Secretary of State Rogers, in his report to the President on the Convention, recommended "an understanding to make clear that the U.S. Government understands and construes the words 'mental harm' appearing in article II(9b) of this Convention to mean permanent impairment of mental facilities."

Unfortunately, on February 23, 1970, the American Bar Association house of delegates voted, 130 to 126, to adhere to its 1949 position against Senate ratification of the Genocide Convention.

Meanwhile, the Senate Foreign Relations Committee took action to reconsider the Convention. A special subcommittee of the Genocide Convention, chaired by Senator FRANK CHURCH of Idaho, was appointed on March 20. The subcommittee held hearings on April 24 and April 27, 1970. In addition, hearings were briefly held on May 22, 1970.

It is my intent this morning to answer some of the particular questions and objections presented to the subcommittee as arguments against action on the Convention.

I would first like to quote an observation of my colleague from New York, Senator JAVITS, concerning this matter:

The protection of human rights is indeed a matter of international concern. The United States has shown that it agrees with this view by ratifying the World War II peace treaties, The United Nations Charter, the Slavery Convention of 1926, and more recently the Supplementary Convention on Slavery (1967) and the Supplementary Convention on Refugees (1968).

Charles Yost, U.S. Representative to the United Nations, testifying on April 24, 1970:

It is my strong belief that ratification of the Genocide Convention by the United States would substantially serve our national interest in two ways: First, by its impact on world opinion, and second, by its impact on world law.

It has been argued that under the Genocide Convention individuals as well as persons exercising governmental power would be subject to trial and punishment for offenses which have always been regarded as matters falling within the domestic jurisdiction of the various nations.

George H. Aldrich, Deputy Legal Adviser, Department of State, in a statement presented to the Genocide Convention Committee, replied in part to the above criticism:

I shall direct my comments to the types of acts the Convention deals with and to the ways in which such acts would be tried and punished.

In particular, the Ambassador wished to clear up any misunderstanding regarding extradition.

On the subject of U.S. interpretation and policy as regards extradition, he said:

United States law provides for extradition only when there is an extradition treaty in force. The Convention does not purport to be an extradition treaty. It would require only that the United States provide for extradition for genocide in new extradition treaties which we might negotiate or in revisions of existing extradition treaties.

Mr. Aldrich added that there are no such treaties now in existence in any country; that is, those countries making genocide an extraditable offense. He assured the committee that the United States would not negotiate such treaties until Congress had passed legislation making genocide a crime in the United States because it was our policy not to make an offense extraditable unless it is a crime in both states involved.

Another factor in any decision to negotiate an extradition treaty is whether the judicial process of the other country affords the persons who may be extradited a fair trial. Basic procedural protections have been built into the treaty at the beginning. For example:

(1) any extradition treaty will require the State requesting extradition to produce sufficient evidence to persuade both a United States Court and the Executive that the person sought would be held for trial under United States Law if the offense has been committed here;

(2) any extradition treaty will assure the person sought the right to the remedies and recourses provided by the law of the requested State (for example habeas corpus) and

(3) any extradition treaty will preclude extradition when the person sought is undergoing or has undergone trial in the United States for the same act.

Mr. Aldrich also pointed out that in reference to article VI, on the trying of persons accused of genocide in the state where the act was committed, that—

This provision contemplates the obligation of that State and does not exclude trial by other States having jurisdiction. The negotiating record of the Genocide Convention makes clear, in particular, that trial for acts committed in a foreign country could be held in the State of which the defendant is a national. We believe that the statute implementing the Convention should cover not only acts committed in the territory of the United States, but, in addition, acts committed anywhere by American Nationals.

In the event that a case is presented involving an American national before criminal proceedings have been initiated in the United States, we would reserve discretion to initiate proceedings ourselves, rather than extradite.

Furthermore, in answer to questioning concerning the policy of the Department of State on ratification of the convention and congressional passage of implementing legislation called for in article V of the convention, Mr. Aldrich referred the subcommittee of the intentions of the State Department, as enunciated in a letter to the chairman, Senator FRANK CHURCH, of May 22, 1970, as follows:

It is the Department's intention to recommend to the President that this instrument of ratification to the Genocide Convention not be signed, and if signed not to be deposited, until after implementing legislation for the Convention has been enacted.

The subcommittee chairman, Senator CHURCH, also pointed out some legal precedents which undertook to define and establish an international crime and the obligations assumed by each signatory to pass domestic law that would conform. The Convention of Slavery was cited and the State Department furnished for the record conventions to which the United States is a party and in which the United States has undertaken an international obligation to punish as certain crimes certain actions described therein. These included the four Geneva Conventions on Protection of War Victims (1949); the Convention for the Protection of Whaling (1935); the International Convention for the Prevention of Pollution of the Sea by Oil (1954); and the single Convention on Narcotic Drugs, (1961).

In summary, I would like to add the reply of the American Bar Association's Section of Individual Rights and Responsibilities:

One criticism of the Convention arose out of the possibility that under Article VI, a person accused of genocide could be tried by an international penal tribunal possibly without trial by jury and other safeguards to which a United States citizen is entitled under the Constitution. Again, the answer is simple. No such tribunal has been established. If one were established, parties to the Genocide Convention would have the option whether to accept its jurisdiction or not. For the United States, that option would have to be independently exercised through the Treaty Power, that is only with the advise and consent of the Senate by two-thirds vote.

Lastly, I sincerely doubt that a tribunal of International Law, set up under the auspices of the United Nations, would fail to have safeguards and protections inconsistent with the UN Charter or the Universal Declaration of Human Rights. In this sense, such a tribunal would undoubtedly be consistent with the American legacy of safeguarding each and every individual's sacred rights and liberties.

I again urge this body to ratify this extremely important document. Our failure to do so can only set back the noble concept of international law and world peace.

DEVELOPMENTS IN CAMBODIA

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD a compilation of statements by administration officials relating to developments in Cambodia which was prepared by the Library of Congress at the request of the Committee on Foreign Relations.

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

U.S. POLICY TOWARD CAMBODIA SINCE MARCH 1970

(Statements by President Nixon, Secretary of State Rogers, Secretary of Defense Laird)

1970, PRESIDENT RICHARD NIXON

March 21—News conference:

". . . we have . . . established relations on a temporary basis with the government which has been selected by the Parliament and will continue to deal with that government as long as it appears to be the government of the nation.

". . . we respect Cambodia's neutrality, We would hope that North Vietnam would take that same position in respecting its neutrality. And we hope that whatever government eventually prevails there, that it would recognize that the United States' interest is the protection of its neutrality."

April 30—Address to the Nation:

"Ten days ago . . . I announced a decision to withdraw an additional 150,000 Americans from Vietnam over the next year. I said then that I was making that decision despite our concern over increased enemy activity in Laos, in Cambodia, and in South Vietnam.

". . . I warned that if I concluded that increased enemy activity in any of these areas endangered the lives of Americans remaining in Vietnam, I would not hesitate to take strong and effective measures to deal with that situation.

"Despite that warning, North Vietnam has increased its military aggression in all these areas, and particularly in Cambodia. . . .

"American policy since [1954] has been to scrupuously respect the neutrality of the Cambodian people. . . .

"North Vietnam, however, has not respected that neutrality. . . .

". . . North Vietnam has occupied military sanctuaries all along the Cambodian frontier with South Vietnam . . . They are used for hit and run attacks on American and South Vietnamese forces in South Vietnam. . . .

"For 5 years, neither the United States nor South Vietnam has moved against these enemy sanctuaries because we did not wish to violate the territory of a neutral nation. Even after the Vietnamese Communists began to expand these sanctuaries 4 weeks ago, we counseled patience to our South Vietnamese allies and imposed restraints on our own commanders. . . .

"North Vietnam in the last 2 weeks has stripped away all pretense of respecting the sovereignty or the neutrality of Cambodia. Thousands of their soldiers are invading the country from the sanctuaries; they are encircling the capital of Phnom Penh. Coming from these sanctuaries, as you see here, they have moved into Cambodia and are encircling the capital.

"Cambodia, as a result of this, has sent out a call to the United States, to a number of other nations, for assistance. Because if this enemy effort succeeds, Cambodia would become a vast enemy staging area and a springboard for attacks on South Vietnam along 600 miles of frontier—a refuge where enemy troops could return from combat without fear of retaliation. . . .

"Now confronted with this situation, we have three options.

"First, we can do nothing. Well the ultimate result of that course of action is clear. . . .

"If North Vietnam also occupied this whole band in Cambodia, or the entire country, it would mean that South Vietnam was completely outflanked and the forces of Americans in this area, as well as the South Vietnamese, would be in an untenable military position.

"Our second choice is to provide massive military assistance to Cambodia itself. Now unfortunately, while we deeply sympathize with the plight of 7 million Cambodians whose country is being invaded, massive amounts of military assistance could not be rapidly and effectively utilized by the small Cambodian Army against the immediate threat.

"With other nations, we shall do our best to provide the small arms and other equipment which the Cambodian Army of 40,000 needs and can use for its defense. But the aid we will provide will be limited to the purpose of enabling Cambodia to defend its neutrality and not for the purpose of making it an active belligerent on one side or the other.

"Our third choice is to go to the heart of the trouble. That means cleaning out major

North Vietnamese and Vietcong occupied territories . . .

"Now faced with these three options, this is the decision I have made.

"In cooperation with the armed forces of South Vietnam, attacks are being launched this week to clean out major enemy sanctuaries on the Cambodian-Vietnam border.

"A major responsibility for the ground operations is being assumed by South Vietnamese forces. For example, the attacks in several areas, including the Parrot's Beak that I referred to a moment ago, are exclusively South Vietnamese ground operations under South Vietnamese command with the United States providing air and logistical support. . .

"Tonight, American and South Vietnamese units will attack the headquarters for the entire Communit military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Vietcong for 5 years in blatant violation of Cambodia's neutrality.

"This is not an invasion of Cambodia. The areas in which these attacks will be launched are completely occupied and controlled by North Vietnamese forces. Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and once their military supplies are destroyed, we will withdraw.

"These actions are in no way directed at the security interests of any nation . . .

"We take this action not for the purpose of expanding the war into Cambodia but for the purpose of ending the war in Vietnam and winning the just peace we all desire."

"I know that what I have done will accomplish the goals that they [those who protest] want. It will shorten this war. It will reduce American casualties. It will allow us to go forward with our withdrawal program . . . It will in my opinion serve the cause of a just peace in Vietnam. . . .

"I found that the action that the enemy had taken in Cambodia would leave the 240,000 Americans who would be there a year from now without many combat troops to help defend them, would leave them in an untenable position. That is why I had to act. . . .

Q. "Do the South Vietnamese abide by the same pull-out deadline as you have laid down for the American forces?"

The President. "No, they do not. I would expect that the South Vietnamese would come out approximately at the same time that we do because when we come out our logistical support and air support will also come out with them.

"The action actually is going faster than we had anticipated. The middle of next week the first units, American units, will come out. The end of next week the second group of American units will come out . . . Americans of all kinds, including advisers, will be out of Cambodia by the end of June. . . .

". . . it is my belief, based on what we have accomplished to date, that we have bought at least 6 months and probably 8 months of time for the training of the ARVN, the Army of South Vietnam. We have also saved, I think, hundreds, if not thousands, of Americans . . . by buying time, it means that if the enemy does come back into those sanctuaries next time, the South Vietnamese will be strong enough and well trained enough to handle it alone.

"I should point out too, that they are handling a majority of the assignment now in terms of manpower.

Q. "What is your policy toward Cambodia's future?"

The President. "The United States is, of course, interested in the future of Cambodia. . . . However, the United States, as I indicated in what is called the Guam or Nixon Doctrine, cannot take the responsibility and should not take the responsibility in the future to send American men in to defend the neutrality of countries that are unable to defend themselves.

"In this area, what we have to do is to go down the diplomatic trail . . . [to find] methods through which the neutrality of countries like Cambodia and Laos, who cannot possibly defend themselves, to see that that neutrality is guaranteed without having the intervention of foreign forces."

June 3—Report to the Nation:

". . . Between April 20 and April 30, Communist forces launched a series of attacks against a number of key cities in neutral Cambodia. Their objective was unmistakable—to link together bases they had maintained in Cambodia for 5 years in violation of Cambodian neutrality. . . .

"This posed an unacceptable threat to our remaining forces in South Vietnam. . . .

"I directed that American troops join the South Vietnamese in destroying these major enemy bases along the Cambodian frontier. . . .

"As of today I can report that all of our major military objectives have been achieved. . . .

"General Abrams advises me that 17,000 of the 31,000 Americans who entered Cambodia have already returned to Vietnam. The remainder will return by the end of this month. This includes all American air support, logistics, and military advisory personnel.

"The only remaining American activity in Cambodia after July 1 will be air missions to interdict the movement of enemy troops and material where I find that is necessary to protect the lives and security of our men in South Vietnam.

"Our discussions with the South Vietnamese Government indicate that their primary objective remains the security of South Vietnam, and that their activity in Cambodia in the future—after their withdrawal from the sanctuaries—will be determined by the actions of the enemy in Cambodia.

"When this operation was announced, the critics charged that it would increase American casualties, that it would widen the war, that it would lengthen our involvement, that it might postpone troop withdrawals. But the operation was undertaken for precisely the opposite reasons—and it has had precisely the opposite effect. . . .

". . . Sixty percent of all the troops involved in the Cambodian operations were South Vietnamese. The effectiveness, the skill, the valor with which they fought far exceeded our expectations. Confidence and morale in the South Vietnamese Army has been greatly bolstered. This operation has clearly demonstrated that our Vietnamization program is succeeding. . . .

"Secretary Rogers and I have been particularly encouraged by the resolve of 11 Asian countries at the Djakarta Conference to seek a solution to the problem of Cambodia. Cambodia offers an opportunity for these 11 Asian nations, as well as other countries of the area, to cooperate in supporting the Cambodian Government's effort to maintain Cambodia's neutrality, its independence, and its territorial integrity. We shall do what we can to make it possible for these Asian initiatives to succeed."

June 30—Report by the President:

"Together with the South Vietnamese, the Armed Forces of the United States have just completed successfully the destruction of enemy base areas along the Cambodian-South Vietnam frontier. All American troops have withdrawn from Cambodia on the schedule announced at the start of the operation.

"The allied sweeps into the North Vietnamese and Vietcong base areas along the Cambodian-South Vietnamese border:

Will save American and allied lives in the future;

Will assure that the withdrawal of American troops from South Vietnam can proceed on schedule;

Will enable our program of Vietnamization to continue on its current timetable;

Should enhance the prospects for a just peace. . . .

"In assessing the April 30 decision to move against the North Vietnamese and Viet Cong sanctuaries in Cambodia, four basic facts must be remembered.

"It was North Vietnam—not we—which brought the Vietnam War into Cambodia. . . .

"It was the presence of North Vietnamese troops on Cambodian soil that contributed to the downfall of Prince Sihanouk. . . .

"It was the government appointed by Prince Sihanouk and ratified by the Cambodian National Assembly—not a group of usurpers—which overthrew him with the approval of the National Assembly. . . .

"It was the major expansion of enemy activity in Cambodia that ultimately caused allied troops to end five years of restraint and attack the Communist base areas. . . .

"The prospect suddenly loomed of Cambodia's becoming virtually one large base area for attack anywhere into South Vietnam along the 600 miles of the Cambodian frontier. . . .

"We thus faced a rapidly changing military situation from that which existed on April 20. . . .

"Our military response to the enemy's escalation was measured in every respect. It was a limited operation for a limited period of time with limited objectives. . . .

"We have eliminated an immediate threat to our forces and to the security of South Vietnam—and produced the prospect of fewer American casualties in the future. . . .

"We have ended the concept of Cambodian sanctuaries, immune from attack, upon which the enemy military had relied for five years. . . .

"Now that our ground forces and our logistic and advisory personnel have all been withdrawn, what will be our future policy for Cambodia?

"The following will be the guidelines of our policy in Cambodia:

1. There will be no U.S. ground personnel in Cambodia except for the regular staff of our Embassy in Phnom Penh.

2. There will be no U.S. advisers with Cambodian units.

3. We will conduct—with the approval of the Cambodian Government—air interdiction missions against the enemy efforts to move supplies and personnel through Cambodia toward South Vietnam and to reestablish base areas relevant to the war in Vietnam. We do this to protect our forces in South Vietnam.

4. We will turn over material captured in the base areas in Cambodia to the Cambodian Government to help it defend its neutrality and independence.

5. We will provide military assistance to the Cambodian Government in the form of small arms and relatively unsophisticated equipment in types and quantities suitable for their army. To date we have supplied about $5 million of these items principally in the form of small arms, mortars, trucks, aircraft parts, communications equipment and medical supplies.

6. We will encourage other countries of the region to give diplomatic support to the independence and neutrality of Cambodia. We welcome the efforts of the Djakarta group of countries to mobilize world opinion and encourage Asian cooperation to this end.

7. We will encourage and support the efforts of third countries who wish to furnish Cambodia with troops or material. We applaud the efforts of Asian nations to help Cambodia preserve its neutrality and independence. . . .

"Our understanding of Saigon's intentions is as follows:

1. South Vietnamese forces remain ready to prevent reestablishment of base areas along South Vietnam's frontier.

2. South Vietnamese forces will remain ready to assist in the evacuation of Viet-

namese civilians and to respond selectively to appeals from the Cambodian Government should North Vietnamese aggression make this necessary.

3. Most of these operations will be launched from within South Vietnam. There will be no U.S. air or logistics support. There will not be U.S. advisers on these operations.

4. The great majority of South Vietnamese forces are to leave Cambodia.

5. The primary objective of the South Vietnamese remains Vietnamization within their country. Whatever actions are taken in Cambodia will be consistent with this objective. . . ."

July 1—Television interview:

Q. "Do you feel that you can give categorical assurances now that we will not send ground troops back into Cambodia no matter what?"

The President. "I can say now that we have no plans to send American ground forces into Cambodia. We have no plans to send any advisers into Cambodia. We have plans only to maintain the rather limited diplomatic establishment that we have in Phnom Penh and I see nothing that will change that at this time. . . .

"The President of the United States has no intention to send ground forces back into Cambodia, and I do not believe that there will be any necessity to do so.

"When you say, can I be pinned down to say that under no circumstances would the United States ever do anything, I would not say that, but I will say that our plans do not countenance it, we do not plan on it, and under the circumstances, I believe that the success of the operation which we have undertaken, as well as what the South Vietnamese will be able to do, will make it unnecessary. . . .

"With regard to the South Vietnamese [in Cambodia], I pointed out on April 30th that our air support would stop and there would be no advisers with the South Vietnamese, that any activities of the South Vietnamese after we left would have to be on their own. . . .

"Cambodia is in the same category as Indonesia. It is a neutral country. It is a nonaligned country. We have no treaty with it.

"As far as Cambodia is concerned, our only commitment to Cambodia is the commitment that the United States for 190 years has held to the principle of international law that a country that chooses to be neutral should have its neutrality respected.

"Now that means that we are furnishing, as you know, small arms to them for their own defense. It means that, in addition to that, we are trying to give them the moral support that we can. We are supporting the initiative of the 11 Asian nations who are attempting to stand with that government in its neutrality, but as far as military support, the United States moving forces into Cambodia for the purpose of helping them defend against enemy attack—that we are not required to do under treaty and that we do not intend to do. . . .

". . . I am not as bearish as some commentators have been about the future of Cambodia. If I could digress a moment, I think this is a question that our listeners would be interested in—Cambodia's chances of surviving as a neutral country are infinitely better now than they were on April 30th. And they are better, first, because the North Vietnamese have a 600-mile supply line rather than a 40-mile supply line back to the sanctuaries which we have destroyed.

"They are better, also, because the Cambodian Government has far more support among the people, and the reporters from Phnom Penh generally have reported that. They are better, too, because the Cambodian Government also has support from the 11 Asian nations, representing 300 million people, and I think also they are better for the reason that the South Vietnamese have been very effective when they have taken on the North Vietnamese in the Cambodian area. . . .

". . . we do not plan to go back into Cambodia. We do plan, however, and I will use this power—I am going to use, as I should, the air power of the United States to interdict all flows of men and supplies which I consider are directed toward South Vietnam.

"That is my role of defending American men. . . .

Q. "Mr. President, in view of the Cooper-Church Amendment passed yesterday in the Senate, do you feel now obliged to suspend the negotiations with Thailand about our paying and equipping their troops that they were going to send into Cambodia?"

The President. "Fortunately, our Founding Fathers had great wisdom when they set up two Houses of Congress. . . .

"I think the performance of the Senate over the past seven weeks, going up and down the hill on Cooper-Church, has not particularly distinguished that august body, and the Cooper-Church that came out was not a particularly precise document, and was somewhat ambiguous.

"Now, fortunately, it now goes to the House . . . And I believe that the conference of the Senate and the House, when they consider all of these factors, will first be sure that the power of the President of the United States to protect American forces whenever they come into attack is in no way jeopardized. . . .

"If this [the Cambodian operation] had been what some thought it was, an attempt to expand the war into Cambodia, to launch a war into Cambodia, then of course, I would have gone to the Senate. You can be sure that in my administration we are not going to get involved in any more Vietnams where we do not get the approval of the Congress. I will not do this because I think we need Congressional support for our actions, and I trust we do not have to go to the Congress for that kind of support.

"But when we have this limited, very precise action which was limited in terms of the time, limited in terms of 21 miles as far as we were going to go, and which had for its purpose the protecting of American lives, I had to take the action when I did . . ."

October 7—Address to the Nation:

"When I authorized operations against the enemy sanctuaries in Cambodia last April, I also directed that an intensive effort be launched to develop new approaches for peace in Indochina. . . .

"I am tonight announcing new proposals for peace in Indochina.

"This new peace initiative has been discussed with the Governments of South Vietnam, Laos, and Cambodia. All support it. . . .

"First, I propose that all armed forces throughout Indochina cease firing their weapons and remain in the positions they now hold. . . .

"A cease-fire should encompass not only the fighting in Vietnam but in all of Indochina. Conflicts in this region are closely related. . . .

"A second point of the new initiative for peace is this:

"I propose an Indochina Peace Conference . . . North Vietnamese troops are not only infiltrating, crossing borders and establishing bases in South Vietnam—they are carrying on their aggression in Laos and Cambodia as well.

"An international conference is needed to deal with the conflict in all three states of Indochina. The war in Indochina has been proved to be of one piece; it cannot be cured by treating only one of its areas of outbreak.

"The essential elements of the Geneva Accords of 1954 and 1962 remain valid as a basis for settlement of problems. . . ."

November 18—Message to the Congress Proposing Supplemental Foreign Assistance Appropriations:

"The operations in the Cambodian border sanctuaries in May and June helped assure the continued success of Vietnamization and of our troop withdrawal programs. As we knew at the time would be the case, the operations seriously impaired the enemy's ability to operate in South Vietnam, and contributed to the progress which has reduced our casualties there to the lowest level since 1965. Continuing operations by South Vietnamese and Cambodian forces in the border areas will make possible continued progress.

"Cambodia itself has mobilized its own manpower and resources in defense of its independence and neutrality. . . . It is essential that we supplement Cambodia's own efforts by providing resources which are critically needed to enable it to continue to defend itself. Its ability to do so is a vital element in the continued success of Vietnamization.

"Cambodia's needs have been urgent, and as Congress has been informed, I have directed that funds be transferred from other already severely limited programs to meet these critical needs. I am requesting $100 million to restore funds to such vital programs as those for Taiwan, Greece and Turkey. . . .

"To meet Cambodia's urgent needs for the remainder of this fiscal year, I require that the Congress provide $155 million in new funds to be directly allocated to the Cambodian program. . . ."

December 10—News conference:

Q. ". . . Can you foresee any circumstances whatever under which we would use ground troops in Cambodia?"

The President. "None whatever. . . .

Q. "Mr. President, how do you plan to keep your quarter billion dollar aid program for Cambodia from escalating into a guarantee of the survival of the Cambodian Government?"

The President. "The quarter billion dollar aid program for Cambodia is, in my opinion, probably the best investment in foreign assistance that the United States has made in my political lifetime.

"The Cambodians, a people, 7 million only, neutralists previously, untrained, are tying down 40,000 trained North Vietnamese regulars. If those North Vietnamese weren't in Cambodia, they'd be over killing Americans. That investment of $250 million in small arms of aid to Cambodia so that they can defend themselves against a foreign aggressor—this is no civil war, it has no aspect of a civil war—the dollars we send to Cambodia saves American lives and enables us to bring Americans home. . . ."

1970, SECRETARY OF STATE WILLIAM ROGERS

March 23—News conference:

"In Cambodia we recognize the neutrality, sovereignty and independence of Cambodia. We had nothing to do, directly or indirectly, with the events that transpired in Cambodia. We would hope that the events that transpired in Cambodia will not cause the war to be widened in any way . . . our program in South Vietnam . . . will not be affected by the events in Cambodia. . . ."

Q. "Regarding the neutrality of Cambodia, I believe the policy of the United States still is to sanction American troops going across the border if they are threatened. Does this in any way compromise U.S. respect for the neutrality and sovereignty of Cambodia?"

A. "Not at all; and I don't believe that any troops, since the change of government, have gone into Cambodia. But we respect fully the neutrality of Cambodia and its territorial independence . . . Cambodia has not made any request for military assistance . . . No request has been made, and we don't anticipate that any request will be made. . . ."

Q. "Do you endorse the idea of having the ICC return to Cambodia to check on what is happening?"

A. "Well, we don't endorse it, because this

is a proposal made by Cambodia without any discussion with us or any activity on our part at all. As I say, this is a problem that primarily concerns Cambodia. We do think it is a very sensible idea. . . ."

Q. "Is military aid [to Cambodia] inconsistent with neutrality?"

A. "No, I didn't say that neutrality and aid were inconsistent . . . Cambodia has not requested any such aid and we don't anticipate they will. If they do, we will have to consider it on its merits."

April 18—Speech to the Cornell Alumni Association:

"The rise of Cambodian hostility over the North Vietnamese presence came rapidly and dramatically. Most governments, including ours, were surprised at the ouster of Prince Sihanouk by the Cambodian Parliament. This was an internal Cambodian development . . . the Cambodian government remained committed to a policy of neutrality and did not seek alliance with the West.

"A year ago, before we reestablished diplomatic relations with Cambodia with a small mission, we affirmed publicly our recognition and respect for the 'sovereignty, independence, neutrality, and territorial integrity' of Cambodia within its present frontiers. The policy we expressed toward Cambodia then remains our policy toward Cambodia now . . . We respect recent Cambodian proposals to seek diplomatic measures of protection through United Nations actions and through a return of the International Control Commission established by the 1954 Geneva accords. . . .

"The possibility of overt warfare in Cambodia [has] understandably caused concern among Americans. They ask if the war in Southeast Asia is widening . . . They wonder if this means that the period of American involvement will be lengthened . . . The objective of the Nixon administration is to avoid both these results.

"It is true, of course, that we cannot be indifferent to the military pressures by North Vietnam on the independence and neutrality of Laos and Cambodia. They affect the safety of our own forces in South Vietnam . . . We continue to believe that an ultimate settlement to the Vietnamese war must take Laos and Cambodia into account. However, we are determined not to reverse the long-term direction of our policy toward fostering more self-reliance among Asian states. . . ."

April 25—Speech to American Society of International Law:

". . . The violations of those accords [1954 Geneva accords] by North Vietnam in Laos and Cambodia are explicit, uncontested, open, and without any shred of international sanction. Is it not time for nations which are signatures to international agreements actively to support them?. . . ."

May 3—Television interview:

"The reason [for the Cambodian operation] was to protect the lives and safety of American men fighting in Vietnam . . . It's limited in the extent, purpose and duration . . . We're not going to exceed those limitations of the sanctuaries on the border . . . the purpose is to destroy the sanctuaries themselves . . . The President has made it clear that it's not going to last more than 6 to 8 weeks at the most . . . At that point the American troops and the South Vietnamese troops will withdraw from Cambodia. . . .

"We made every possible effort to get negotiations started in good faith, negotiations dealing with Laos and Cambodia . . . We would hope, now that it's clear that the North Vietnamese have invaded Cambodia and it's clear that we've taken this action, that all states would become interested in discussing what they can do to guarantee the neutrality of Cambodia. . . .

". . . this is a limited action. If we were going to stay in Cambodia on any sort of a permanent condition, permanently, or even of longer duration, then obviously we'd have to have the support of the American people. But I think the American people are going to support the President. . . ."

May 13—News conference:

"What is the policy of the United States Government on South Vietnamese military assistance or cooperation with the Lon Nol government in Cambodia?"

A. "There is some cooperation between the two governments. Naturally, we encourage that. The whole Nixon doctrine as pronounced at Guam is that the Asians should work with each other to take care of their common problems . . . I think there's a limit to what we should say about what South Vietnamese troops are going to do. Originally, it was contemplated that most of the troops would be out of Cambodia by the end of July, but I don't know that I'd want to make a commitment on behalf of the South Vietnamese . . . the American troops will be out of Cambodia by the 1st of July and all the American troops will be out, including advisers. . . .

"I said that if we did that, if we got involved in the support of the present government of Cambodia or any other government, that it would be inconsistent with the policy of the government . . . to withdraw our troops in an orderly way from South Vietman . . . the United States has no intention of getting involved in Cambodia with American troops in support of the present government of Cambodia or any other government of Cambodia. . . .

"Are we concerned if South Vietnam becomes active in Cambodia with their troops, if that will make it more difficult for us to withdraw our troops from South Vietnam . . . Yes, we have made that point to South Vietnam, and they fully understand that. In other words, that is not going to disrupt the Vietnamization program. . . .

Q. "Could you clarify for us the operation off the coast of Cambodia. . . .?"

A. "Its purpose is limited. Its purpose is to intercept shipments of ammunition and supplies to the base areas in Cambodia which would be conducted by the North Vietnamese or the Vietcong. It does not apply to other powers, it applies only to reshipment of supplies and ammunition to sanctuary areas. . . .

"How the Cambodians and the South Vietnamese cooperate in the future is going to have to be worked out between them. Obviously, we will play a role in that; but whatever role we played would not be inconsistent with the policy we have announced, of getting out. . . .

Q. "Are all those American operations, including the coastal patrols, to be stopped, as far as the Cambodian theater of operation is concerned, by the end of June?"

A. "Well, I wouldn't want to say that. I think we've said enough when we've said what we are going to stop.

"Insofar as the riverine operation is concerned, the Americans have not exceeded the 21-mile limit, and we don't intend to.

"Insofar as getting Americans out of the river in Cambodia is concerned, the answer is: 'Yes, that would be included.'

"So far as patrolling international waters is concerned, that's different. I'm not sure what we will do. My guess would be that we will continue. We have had a patrol of international waters all the time—this is just extending it a little bit—so I don't want to make any predictions about that. . . .

Q. "Mr. Secretary, are you ruling out—or not ruling out—U.S. air activity over Cambodia past the June 30 deadline?"

A. "No, I haven't ruled it out at all. We had air activity over Cambodia before the change of the government, and we haven't said anything one way or the other about it.

Q. "And it also seems possible that the air support, however, interdicting the sanctuaries may continue. What about airpower in support of the Cambodian effort?"

A. "Well, that would apply, too. We don't intend to become involved militarily in the support of the Lon Nol government or any other government. . . .

"Now, in terms of assistance, military assistance by way of supplies or otherwise, the President has announced that we are going to provide some assistance consistent with the present authority that we have.

"Obviously, any larger program would require congressional approval. I don't think we have crossed that bridge. We have no present plans to embark on that kind of a program.

Q. "What you're ruling out, only, is that we will not get involved directly, militarily, in supporting the Lon Nol government.

A. "That's correct. . . ."

June 8—"Face the Nation":

"We certainly hope that the government [of Cambodia] doesn't fall; but the President has made it perfectly clear . . . that we will not support the Lon Nol government with U.S. troops. . . .

"It is possible that the war will be fought in a different place and it is possible that it will continue with South Vietnamese forces and Cambodian forces, and even possibly Thai forces, fighting a common enemy. But that doesn't mean that the United States forces will be enmeshed in a combat in Cambodia. . . .

"I think it is interesting that for the first time the countries in the area—Thailand, Cambodia, Laos, and South Viet-Nam—are all working together. . . .

"The South Vietnamese have made it clear that if the enemy tries to return to the sanctuaries, they will reenter the sanctuaries. . . .

"If the government of Cambodia came into Communist hands, it would be an unfavorable development. We would hope that that doesn't happen.

Q. "Would it be 'unacceptable' "?

Secretary Rogers: "No, not unacceptable in the sense that we would use American forces to support the government. . . .

Q. "Then it is irrevocable that there will never again be American troops used in Cambodia, no matter what?"

Secretary Rogers: "There is no intention of using American forces in Cambodia. . . . Our forces are going to be out of Cambodia by June 30. We will have no military people there at all, advisers or anything else. And we have no intention of having any American forces return to Cambodia. Now, South Vietnamese forces may return. The President said we may use air interdiction to protect our forces, but we will not use American forces in Cambodia. If we did, it would enlarge the war, and it might mean that we'd be there on a semi-permanent basis, and we're not going to do that. . . ."

June 9—Statement before House Foreign Affairs Committee:

"The President decided that an attack on the sanctuaries was necessary so that Vietnamization and the withdrawal of our forces from Viet-Nam could proceed. As far as Cambodia is concerned, we want for it what it wants for itself—to be free, sovereign, neutral, and unmolested.

"Our operations, as the President said last Wednesday, have achieved our major military objectives and will facilitate and ensure the success of our overall Viet-Nam policy. I might add that the effectiveness with which the South Vietnamese have fought in Cambodia increases our confidence that Vietnamization is the right course to follow. . . ."

June 25—News conference:

"The President's policy on air interdiction is that at the present time and after our troops leave Cambodia, our Air Force will be used, be permitted to interdict the supply lines and communication lines in Cambodia. . . .

"It is obvious, of course, that there will be times when, in the process of interdicting supply lines or communication lines of the enemy, that that will be of direct benefit to the present government in Cambodia. But I think the main thrust of our policy is to use our Air Force for the purpose of

interdicting supply lines and communication lines to protect Americans in South Viet-Nam.

Q. "Mr. Secretary, I believe yesterday a spokesman for the Cambodian Military Command stated that American fighter bombers were flying missions in direct support of Cambodian forces. Now, was he mistaken, or do I perceive a change in our policy?"

A. ". . . I think that I can see very well why a Cambodian might think it was helpful to the government when we fly those missions.

"But our purpose is to interdict communications and supply lines of the enemy. As I say, that's our purpose. That is our policy. Obviously, it may have a dual benefit; it may serve our purposes and at the same time serve the Cambodian Government. . . .

Q. "Mr. Secretary, you said that the main purpose of American air activity in Cambodia would be to protect American troops in South Viet-Nam. Is it not essential to the security of American troops that the government of Lon Nol, or at least some government not unfriendly totally to the United States, remain in Phnom Penh?"

A. "I'm not sure it's essential, but obviously it's quite helpful if the government in Cambodia is neutralist and if there's stability in Cambodia. . . .

"Obviously, we have a great interest in the welfare of people all over the world, and we are assisting in some ways in Cambodia. But our purpose was not to affect the course of events in Cambodia as far as politics are concerned. . . .

Q. "Mr. Secretary, if it is our policy to desire a neutral or friendly government in Cambodia, are we willing to provide arms and money to keep such a government in power?"

A. "We have encouraged Asian nations to do what they could to help other Asian nations. We are encouraged by the fact that Cambodia, for the first time in many years, has friendly relations and diplomatic relations with all of its neighbors. . . .

"As you know, the United States has provided, and is providing now, assistance to Cambodia. In this fiscal year it's amounted to $7.9 million, and we are now considering the program for next year. We do want to do what we can to support the neutrality of Cambodia, but we want to be sure that it's not done in a manner which suggests that we take over the responsibility militarily to maintain any government in office. We would hope, and we are somewhat encouraged by events, that Cambodia will remain neutral. . . .

Q. "Can you state, Mr. Secretary, that American aircraft or American pilots will not fly close air support for Cambodian units or South Vietnamese units defending Cambodian positions?"

A. "I am not going to make any statement that might limit the use of our airpower except what I have already said. And I don't see any reason why the United States should constantly be put in the position where we tell the enemy exactly what we are going to do. Our policy is as I have stated. And we also have said that we would expect that most of the air flights of that type will be flown by South Vietnamese forces. . . .

Q. "Mr. Secretary, can you tell us the status of negotiations to send Thai troops into Cambodia to support the government?"

A. "Well, Thailand now has that under consideration. Whether they will, and to what extent, and so forth, they haven't made a decision on it yet. So we haven't made any decisions on our support.

"If we support Thai troops in Cambodia, we would have to do it from Cambodian MAP funds. . . ."

July 7—Conference for Editors and Broadcasters:

"Our purpose in Cambodia was limited—to strike the North Vietnamese sanctuaries which were used by the enemy to conduct the war in Viet-Nam and to capture and to destroy his supplies and equipment. . . .

"The military operations in Cambodia, we believe, have succeeded. First, the capacity of the enemy to conduct attacks against our forces in Viet-Nam has been severely damaged. Two, there has been a dramatic increase in the confidence and capability of the South Vietnamese forces. And three, prospects for the Vietnamization program have been increased. . . .

"The North Vietnamese are attempting to use Cambodian territory to reestablish their disrupted lines of supplies and communication to carry on the war in South Viet-Nam. American airpower is being used to frustrate these efforts. President Thieu has said that South Vietnamese forces may continue to engage the enemy in Cambodia; thus—and I think this is a point that should be underscored—thus the enemy can no longer count on a safe haven in Cambodia to attack our forces. . . .

"We are providing limited amounts of small arms to the Cambodians and will continue to provide additional amounts of arms and other equipment to help them maintain their independence and neutrality.

"We support and encourage Cambodia's expressed desire to remain neutral. We have no other objective than to have its neutrality respected by all nations. We have no desire to associate it with SEATO or to seek to have it aligned with ourselves or with anyone else. . . .

"Some have asked if our efforts in Cambodia modified our basic policy in Viet-Nam. The answer is no. We will, of course, adjust our actions in the light of events, and President Nixon has made it clear that if the enemy takes action which endangers our troops, he will respond. But our policy remains constant: We would prefer a negotiated settlement which results in all foreign troops leaving South Viet-Nam. . . .

"The situation in Cambodia has, of course, highlighted the regional aspects of the Viet-Nam war. . . .

"We are continuing to press our effort for negotiations on the problems of Indochina. . . .

"There's nothing about a war that's pleasant, and we have made every effort to avoid any civilian casualties. And certainly in Cambodia we've made very strenuous efforts to be sure that they wouldn't occur.

"But the Government of the United States regrets the whole war. . . .

"We believe . . . that the difference between the future and the past is that in the future they [the Communists] will have to face Cambodian troops, South Vietnamese troops, and possibly interdiction by American airpower—whereas before, they could maintain these sanctuaries with complete safety. They didn't have to concern themselves with the safety of their bases, which probably was an anomaly of warfare. . . .

Q. "If the war goes badly against the present government in Cambodia, and if the Communists win, as they seem to be doing right now, will the United States do nothing except provide air support?"

"I think we've been pleasantly surprised about the stability of the Cambodian Government up to this time, and I would not want to make any prediction about the military future in Cambodia except to say that we are pleased at the way the young people are supporting the present government, the way the intellectuals are supporting the present government, and the way the present government has been able to recruit armed forces. . . .

"We will not send American ground troops into Cambodia again . . . We will use our airpower to interdict the supply lines, the communication lines, but we will not use American ground troops. Our policy, both in Cambodia and South Viet-Nam, is to replace American troops with Asian troops. . . .

"We hope that the present government, or at least a neutral government of Cambodia, continues to survive in Cambodia. . . ."

July 15—News conference:

"In Japan we had a meeting, as I said, with the Ambassadors from 14 nations in the area. . . .

"In the course of my discussions, we had a lot of time to deal with the topic of the future of Cambodia; and although we didn't make direct requests of any government, we did make it clear that we thought that the Asian nations should help the present Government of Cambodia maintain its neutrality. And contrary to some of the stories that I've seen written, I feel quite confident that there will be good results from those discussions.

"I am not at all pessimistic about the prospect of Asian nations assisting Cambodia, because they recognize the importance of the neutrality of Cambodia to the security of that area. . . .

"I think that the success of the incursion in Cambodia, because it contributes to the success of Vietnamization, does increase the probabilities that the enemy, somewhere along the line, will negotiate. . . .

"The South Vietnamese forces are quite strong now. They have well over a million men well equipped, well trained; and now they've—at least to some extent—have proven themselves in Cambodia. And they have a morale that didn't exist at all last year . . . So we think it's quite possible that they can defend themselves against the common enemy. . . .

"I found that the Asian nations . . . realize that the only obstacle to the neutrality of Cambodia is the presence of North Vietnamese troops. . . ."

October 9—News conference:

"We haven't attempted to make any statement about who might attend an Indochina peace conference, because we think it is premature. We do feel that the principal parties are the governments now in power and those who are opposed to them on the battlefield.

"As far as Sihanouk is concerned, he doesn't enter the picture, I think, here. The forces in Cambodia facing the present Government of Cambodia are North Vietnamese. . . ."

October 11—"Issues and Answers":

"Our troops are not going back into Cambodia. President Nixon has made that quite clear. We think that the Cambodian Army and the South Vietnamese Army, working together, can handle any situation that might develop there. . . ."

November 25—Statement before the House Committee on Foreign Affairs:

"Cambodia's involvement in war is the result of events over which that small country has had little control. The North Vietnamese, who had long occupied Cambodia along the border provinces, decided last April to compound their violations of Cambodia's territories by undertaking actions throughout much of the country. This left the Cambodian Government no choice but to defend itself. Realizing this would require a good deal of outside help, the Cambodians reacted initially by submitting to us a request for $400 million in assistance. The aid they asked for would have included many expensive and sophisticated weapons.

"Sympathetic as we were to Cambodia's plight, and much as we realized that what it contemplated doing would contribute to our own goals in Viet-Nam, we did not agree to this approach. We recognized that if we complied with the Cambodian request we might have had to establish a large American presence to go along with the aid. We were concerned that we would be gradually sucked into greater and greater involvement as we had been in Viet-Nam and finally would be pressured into extensive use of ground forces.

"Instead, we decided to use our aid in a totally different way, taking advantage of Cambodia's principal assets: its strong sense of nationalism and patriotic determination to repel the North Vietnamese invaders. Thus it was that our cross-border operations last

spring were limited in time, in area, and in objective. They succeeded in depriving the North Vietnamese of free use of the border-sanctuary areas, and they greatly assisted our troop withdrawal program in Viet-Nam. They also gave the Cambodian Government an opportunity in cooperating with other neighboring nations to establish its own substantial military forces.

"Since last spring, our aid to Cambodia has taken the form of providing weapons and ammunition that the Cambodians are fully capable of using themselves . . . We have no military forces or advisers in Cambodia, nor do we intend to send any.

"The Cambodians have made it clear that they want to do the job themselves. . . .

"But despite a high degree of national unity, Cambodia still lacks the wherewithal to carry on the fight . . . For the immediate future—and particularly in the face of a possible enemy offensive during the coming dry season—additional aid will be urgently needed.

"The $70 million requested for economic assistance is essential to sustain the Cambodian defense effort and is designed only in part to offset the loss of normal export earnings. Cambodia is not creating an elaborate military machine. Rather it is set on keeping in the field units that can be rapidly trained to cope with the North Vietnamese efforts to reestablish supply lines and harass the Cambodian Government wherever possible.

"Over 70 percent of the military assistance request for Cambodia is for ammunition. The remainder will be used for small arms, trucks, a small number of propeller-driven aircraft, communications equipment, river patrol boats, and similar items.

"The United States is not alone in providing help. Military or humanitarian aid has also been forthcoming from neighboring South Viet-Nam and Thailand, and from Australia and Japan. . . .

Our basic objective in Cambodia is to protect Vietnamization and our withdrawal program . . . We believe the best way to gain the objective is to assist—with air support and aid, not military advisers or ground troops—Cambodia's efforts to defend itself. This request for military and economic assistance would do just that. If Cambodia proves unable to withstand North Vietnam's aggression, Vietnamization and the troop withdrawal program will suffer a serious setback . . . In my testimony before Congress last April . . . I stressed our determination to avoid a lasting military presence and a military commitment to the Cambodian government. I made clear that we had no intention of letting Cambodia become, in terms of American involvement, another Vietnam. . . .

"We adhere to those principles. . . .

". . . we feel that the money involved is certainly a small price compared to what we believe is the safety of American lives . . . We have not planned, and we have no present plans for providing, any sophisticated military equipment . . . They are also getting help from South Vietnam, so we believe that they will be able to maintain their armed forces successfully with this help.

"The Cambodians provide intelligence information to the South Vietnamese. And we in turn get that information. Now we still are pursuing a policy which is to prevent Cambodia from being used as a base for attacks against our forces, and in that connection we try to interdict supply lines and communication lines. So from time—and there has never been any hesitation in saying this—we do bomb in Cambodia, and I can see why some Cambodian might have said that he has sent word out to the South Vietnamese about the presence of North Vietnamese troops and later on attacks were made.

"We have no treaty obligation with Cambodia, and we have made no commitment with them . . . we do not plan to build up a large mission in Cambodia. We are going to do it with a modest number of people . . . we are going to do all we can to keep our presence small . . . we are not considering the type of operation that we considered in Vietnam."

December 10—Testimony before Senate Foreign Relations Committee:

"It is my judgment that the incursion into Cambodia has increased the prospects for a negotiated settlement . . . I think the incursion into Cambodia would have increased that incentive. . . .

Q. "When did we first get an urgent request for arms and material from Cambodia?"

A. "It was . . . sometime in March of this year . . . the Cambodian government has reduced the amount that they have requested by a great deal, and they have completely changed the character of the equipment they asked for . . . the request they make is now quite realistic . . . I think it would be a very serious matter for the Cambodian government if this supplemental is not approved . . . But I think the intelligence that we get indicates that the present government is doing quite well . . . this request will undoubtedly be followed by other requests. The magnitude of those requests will depend on events . . . when we ask for military assistance and economic assistance for Cambodia, we certainly do take on some obligation for some continuity.

"We have not taken on any commitment to the government of Cambodia. We have explained to them clearly that any fighting has to be done by the Cambodians and by the South Vietnamese and not by American forces. . . .

"We do not intend to have a MAAG or an aid mission . . . We do not intend to use military advisers. . . .

"What would happen if our troops in any particular spot were imperiled, I wouldn't want to say. That would be up to the President. But I think that, in view of the placement of our troops, that is not likely . . . I don't think we would get deeply involved in Cambodia and certainly not in war unless we send U.S. troops in. . . .

"Some Cambodians will be trained in South Vietnam, but they will be trained largely by the South Vietnamese . . . There will be some training in Thailand. . . ."

1970, SECRETARY OF DEFENSE MELVIN R. LAIRD

May 6—News briefing:

". . . I supported fully the operations to destroy the facilities in the sanctuary areas. I supported the use of Americans as required to carry out this very important mission, which I thought was needed and necessary in order to protect our Vietnamization program and also to reduce the possibility of American casualties. . . .

"In the Parrot's Beak area, gentlemen, it's a little different mission because you have to use tactical air there. You cannot use the B–52s because of the civilian population that's involved. There is no Cambodian population in this other area, it's completely occupied by North Vietnamese and VC forces. When you're in these targets, that sort of operation has to be approved by me. . . .

"Many people fail to realize that we [had] had incursions into the sanctuary areas. These particular incursions started during the month of April and they were carried on an in-and-out basis entirely by the South Vietnamese and by the Army of the Republic of Vietnam forces. As far as going forward with the introducing South Vietnamese and American troops for 7–10 day operations, that particular plan had been worked on and I had presented it to the National Security Council but the National Security Council decision and the Presidential decision to implement the pl..n did not actually take place until Monday evening or Tuesday morning. . .

Q. "Mr. Secretary, was there any amphibious undertaking under consideration regarding Sihanoukville at any time? . . ."

A. "I tell you, we have all sorts of contingency plans. . . .

"I want to make it clear . . . We're not going to become bogged down in these sanctuaries. . . .

Q. "Why didn't you ask Congress for approval for the Cambodian operation before you did it?"

A. "It was not necessary because this Cambodian operation is a part of the Vietnam program. . . .

May 22—Television interview:

". . . the time table which has been set by the President for the withdrawal of American troops from the Cambodian sanctuary operation will be met in every respect. I think it would be a mistake, however, to make a firm time table and establish it here for the Vietnamese forces. I personally feel as Secretary of Defense, if the occasion should arise when the South Vietnamese forces could go into the sanctuary areas at a time when the sanctuaries are rebuilt; when there are North Vietnamese occupying the particular territory, I would recommend that they be used if they so desire. It would be a decision that would be worked out in cooperation with the Cambodian Government and the South Vietnamese . . .

"There will be no American advisors in Cambodia after June 30th. The President has made this clear. This operation has been a great tactical success and it has exceeded the expectations of General Abrams thus far, as far as destroying facilities, uncovering ammunition and food. This was the primary mission from a tactical standpoint . . .

". . . One of the things that had a tremendous influence, I think, on this whole operation has been the successes of the South Vietnamese . . . the morale has been tremendous—the morale buildup—they'll be able to go in-country and strengthen their security efforts within country . . .

"Every American will be out of Cambodia by the 30th of June. We've already reduced the American presence in the sanctuary areas, and the only place they have operated has been in the sanctuary areas—the occupied territory of Cambodia which is occupied by the North Vietnamese . . . The South Vietnamese have had the major responsibility . . .

"I think our primary interest in Cambodia and Laos is the effect that Cambodia and Laos have upon our Vietnamization program and the American presence and the safety and protection of the American troops which are in Vietnam . . .

"As far as rebuilding the Army of Cambodia, this would be a very long process. You cannot go forward in the matter of weeks or months to modernize that particular army. So the problem that we have to look at here is the effect of the North Vietnamese invasion and occupation in certain areas of Laos and certain areas of Cambodia on our Vietnam program . . ."

June 4—"Meet the Press" (with General Earle G. Wheeler, Chief, JCS):

Q. Mr. Chancellor: "Will the South Vietnamese withdraw from Cambodia completely?"

A. Secretary Laird: "I would not anticipate that the South Vietnamese would use the same time table that the United States forces do. However, the South Vietnamese have indicated that they have a primary mission within their country, and I would assume that they would soon be back within their country.

Q. "General, last night the President said, 'The only remaining American activity in Cambodia will be air missions to interdict the movement of enemy troops and material where I,' said the President, 'find this is necessary to protect the lives and security of our forces in South Vietnam.'

"Does that mean helicopter gun ships or B–52s or what is the military prognosis on that?

A. General Wheeler: "I think he was talking primarily, Mr. Chancellor, about the use of fighter-bomber aircraft, or larger aircraft

than the helicopter gun ships. Again, however, I would not like to foreclose on the President's options, because it will depend upon the type of target which would be the better instrument of war to use.

Q. Mr. Chancellor: "Theoretically, sir, a number of people are worried that if a unit of the South Vietnamese Army is in trouble in Cambodia, there might be incalculable pressures on the United States to come to the aid of that unit. Can you foresee that happening in the months or years to come?

A. General Wheeler: "I can only cite what the President said. He said he was going to use air power to interdict the movement of enemy supplies and men within Cambodia, if that proved necessary to protect the lives of American troops. I don't think I could, with propriety, go any further than that, Mr. Chancellor.

Q. Mr. Beecher: "Mr. Laird, I would like to follow up a little bit on that question about American air power in Cambodia against infiltration and supply targets following the withdrawal of our ground troops there at the end of the month.

"May we assume that such air strikes will not be limited to the approximate depth of 21 miles from the Vietnam border that applied to our ground combat forces, but in fact could extend far into Cambodia if the targets are far into Cambodia?

A. Secretary Laird: "We will carry on the best kind of air interdiction campaign we possibly can. Whether that air interdiction can be carried on the best in Laos or in Cambodia is a question that will have to be resolved after the 30th of June, when all Americans will be withdrawn from Cambodia.

Q. Mr. Beecher: "In other words, if I understand you, sir—let me ask this as a question: Should the North Vietnamese establish a new supply system deeper inside Cambodia, might we apply air power there as we have along the Ho Chi Minh Trail in Laos for some time?

A. Secretary Laird: "I think a judgment would have to be made at that time, and I would not want to make that judgment on this program. But it would seem to me that the interdiction might be carried on more reasonably in the Ho Chi Minh Trail because of the few number of choke points that would be involved. But I don't believe that it would serve any useful purpose for us to discuss the specifics of operational orders. These orders will be carried out in the best way that they can be carried out in order to protect Americans that are serving in Vietnam, and the purpose of any air interdiction of supplies or material coming down from North Vietnam through the Ho Chi Minh Trail through Laos into Cambodia, the purpose of any interdiction campaign will be to protect Americans and reduce American casualties, as long as Americans are present in South Vietnam.

Q. Mr. Brandon: "General Wheeler, would you rule out the reentry of American ground troops into Cambodia?

A. General Wheeler: "I would have to, because the President has said that we will withdraw from Cambodia, and while I can't foresee all of the circumstances that might arise in the future, I think his intent is that we will not reenter Cambodia.

Q. Mr. Brandon: "We have also been told that the North Vietnamese are now building up a new sanctuary in South Laos. I wonder how important is it and what you plan to do about it?

A. General Wheeler: "What they are actually doing, Mr. Brandon, is that they are extending the base complexes farther to the north, in a sense, but also farther to the south, and we will take the appropriate action that we have taken against other base areas, both in Laos and in Cambodia. In other words, we will use air power against that sanctuary area, or that base area.

Q. Mr. Brandon: "Only air power?

A. General Wheeler: "That is correct, sir.

Q. Mr. Novak: "Secretary Laird, when you were a Republican Congressman you were very critical of the Democratic Administration for not telling the truth about how much money the war was costing. Could you say how much this Cambodian army—this Cambodian exercise is going to cost, over and above what the Vietnam war was costing otherwise?

A. Secretary Laird: "There will be no additional cost as far as the Vietnam operations are concerned. This is budgeted in the 1970 operational budget for our troop operations within Vietnam. . . .

Q. Mr. Novak: ". . . Do you think they (the South Vietnamese) could have handled the incursion into Cambodia without the help of U.S. troops?

A. Secretary Laird: "No, the operations could not have been carried out as successfully, but I do not want to take away from the South Vietnamese by answering that particular question.

Q. Mr. Novak: ". . . Why do you say it couldn't have been carried out without American troops, since they have done so well?

A. Secretary Laird: "In the Fish Hook area we would have had to move the 25th division or the First Air Cavalry Division because they had the security responsibility opposite that area. So we would have had to move the Americans out and move the South Vietnamese in. It would have been a tremendous logistics problem. . . .

Q. *Mr. Novak:* "Wouldn't the logistical inconvenience have been worth it, considering the political damage done to your Administration at home?

A. *Secretary Laird:* "Personally, I believe that the political damage that you talk about will be non-existent in a few months, because this operation can be judged on the short term tactical successes, which have been tremendous. But the operation really will be judged on the long term strategic successes, and that will be based on the progress towards Vietnamization. . . .

Q. *Mr. Spivak:* ". . . Our operation in Cambodia highlights the importance of having a friendly government there. What will the U.S. do if the government is militarily threatened by the enemy, as it may well be?

A. *Secretary Laird:* "Personally, as Secretary of Defense, I believe that we best keep our eye on the ball, and that is Vietnam. I believe that the success of the Cambodian operation should be judged in terms not of the success of the government in Cambodia, but the success of the Vietnamization program and our withdrawal program. Personally, as Secretary of Defense, I believe that the emphasis must be on the Vietnamization program and not on the rise or fall of any other government.

Q. *Mr. Chancellor:* ". . . What if the Russians are reading the ability of the American President to move in an unpredictable way, a way that the policy planners cannot predict? This was at least part of the Cambodian operation. And if it makes this country have a sort of nervous breakdown, as it went through for a few days after this operation, do you believe that that limits the options of the President for acting in other parts of the world? . . .

A. Secretary Laird: "I first want to say that it never was anticipated by anyone that there would be a Kent State or a Jackson situation developing, and that was indeed an unfortunate tragedy in both cases. But I do feel that the important thing that is being accomplished in this Administration is the establishment of credibility, as far as this war is concerned. And the important judgment will be made on the 30th of June that we meet this deadline, the time that has been set by the President of the United States, just as he has met every other deadline on troop withdrawal. I think this is the important thing in the long run, to restore this credibility, as far as Southeast Asia is concerned, and to move forward towards the Nixon doctrine, which has as its overriding goal the avoidance of this kind of ground involvement in Southeast Asia. . . ."

June 26—Interview by Newsmen:

Q. ". . . has the policy of interdiction and bombing of Cambodia been extended to include the combat air support of both the ARVN and the Cambodian armies in Cambodia?

A. "I made it very clear, as I testified before the Foreign Relations Committee back early in May, a policy that our government would pursue as far as air support was concerned. After the Cambodian operation, which will end as far as Americans are concerned on the ground on June 30, we will carry on an air interdiction campaign and any airpower that is used in Cambodia will be based upon the interdiction of supplies, or personnel, that threaten the Vietnamization program, that threaten Americans, that are engaged in military operations in Vietnam. The primary emphasis will be on the interdiction of supplies, materiel and personnel.

". . . the primary reason for the air activities will be the protection of Americans in South Vietnam, but I would be less than frank or candid with you if there would not be a side effect as far as Cambodian and South Vietnamese troops operating within Cambodia, but the primary reason for the air operations still will be in accordance with the testimony which I gave to the Foreign Relations Committee of the United States' Senate. . . .

Q. "Do you rule out close air support for the Cambodians in the future?

A. "I do not believe that it's good practice as far as military planning is concerned to give flat answers on operating orders as far as the future is concerned. I can assure you, however, that the primary reason will be as I stated before the Foreign Relations Committee, the primary reasons for carrying on air activities in Cambodia, will be the interdiction of supplies and materiel, interdiction of personnel, to protect Americans in Vietnam, to protect our Vietnamization program, to make withdrawals of American troops a continuing process and to reduce American casualties.

". . . the supply routes through Cambodia have had in the past, and could have in the future, an effect as far as our Vietnamization program is concerned, and we will continue to carry on an interdiction campaign in this area in order to protect our Vietnamization program. . . .

Q. ". . . would a Communist takeover of Phnom Penh jeopardize . . . Vietnamization seriously?

A. "We have had periods of time when the supplies coming in through Cambodia were a very serious problem as far as the IV Corps and the III Corps area is concerned, and I would be less than frank with you if I did not indicate that the supplies through Cambodia, coming through Sihanoukville, have had an effect, a very substantial effect, on the war effort in Vietnam, and we are going to do everything we can to see that our interdiction campaign of these supplies and personnel is successful in order to protect our Vietnamization program. . . ."

July 23—Speech:

"As the threat from the Cambodian sanctuaries has been blunted, and as the Vietnamization Program continues to move forward, evidence multiplies that the President's strategy and his doctrine are producing the desired results. Concern for the lives of our servicemen and for their safe return to the United States was the key deciding factor that caused the President to conduct the limited operation in Cambodia. . . ."

August 6—News conference:

Secretary Laird: "I think the situation in Cambodia today is better than I had expected it would be at this time. . . .

"As far as the improvement of the Cam-

bodian Army, I think they have shown good progress. . . .

". . . I am concerned about the use of the sanctuaries, the use of supplying forces that can attack Americans and can jeopardize the Vietnamization program, and our troop withdrawals, and the reduction of American casualties. . . .

". . . I also am concerned about the use of the harbor at Sihanoukville—and the use that was made of that harbor for logistics support operations, both for the VC and the North Vietnamese. It is very important—and it has been of considerable help—to have that avenue of logistics support shut off. I certainly feel it is to the interest of our program in South Vietnam to keep the sanctuaries shut off, to interdict the supplies and personnel, whether they are coming through the opening of the Ho Chi Minh Trail on down through Laos, the use of the Mekong, or efforts to reopen Sihanoukville.

Q. "There has been some rather explicit reporting out of Cambodia that American airplanes are providing direct combat support to the Cambodian troops.

Secretary Laird: ". . . I am not going to discuss operating orders, but I can tell you that we will continue to interdict supplies, personnel and logistic routes. There will be certainly ancillary benefits, too, that will affect Cambodian operations; however, our primary mission, as far as the use of our air—whether it be in the southern part of Cambodia or along the sanctuary areas, or along the river routes—will be interdiction of supplies and personnel. I have been noticing these newspaper stories. I would just direct your attention to when I was hit at Andrews Air Force Base as I came back from my trip to Europe and the NATO meetings. I outlined that policy very clearly at that time. [See June 26 entry]. I have had personal contacts with General Abrams, prior to his going to the hospital, about the use of air interdiction in Cambodia. We are still following that policy.

Q. "Mr. Secretary, I am very much distressed . . . at the difference between the policy that we are told exists and the perfectly obvious implementation of it, and most specifically John Wheeler's story from the scene this morning in great detail . . . That is not interdiction by any stretch of the imagination, sir; that is close air support operations. All the talk between the airplanes and the ground controllers was recorded in this dispatch. How do you square the difference between what is reported by an eye witness with long experience with the stated policy of interdicting only those things which can jeopardize us in the South? This is an operation in a new part of Cambodia. . . .

Secretary Laird: "Well, in that particular area it is very much related to the opening up of the sea area for supplies, etc. I would merely state that the decision was made by the Commanders in the field that it was an important interdiction mission to destroy—I believe, in this case, personnel. But this is a decision which certainly can be made by the commander. COMUSMACV has that authority to interdict personnel and to interdict supplies.

"We have stayed by that authority and he (COMUSMACV) has used that authority. I have no criticism of the use of the authority in Cambodia. I saw one report that every request was adhered to. That certainly is not the case. These interdiction missions are flown when it is felt personnel, or supplies, or the buildup is of sufficient magnitude, or it has an effect upon the overall program which we have in Vietnam.

Q. "But 300 yards in front of ground forces under control of forward ground controller in an OV–10, sir, is not interdiction.

Secretary Laird: "Well, it depends on what you refer to as an interdiction, I think. I believe it is. It is very difficult to get these forces together in large numbers and to get concentrations of supplies. The VC and the North Vietnamese are now following the policy of trying to concentrate their supplies and their buildup of supplies, material and men around population centers. You have to have forward air controllers, so that you can be in a position where you can protect civilians.

"I can assure you that COMUSMACV in his use of this interdiction authority is making every effort, with absolute, positive control, so that civilians will not be involved in any way with the interdiction missions flown by the United States Air Force. I believe that it was wise to use forward air controllers under conditions, such as these, in order to protect the lives of innocent people.

". . . I know that it has been helpful to us as far as our program in Vietnam is concerned. Now as far as giving a factual assessment of its effect on the Cambodian situation, I am sure it has been helpful, but I can't give you a percentage nor give you that kind of a judgment. . . .

". . . MACV's judgment, is based upon its effect upon our operations.

Q. "I'm just trying to find out how serious the military situation was in Cambodia. Could that government have survived without the benefits they received, the side benefits they received from our interdiction?

Secretary Laird: "I would think that this would have helped materially, but I can't make the positive judgment on it and give you percentages. I think, certainly, the ancillary benefits have been helpful from the interdiction campaign.

Q. "Mr. Secretary, are there many cases where they asked for help that they would consider close air support and we denied it to them, because it was not to our benefit to do so?

Secretary Laird: "Yes, of course, there are cases. There are cases where we can't positively control the aircraft where we would be in a position where we would not use them.

Q. "Can you break that down with any kind of percentage basis, of X number, or total number of requests, how many are honored?

Secretary Laird: "I can't give you the percentage. No, but it is a substantial number that aren't, because they don't fit in with our overall guidelines in this area and our overall operations. . . ."

September 2—News conference:

"When I have been asked the questions, even before the Senate Foreign Relations Committee, in early May, whether there would be a limit on the use of airpower in Cambodia and whether the same limit applied to ground forces, I answered that very categorically that there would be no such limit. I just don't believe that anyone can find a case where I've shied away, have not given you complete and full information.

"The number of sorties is a matter which I have not released, and we are not releasing the sortie levels . . . we're using air power in Cambodia to destroy supplies, to destroy buildups, to destroy personnel buildups as well as supply buildups, because we feel that this is important from the standpoint of our activities in Vietnam. I've told you that we have a commitment to Cambodia, our commitment was a free and open commitment, it's $8.9 million in military assistance in Fiscal Year 1970."

Q. "Did you say there was a commitment to Cambodia?"

A. "$8.9 million as far as military assistance, this is a commitment that we have made. It is $40 million of military assistance in Fiscal Year 1971 and that commitment soon after it was made, as soon as I was asked about, I told of that commitment. In addition to that, we have a commitment which has been made on several occasions by the United States, as well as the Soviet Union, to the neutrality of the Government of Cambodia. This was made on April 16, we came out and outlined this commitment through the Australian Ambasador in Phnom Penh. . . .

". . . When I was asked the question of whether we had a military commitment as far as the use of American manpower to Cambodia . . . I answered that question in the negative because as far as military manpower is concerned, we have no commitment there. The SEATO commitment that was implied by the SEATO agreement when the SEATO treaty was signed, that particular military commitment was renounced by the Cambodian Government itself. This is a matter of record. I can go through this and document every statement I have made in regard to Cambodia, Now, when you ask me about sortie rates, I've always said we weren't going to announce the sortie rates. . . ."

October 11—Television interview:

"That question of [Communist] control over that land area is merely a control because the Cambodian Army is not making a challenge in the area. . . .

"[in] the question of control in a standpat, or an inplace cease-fire, I don't think you would find that the North Vietnamese are in a position where they would actually truly control that land area. They are controlling certain sections of the land area because they are not being challenged at the present time except along the Vietnamese border. They are being challenged along the Vietnamese border by South Vietnamese forces and by some Cambodians that have been trained in South Viet-Nam. . . ."

October 12—News briefing:

"Every effort is being made by our forces to interdict supplies and personnel as they move into Laos and as they move within Cambodia. This interdiction campaign is progressing very well and the results have exceeded our expectations. . . ."

Q. "would we consider going back to prevent them [the Cambodian sanctuaries] from building back up"?

A. "The South Vietnamese have come in contact with North Vietnamese operating along the border areas of Cambodia. There have not been substantial movements, however, of North Vietnamese forces and Viet Cong forces into these sanctuary areas. The contact in these areas is being made by the South Vietnamese at the present time and we believe that the South Vietnamese forces can handle the situation very adequately."

November 25—Statement before the House Foreign Affairs Committee:

"The support we have provided them [Cambodia's forces] is directly related to our own interests because Cambodia's ability to defend itself is a vital element in the continued success of Vietnamization. Of particular importance is the fact that the diversion of thousands of North Vietnamese main-force troops to Cambodia has resulted in a sharp drop in U.S. casualties in Military Region III of South Viet-Nam. . . .

"I am firmly convinced that our continued support of Cambodian self-defense is a matter of high priority. As an indication of the urgency of this request, I would mention that 70 percent of the supplemental funds will be used for ammunition. . . ."

November 25—Testimony before the House Committee on Appropriations:

"It is not believed that the increase in military and economic assistance to Cambodia is getting the United States too deeply involved in Cambodia. We have made and are making every effort to restrict our presence and involvement in Cambodia. We have provided military assistance to maximize the capacity of the Cambodians for 'doing it themselves' as envisaged under the Nixon doctrine. As the President explained on June 30, we have no ground personnel in Cambodia except for the staff of the Embassy, which is small, nor do we have any U.S. advisers with Cambodian units. We do conduct air interdiction in a portion of Cambodia,

but this is to protect our forces in South Vietnam. In sum, our aid is designed to give the Cambodians the wherewithal to fight the North Vietnamese, rather than us doing it for them. The Cambodians have shown good morale and great resolve to run their own affairs. . .

"We will conduct—with the approval of the Cambodian Government—air interdiction missions against the enemy efforts to move supplies and personnel through Cambodia toward South Vietnam and to reestablish base areas relevant to the war in Vietnam. We do this to protect our forces in South Vietnam. . . .

"There are approximately 50,000 of the enemy operating in Cambodia. It is of very great importance to our Vietnamization program that the Cambodians have the capability to meet this military force. We are confident that the Cambodians can make the kind of effort that is necessary to protect themselves if we can go forward with this military asistance program.

"At the time of the Cambodian sanctuary operation, in which American forces were involved along with South Vietnam forces, there was a total of about 38 North Vietnamese battalions engaged in that area. Cambodian forces, along with some help from the South Vietnamese forces, are meeting that military challenge at this time. If we are going to continue our troop reductions in Vietnam beyond the May 1 announcement which has already been made by the President of the United States, it is absolutely essential that we keep the enemy's Cambodian logistic supply route to Vietnam closed, particularly the port formerly called Sihanoukville. This has a substantial effect on the protection of the lives of American service personnel, and stability of III and IV Corps as far as Vietnam is concerned.

"Prior to the change of policy by Cambodia and the shutting off of the logistic supply routes, most of the logistic supplies for III and IV corps came in through Cambodia. Closing these routes has been of very great assistance to the forces in Vietnam. It is a real plus as far as providing increased possibilities for further troop reductions in Vietnam are concerned. It is a very small investment to provide this money in the form of military assistance to the forces of Cambodia, when one considers the daily cost of the war in Vietnam, particularly at its high level of 1968 . . ."

December 11—Testimony before the Senate Foreign Relations Committee:

"In Cambodia at the present time, the Cambodian regular forces are tying down over 40,000 regular North Vietnamese forces. In addition to that, they are tying down 10,000 or more VC forces that are operating within their country . . . We believe that when the Cambodian government has the volunteers, but does not have the military equipment they need, it is better for us to equip those volunteers to meet this force than to involve American combat forces. . . .

Q. "If Cambodia is in danger of falling . . . what would you recommend that we do?"

A. "Well the first thing that I would recommend . . . would be to encourage a greater use of South Vietnamese forces should they be requested by the Cambodian government . . . There are no approved contingency plans which contemplate the use of Americans in Cambodia as ground combat forces. . . .

"If you take the situation that existed earlier this year, the air war in Cambodia has decreased. It has substantially increased during the past month as far as the South Vietnamese forces are concerned, but the number of missions flown by U.S. pilots, as compared with South Vietnamese pilots, is much smaller. . . .

"The U.S. Air Force is flying interdiction missions in Cambodia. These interdiction missions are limited to ground concentrations, movement of supplies, et cetera . . . The South Vietnamese are conducting some close air support. We do not have U.S. ground spotters positioning our U.S. Air Force attacks. We have very stringent rules . . . Those rules provide that there will be no use of interdiction missions by the U.S. Air Force near villages or cities where there are concentrations of population . . . If a target involving personnel or logistic supplies is in an area where it can be hit without damage to civilians or populated areas, we do use air power to destroy it. . . .

". . . We have flown interdiction missions in all areas of Cambodia at the request of the Cambodian government. . . .

"The only involvement we have with Cambodia is in the military assistance area, and in the economic area . . . I would assume that we would continue for some period of time to give military assistance and economic assistance, but that is the extent of our involvement. . . ."

1971, SECRETARY OF DEFENSE MELVIN R. LAIRD

January 11—On Arrival at Hickam A.B., Hawaii:

Q. "Mr. Secretary . . . could you give us an idea if in fact, it seems to you that the Communists are switching focus of their offense in South Vietnam to Cambodia?"

Secretary Laird: "I think the enemy threat in South Vietnam is not as great as it was a year ago. The threat in Cambodia remains about the same, but the threat in South Laos has increased considerably during the last twelve months. . . .

". . . members of my party visited Cambodia and reports on the progress being made with the new military assistance program, which has been approved by the Congress by an overwhelming vote, would indicate that the military situation was improving, and that the Cambodians were making some progress with the Military Assistance Program. Of course, it's only had about four weeks to be implemented, but the progress thus far, I believe, is adequate. . . .

Q. "Sir, do you read the Congressional mandate on the non-use of American troops in Cambodia to permit the use of American airpower that you feel is necessary to break the stranglehold on the highways around Phnom Penh?"

Secretary Laird: "Yes, I do. . . .

Q. "Is there going to be an airlift in Phnom Penh?"

Secretary Laird: "There has been an airlift in Phnom Penh. There has been material that has been airlifted. The South Vietnamese have had several airlifts in there, and I would assume that air, waterway, the other means, would be used to deliver the military equipment that has been authorized by the Congress. I think it was a rather substantial development as far as the Congress was concerned, that we had this overwhelming vote in favor of the Military Assistance Program for Southeast Asia. It shows the true application of President Nixon's Guam Doctrine, in which we move from military manpower in Southeast Asia to military assistance. . . ."

January 20—News conference:

"Members of my party, including Admiral Moorer, visited Cambodia. In Cambodia we are seeing the Nixon Doctrine at work. Asian nations are joining together in ground combat against the Communist aggression. These nations are providing the manpower for their own defense. As has been stated repeatedly since the President enunciated the Nixon Doctrine in Guam in 1969, the United States would be and is prepared to provide material assistance and air and sea assistance to our allies and our friends in Asia.

". . . They [the Cambodians] have the support on the ground of their neighbors, the forces of the Republic of Vietnam. The people of Cambodia know that there will be no (American) ground combat forces committed to their country, but they also know—and this is most important—that they have the support of the American people as expressed in the overwhelming vote of the United States Congress in favor of military assistance to that country to help themselves in their defense.

"In short. the United States is fulfilling its pledge under the Nixon Doctrine to assist our friends and allies, but not become involved in ground combat. This is really a case of ground combat personnel, no; military assistance, yes. It is a case of manpower, no; but assistance, yes. . . .

Q. ". . . In June of 1970, Mr. Nixon and others in the White House indicated that there would be an end to combat air support and our logistics support directly in Cambodia once our troops on the ground had left there. This policy seems to have changed in recent weeks. Can you explain what this change in policy is?"

Secretary Laird: " . . . the President said, I believe on June 30, that air support would not be used or not necessary during the termination of those sanctuary operations. This was a correct statement, because the South Vietnamese Air Force at that time felt that they could perform the air support that was needed and necessary to finish up those sanctuary operations prior to the rainy season setting in, which of course terminated that phase of the Cambodian operation as far as the South Vietnamese were concerned.

"We did, however, use air power in Cambodia, and we have continued to use it, although it was not directly related to the South Vietnamese sanctuary operation. We have continued and as the President said in that same statement on June 30, he said we will conduct with the approval of the Cambodian Government—I am paraphrasing this—air operations against enemy forces as they move supplies and personnel through Cambodia towards South Vietnam and reestablish their sanctuary areas.

"I don't want to get into a semantic problem here of what this mission is called, or that mission. I have always called it 'air activities,' 'air support' as far as Cambodia is concerned, and I don't care to get into a question of semantics on that. We will use air power, and as long as I am serving in this job, I will recommend that we use air power to supplement the South Vietnamese forces, as far as the air campaign in South Vietnam, Laos and Cambodia. . . .

"The South Vietnamese will be in a position, as the Cambodians will be in a better position. The South Vietnamese are acquiring the air capability, and the movement that we've made with the transfer of well over 300 helicopters in this last year, I think is significant progress. The progress we are making as far as the fixed wing aircraft is concerned is important. But we are going to supplement as far as air power is concerned.

"I don't want anyone to leave this room with any other understanding. I have outlined that to the Congressional committees. We have this authority. It was spelled out clearly in the Congressional legislation which passed. The authors of the amendments which limit ground combat activities, which I support, and which I will see are lived up to by this Administration and by the Department of Defense.

"We will follow those Congressional mandates. But as far as air and sea activities, the law is very clear that as far as the sanctuaries or as far as protecting the Vietnamization program, protecting American lives, insuring withdrawal, all of these terms are written very emphatically and clearly into the Congressional legislation, which passed in this last session of Congress. We will abide by those Congressional mandates and we are living within those Congressional mandates today. . . .

". . . supplemental air power has been used to supplement the forces of South Viet-

nam . . . the vast majority of all of the supplies that moved into III and IV Corps did originate in that area near the Port of Sihanoukville . . . This route to the sea is important, and every effort will be made to see that it cannot be used as far as a supply route by the enemy.

"The South Vietnamese contrary to some reports went into this area on the ground, and there has been some airlift within the area, which both the South Vietnamese and the United States have provided. There has been air support flown by the South Vietnamese, the Cambodians, and the United States Air Forces, I consider this an important use of air power, and believe that it is important to see that the logistics supply routes and the restocking of the sanctuaries be made as difficult as possible during this very important dry season . . . We have recently received a favorable vote, an overwhelming vote from the House and the United States Senate to support a military assistance program for Cambodia. . . .

Q. "Mr. Secretary, you are talking about the Nixon Doctrine and you are talking about material assistance. Have you broadened it by saying it also includes air assistance and seapower assistance?"

Secretary Laird: ". . . We are making it clear . . . that our assistance will be in the way of material; will be maintained in the form of sea and air power, but that we do not place the reliance on the commitment of ground combat forces that the previous administration did in this area. . . .

Q. "Are you saying that the Nixon Doctrine only precludes the use of ground combat forces, period?"

Secretary Laird: "The Nixon Doctrine applies to building up the strength of our allies in that area and performing the needed and necessary support requirements in order for us to maintain an adequate deterrent as we move towards peace in that area, and it does place the emphasis on the idea of partnership and strength.

Q. "Does that mean an open ended commitment to all countries of the Southeast Asia with the exception that no combat ground troops will be committed there? . . ."

Secretary Laird: ". . . the emphasis shifted away from the reliance on American ground combat forces. We're not using any ground combat forces in Cambodia. And I can assure you that we will not.

Q. ". . . Does this mean that there might be other ground forces introduced? Secondly, does the Nixon Administration feel that no matter what has been said at one time, that it has no right to change its mind and take a different step if the exigencies of the situation demand it and it is not outlawed by Congress?"

Secretary Laird: "I think it is important that we maintain our relationships as clearly as possible and live within the Congressional mandates that we have and we are doing that . . . We are going to do our best here in the Department of Defense and within this Administration to assure that this military assistance program will be carried out as effectively and as efficiently as possible.

"This will require, of course, that we audit the delivery of equipment and ammunition under the military assistance program . . . that audit responsibility will be carried out by our military equipment delivery teams . . . we will keep the military delivery assistance teams at a very minimum level. I think you will probably find that the General Accounting Office will have more people checking it than we do because we are making an all-out effort to keep the military presence, as far as the military delivery teams are concerned, to the absolute minimum.

Q. "Mr. Secretary, is it your contention that if anyone is surprised at the use of helicopter gunships and/or other aircraft, which appear to be providing close air support, that they did not understand properly what you and Secretary Rogers said in your appearance on the Hill when some people got the impression that what you were saying is that you planned to reduce or sharply limit or indeed even ban the American use of close support air power to avoid getting us involved deeper in Cambodia?"

Secretary Laird: "As I have said here before, I don't want to get into the semantics over what we call it. I have called it 'air support.' It's to stop the movement of personnel; to stop the movement of supplies; to put a halt to enemy buildups and to give the kind of air and logistics support that are needed and necessary where the South Vietnamese forces cannot supply it for themselves and the priority first goes to the South Vietnamese forces to use their air asset and, as they are acquiring more and more, they will have more and more responsibility in this area.

". . . If you will read over the 'Meet the Press' statement, with all due apologies to you, in which I was on a program with Senator Church and Senator Goodell, you will find that both of them in interpreting the most restrictive language that had been proposed . . . indicated . . . that that language did not limit air support.

Q. "Mr. Secretary . . . is it a fair inference to conclude that if the South Vietnamese in any operations get in over their heads in the area of transporting troops or supporting them with firepower from the air, that we will help them out?"

Secretary Laird: ". . . I think you will find that we did not give air support as the sanctuary operations closed up, as far as the South Vietnamese were concerned, but we were flying air operations in Cambodia, Laos, South Vietnam. I think there must be a misunderstanding on the part of some over the number of sorties. The number of sorties being flown at the present time, in the last two months, or compared with the sorties flown during the summer of last year, there were more sorties flown last summer than are being flown today in Cambodia. The situation is such that we have de-escalated the war . . .

Q. "Mr. Secretary, have we got ourselves committed to the defense of Cambodia, to the point that if it appeared about to fall because of its importance to the continuation of the Vietnamization program, you might have to consider going to Congress and ask permission for them to use American ground combat troops in Cambodia.

Secretary Laird: "No, there are no such plans. The situation is, first, we are going to make every effort to see that this military assistance program, which was approved by such an overwhelming vote, is successful as far as Cambodia.

"Secondly, and I will repeat this, we will not—and I repeat it again, not—commit U.S. ground combat forces to Cambodia directly or indirectly.

"In the third place, as far as Cambodia is concerned, we are supporting the ARVN in Cambodia with air activities which are designed to prevent the reestablishment of the sanctuary areas and the logistic supply routes into those sanctuary areas.

"It is obvious, I think, that these air and logistic activities help all of the friendly ground forces as far as Cambodia is concerned. But the primary emphasis, as far as we are concerned and as far as our Government is concerned, is that this is being carried on as part of the overall effort to interdict and to stop the flow of enemy forces which would have an opportunity to attack U.S. personnel stationed in Vietnam.

"I recognize that there are those that criticize this position which I take and which is the position of the Administration. But so long as I am Secretary of Defense and have this responsibility, I would much rather endure the criticism than to permit the enemy by an uninhibited flow of supplies and personnel to be in a position where they could inflict casualties and attacks on American military personnel as we continue to remove Americans from South Vietnam.

Q. "You haven't said what we would do if Cambodia falls, Mr. Secretary.

Secretary Laird: "I don't anticipate that Cambodia will fall if our military assistance program is successful. This is a critical period, as I have said earlier. When you go from 30,000 to over 200,000 in the military force, they have the will, they have the desire to meet the enemy, the invaders from the North. I am confident that they will be successful in their efforts. But I want to make it abundantly evident to you, Bill, that there are no ground forces involved and there will be no ground forces involved.

Q. "Mr. Secretary, as I read the President on June 30, he would permit interdiction activity in Cambodia after the withdrawal of our troops, but would preclude both close support and logistic support. As I understand you today, you say that close support and logistic support, however described, are now permitted.

Secretary Laird: "I don't use those terms. I talk about air support. I have always talked about air support.

Q. "That kind of activity, however described, is permitted by two things: One, a definition of what the Nixon Doctrine is really all about; and, two, the fact that the Congress didn't preclude this kind of activity in voting a supplemental and restricting ground combat activity?"

Secretary Laird: "You are correct in both cases. The Congress did not preclude this, and it has always been anticipated by me in all of my testimony that air support would be used.

"The use of helicopter gun ships and the improvements that we have made in the last year on the helicopter gun ship has been important. It's been much more effectively used, and some of the other gun ships are much more effective than they were a year ago as far as stopping logistic movement. . . .

Q. "Do you anticipate that this commitment of air support, as you put it generally, is going to be semi-permanent or for the next several years?"

Secretary Laird: "No, I don't. As a matter of fact, first, we are in this period when the Cambodians are building up their military strength and they are going forward with that program and have made what I believe is good progress for a short six months.

"As far as Phase II of the Vietnamization program which I have discused with all of you many times, that program does take longer than to turn over of the ground combat responsibilities because of the training that is involved. But the South Vietnamese will be in a position where they will not have to call on additional assets in the not too distant future.

"I don't want to give the number of months or the amount of time that's involved in that, because we are not making forecasts or projections in this department as long as I am Secretary of Defense. We make certain statements and we deliver on them, but I am not setting up some target goals that we can't deliver on. I can assure you that the progress is good with that training. As far as fixed wing aircraft is concerned and as far as rotary aircraft, the South Vietnamese are indeed making good progress.

Q. "Does the letter and the spirit of your mandate from the Congress and from the President include U.S. ground forces in Cambodia which are not combat troops? In other words, would your mandate permit the sending of a communications unit or a field hospital or some unit which is not directly combat connected?"

Secretary Laird: "So far as the law is concerned, it would not prohibit that. It does not prohibit of course military assistance delivery

teams. It does not prohibit search and rescue operations. . . .

"The spirit and the letter of the law would be followed and you could do the things that you outlined . . . I don't want to give the impression that we have plans to go beyond the military delivery teams which we will have supervising the programs.

Q. "How many of those will be involved?

Secretary Laird: "The number of people?

Q. "Yes, sir.

Secretary Laird: "The number of people involved at the present time in military delivery—don't hold me to this too closely; three or four on either side, give me a little leeway—is 12.

Q. "As the legislation is drawn, as you are discussing it, do you consider yourself precluded from operating, say, division or regimental level advisers, to the Cambodians and the South Vietnamese operating in Cambodia?"

Secretary Laird: Yes.

Q. "Mr. Secretary, how much more air power are we prepared to use in Cambodia above present levels?"

Secretary Laird: I would doubt that we would get up to the level of last year, but we could. I don't want to be in a position of putting a sortie limitation as far as Cambodia, if that is what you want. I am not going to do that. Because I have told General Abrams that I want him to do everything he can to continue to keep American casualties low.

Q. "Mr. Secretary, does that mean that there are no inhibitions of any kind on the use of American air power in Cambodia?"

Secretary Laird: "I don't care to discuss the operating orders. I have never discussed the operating orders which I have approved in substance. I can only say to you that there are certain protections written into those orders; there are certain controls that are written into those orders."

"ECONOMICS OF AGING" REPORT PRESENTS GRIM FACTS

Mr. WILLIAMS. Mr. President, the Senate Special Committee on Aging has, within recent days, released a report called "Economics of Aging: Toward a Full Share in Abundance."

That report follows a 2-year inquiry during which the committee took more than 2,000 pages of testimony and exhibits. In addition, the committee received eight working papers or information sheets prepared by task forces or individual authors.

It is no exaggeration to say that the committee effort is the most searching congressional evaluation of what might be called the personal economics of aging. Our goal was to show exactly what is happening to individual older Americans who must attempt to live on inadequate, fixed income while expenses of daily living steadily rise. The committee took much testimony, not only from authoritative experts, but from the elderly themselves. Our final report includes extensive excerpts from the testimony of both groups.

To summarize very briefly, the report:

Declares that poverty increased among 65-plus Americans by 200,000 between 1968 and 1969, and by 12,000 for those from ages 60 to 64. For all other age groups, poverty declined by 1.2 million. Older Americans are twice as likely as younger persons to be poor; 4.8 million 65-plus individuals were living in poverty in 1969.

Emphasizes that aged Americans live on less than half the income of those under age 65, despite the stopgap 15-percent social security increase of December 1969.

Reports that a new group of aged poor may be in the making among those now 55 to 59, because one out of every six men now in that age group will be out of the work force by the time he reaches his 65th birthday if present trends continue.

Points out that so-called older workers—those 45 years or older—are hard hit by current unemployment. Since January 1969, the number of jobless men in this age group has jumped from 596,000 to 1,017,000. The report says:

Their unemployment lasts longer than that of younger workers, and the older person has greater difficulty in finding work at the same pay level after a prolonged layoff.

Describes the problem of the elderly homeowner who finds it increasingly difficult to pay property taxes, including one woman who paid more than half of her total income of $1,958 for taxes and a special assessment. Household costs take about 34 percent of the average retired couple's budget.

Criticizes the forthcoming increase, from $5.30 to $5.60 a month, in the medicare part B premium. The report says that the average health bill in fiscal year 1969 was $692 for a person past age 65, six times that for a youth and 2½ times that for persons from 19 to 64. Medicare pays less than half of the total medical care costs of the elderly.

Warns that inflationary pressures are especially severe on elderly homeowners because of the direct relationship between the local property tax and high-cost local government services.

Among the recommendations made in the report were the following:

That Congress speedily enact the social security amendments adopted by the Senate, modified to include the House-passed provision for financing cost-of-living increases.

That the 92d Congress gives early attention to major changes in social security benefit levels that are needed to provide meaningful economic security for those who retired and to assure that workers retiring in the future will realize their full stake in retirement security.

That serious consideration be given to the use of general revenues in the financing of the social security program, with the share identified through a formula spelled out in the legislation.

That the Federal commitment to the elderly undertaken through the Family Assistance plan be translated into a wholehearted commitment, with 100 percent Federal financing and Federal administration.

Turning to private pensions, the committee recommended that immediate attention be given to the special problem of safeguarding the retirement income of workers who lose their jobs as a result of plant shutdowns, commonly after long service and who—like the deteriorating plants that are first to be shut down—are likely to be middle aged and older.

That the 92d Congress give prompt consideration to legislation—establishing an Institute on Retirement Income. The committee said this Institute is proposed not for the sake of more study or because this committee is uncertain about the need for action, but because such an institute can provide as-yet unavailable information that will help the Congress and the executive branch to make hard decisions on specific, concrete issues.

Reiterating an earlier stand that acceptance of a national health insurance program for all age groups is more likely if medicare is perfected, the committee also suggested that appropriate congressional units consider the possibility of establishing—a task force which will, within a specified time period—such as six months—assemble analyses of various proposals, cost estimates of these proposals, evaluations of the adequacy of existing technical knowledge about sub-proposals designed to increase the efficiency of our health care system, and other issues which will face any legislator who considers national health insurance.

Calls for expansion and improvement of medicare, particularly by including prescription drugs essential for the treatment of the chronically ill, by covering disabled beneficiaries, and by merging parts A—hospital insurance—and B—supplementary medical insurance—and financing the merger through taxes on rising payrolls and general revenues rather than from premiums.

Advises the 92d Congress to retain the provision in the Social Security Act which would require States to have comprehensive medicaid programs by 1977 and that other necessary steps be taken to improve the medicaid program.

Urges that the Age Discrimination in Employment Act of 1967 be fully implemented, and that a middle-aged and older workers employment act be promptly enacted and fully funded.

Renews its recommendation for enactment of legislation establishing an Older Americans Community Service Program.

Declares that problems of the elderly homeowner and renter have now reached emergency proportions, requiring Federal action either directly—in terms of payments to States which provide tax relief for homeowners or renters—or indirectly; that is, aid to education or other high-cost service needs now paid largely by the property tax.

Strongly recommends that we maximize the opportunity provided by the 1971 White House Conference on Aging to develop a basic national policy and the commitment essential to carrying out this policy.

Mr. President, I believe that the preface and the introduction to that report present arguments and conclusions which should reach the attention of Members of the Congress and the general public as well. I ask that they be reprinted at the conclusion of these remarks.

I also ask unanimous consent for publication of three editorials—one from the Evening Bulletin, Philadelphia, one from the Courier-Post, Camden, N.J., and one from the Home News, New Brunswick, N.J.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

PREFACE

Americans, more, and more, are confronted with issues which cry out for fresh thinking and early solution.

We must concern ourselves about an economy which—while surpassing the trillion dollar mark in gross national product—nevertheless is subject to alarming inflationary pressures and recessionary decline at one and the same time.

We must attempt to "unwind" a war while guarding our security throughout the world.

We must attempt to understand the causes of dissensions which spring up among youth, among minority groups, and even among specialists who look at the same set of facts and arrive at totally differing conclusions about such matters as a supersonic transport airplane or water pollution.

How, then, to catch the attention of the Nation and focus it upon a largely unnoticed crisis which now affects a majority of 20 million persons already aged 65 and over, and which threatens to engulf many more millions now nearing retirement age?

That "unnoticed crisis" springs from generally inadequate retirement income; it is intensified by new demands upon that income; and it is made more desperate by the fact that we have yet to declare a genuine national commitment for dealing with this crisis.

In fact, we as yet seem unprepared to make that commitment, or even to recognize the true dimensions of the crisis.

For 2 years, the United States Senate Special Committee has been at work on an exhaustive inquiry into the "Economics of Aging: Toward a Full Share in Abundance."

Our goal was to make a broad-based evaluation of those public and private programs, social and economic forces and other considerations related in any way to what might be called the *personal* economics of aging.

We wanted to know what is happening, and what will happen, to *individual* Americans who must make the adjustment from employment income to retirement income.

To do that, we had to go far beyond any one program, even one as monumental as Social Security.

We also had to concern ourselves with the promise, and limitations, of the private pension system.

We had to consider the drains on retirement income: illness (Medicare covers less than half the total medical bill of the elderly); the high cost of shelter; the dwindling opportunities for employment even *before* age 60, special consumer needs of the elderly, and much more.

We had to give some thought to special problems of minority groups, but much more intensive attention is still needed here.

To manage so formidable an undertaking, the Committee resorted to two devices.

One was the mobilizing of subcommittees within this Committee to take on individual tasks. Thus, Senator Frank Church, as Chairman of the Subcommittee on Consumer Interests, conducted a hearing on consumer aspects of our subject. Similar hearings, also on specialized aspects of the overall inquiry, were conducted by: Senator Edmund Muskie, Chairman of the Subcommittee on Health (Health Aspects); Senator Frank Moss, Chairman of the Subcommittee on Housing (Homeownership Aspects); and Senator Jennings Randolph, Chairman of the Subcommittee on Employment and Retirement Incomes (Employment Aspects). These hearings, and others conducted on behalf of the full Committee, provided a hearing record of considerable magnitude and depth. To all those who participated as witnesses or as commentators whose views were transmitted by mail,[1] the Committee offers heartfelt thanks.

In addition to dividing the responsibility among subcommittees, the Committee also made intensive use of "working papers" prepared in advance of hearings in order to summarize major facts and to present recommendations by knowledgeable specialists from several fields. These Task Force members, and individual authors of several papers, also have the deep appreciation of this Committee. They were generous with their time and their concern about the issues before the Committee, and they served without fees of any kind. This "honor roll" has the following members:

"Economics of aging: toward a full share in abundance", a working paper prepared by a task force:

Miss Dorothy McCamman, *Consultant on the Economics of Againg, Special Committee on Aging;*

Juanita M. Kreps, Ph. D., *Dean of Women's College, Duke University;*

James H. Schulz, Ph. D., *Associate Professor of Economics, Brandeis University;*

Agnes W. Brewster, *Consultant on Medical Economics;*

Harold L. Sheppard, Ph. D., *Staff Social Scientist, W. E. Upjohn Institute for Employment Research.*

"Health aspects of the economics of aging", a working paper prepared by an advisory committee:

Agnes W. Brewster, *Consultant on Medical Economics;*

S. J. Axelrod, M.D., *Director, Bureau of Public Health Economics, University of Michigan;*

Melvin A. Glasser, *Director, Social Security Department, United Auto Workers;*

Bert Seidman, *Director, Department of Social Security, AFL–CIO.*

"Homeownership aspects of the economics of aging", a fact sheet prepared by:

Herman B. Bortman, *Chief, Research and Statistics, Administration on Aging, Department of Health, Education, and Welfare.*

"Economics of aging in Bergen County", a fact sheet prepared by:

Gladys Ellenbogen, Ph. D., *Professor of Economics, Montclair State College;*

"Social Security for the Aged: International Perspectives", a working paper prepared by: George F. Rohrlich, *Professor of Political Economy and Social Insurance, Temple University School of Business Administration.*

"Employment Aspects of the Economics of Aging", a working paper prepared by the National Council on the Aging's National Institute of Industrial Gerontology: Harold L. Sheppard, Ph. D. (*Upjohn Institute for Employment Research*), *Chairman* Norman Sprague, *Director;* Irma R. Withers, *Deputy Director.*

"Pension Aspects of the Economics of Aging: Present and Future Roles of Private Pensions", a working paper prepared by: James H. Schulz, Ph. D., *Associate Professor of Economics, Brandeis University.*

"The Stake of Today's Workers in Retirement Security", a working paper prepared by: Nelson H. Cruikshank, *President, National Council of Senior Citizens.*

Many of the Economics of Aging working papers were prepared under intense deadline pressure. In almost every case, the preparation of the documents was feasible only because the Committee was fortunate enough to have Miss Dorothy McCamman as consultant for this study. She was on hand when help was needed throughout this entire effort, from beginning to end. In a field to which she has already made many substantial contributions as a staff person within the Executive Branch and as advisor to private organizations, Miss McCamman has now added another major achievement which—it is hoped—will help lead this Nation more quickly to a goal she has long sought: true security for older Americans.

That same goal is sought by this Committee, and—as the following pages declare—that goal is attainable within the early part of this decade.

A clear-cut call to action is advanced in this report. It is in the interest of *every* American, whether now old or far from retirement, to heed that call.

HARRISON A. WILLIAMS, Jr.,
Chairman.

INTRODUCTION

"Aging is not easy to 'sell', to raise high in a list of national priorities. Much of America still looks for the fountain of youth . . . it is true that a minority of the national population is in the later years today—one in ten Americans is an older American. But 70 of every 100 babies born today may expect to live into their 70s . . . and so we truly speak for a majority.

"Let us speak well and loudly".—John B. Martin, U.S. Commissioner of Aging and Special Assistant to the President on Aging, in an address, Denver, Mar. 19, '70.

THE SELLING OF A SOLUTION

If, as is said in the excerpt above, aging is difficult to "sell" as a priority matter for national concern, it is all the more essential for this Committee to declare, as forcefully as it can, that:

Our Nation, during this thirty-fifth anniversary year of the Social Security program, has not yet resolved retirement income problems which severely damage the economic status, morale, and even the health of millions of Americans, including many well above the poverty line,

But that:

It is within the power of this Nation, if it takes full advantage of several unique opportunities during the remaining eleven or so months before the White House Conference on Aging—and in the months immediately following that Conference—to make the 1970's the decade in which this Nation will achieve its declared goal of "an adequate income in retirement in accordance with the American standard of living."[1]

In other words, the "selling of a solution" can be *made* to happen in 1971, and implementation can begin soon after.

As basis for these declarations, the Committee draws upon 2,000 pages of testimony, "working papers" prepared by task forces or individual authors, and from the data or counsel generously provided by dozens of others who have expert knowledge or direct personal association with the problems and programs described.

I. The persistence of crisis

This Committee began its inquiry into the Economics of Aging in December 1968. In the months that followed, during preparation of the first "Working Paper," it became clear that the Committee had an obligation to declare that the retirement income *problem* in the United States had become a retirement income *crisis.*

Not only were more Americans entering into retirement; they were spending more years as retirees because of a trend toward early retirement and because of sharp increases in the number of the "aged elderly," those past age 70. Not only was today's crisis visibly worsening, there was every reason to believe that—in terms of sheer numbers of people affected—it would most certainly be-

[1] Names of witnesses and others who sent statements may be found in the index which appears at the end of this report.

[1] As cited in the Older Americans Act, Public Law 89–73, July 14, 1965.

come even more severe unless major policy changes were made.

In December 1970, this Committee must report that, even with passage of a stop-gap 15 percent Social Security increase late in 1969, the crisis still exists. Details are provided in the next section, but the essential facts are these:

Two years ago, the aged had less than half the income of those under age 65. The same holds true today.

Two years ago, approximately 4.6 million people aged 65 and over lived below poverty levels. In December 1969, the latest date for which statistics are available, that number had *increased* by 200,000—and the number from ages 60–64 had also increased by 12,000: *it was only among these older Americans that the number of people living in poverty rose.*

Two years ago, the Committee received information that an alarming number of workers are retiring before age 65 and accepting reduced Social Security benefits, not because they preferred this form of "retirement", but because they had no choice. They were out of work, ill, or in marginal employment. There is good reason to believe that this trend is not slowing at all, but actually increasing.

Closely related to the trend above is widespread unemployment among workers who are 45 years old or older. Since January 1969, the number of jobless "older workers" has just jumped from 569,000 to 1,017,000. Their unemployment last longer than that of younger workers, and the older person has greater difficulty in finding work at the same pay level after prolonged "layoff." If current labor force participation trends continue, one out of every six men in the 55 to 59 category will no longer be in the work force by the time he reaches his 65th birthday. Ten years ago, this ratio was only one of every eight. *A new group of "aged poor" is in the making.*

Two years ago, this Committee expressed concern about the Medicare Part B Premium, which then cost the elderly $3 a month. It has now been announced that a new increase in 1971 will raise the monthly premium for the Medicare recipient to $5.60, or nearly double the original amount. And yet, the "Economics of Aging" hearing transcripts are crowded with statements on the hardships imposed upon many elderly who cannot really afford to pay any premiums at all.

During those same two years, price inflation for medical care was intense: the index rose from 147.4 in October 1968 to 167.9. Medicare provides less than 50 percent of all health care costs of the elderly; and for some individuals, the costs of uncovered care continue to be catastrophic.

Inflationary pressures in general are far more severe in 1970 than they were in 1968: the overall Consumer Price Index rose from 122.9 in October 1968 to 137.4. For elderly homeowners, the effects of inflation were especially severe because of the direct relationship between high-cost local government services or expenses (education, increases in public employees' salaries, etc.) and the local property tax.

II. Rationale for action in 1971

This report has already declared that the stage could be set in 1971 for early resolution during this decade of our retirement income crisis. That statement is based upon these facts:

Not since early 1960, when this Nation prepared for a White House Conference on Aging, has there been such nationwide interest in older Americans. As 1971 begins, plans are well-advanced for another White House Conference which could—if expressed intentions of the Administration on Aging are fulfilled—be even more incisive and more well-disciplined in terms of focusing upon a limited, but carefully chosen number of issues.

Surely, retirement income is one such issue.

This Committee, in the section which follows, offers specific recommendations which will set the stage for optimum effectiveness of the White House Conference on this issue. These actions would help assure that the White House conferees would grapple with the problems on terms which will help assure solutions in the 1970's.

The President of the United States has, within recent months, received a Task Force Report [2] which recommended revision of the proposed Family Assistance Program to raise all older Americans above the poverty line, far-reaching innovations in the private pension system, and major changes in Social Security. The Committee does not wholly agree with every proposal advanced by the Task Force, but does recognize that its report issues a clear call for action on a scale as yet unattempted in this Nation. The Task Force report builds upon the programs advanced by the President and his two predecessors. It is a major event in the development of a national policy on aging.

Within the Congress, a proposed cost-of-living adjustment mechanism within the Social Security System—sought by both Presidential candidates during the 1968 campaign, sought by the present Administration, sought by many individual and influential legislators—was passed by the House of Representatives. This action alone is a harbinger of more far-reaching actions that could be taken to reform Social Security.

But this Committee urges that the automatic adjustment mechanism have as a base more adequate benefit levels than those advanced in 1969 by the Executive Branch, and that the financing for any such measures be based primarily upon growth of the Social Security trust fund, rather than on additional, regressive taxes upon employee-employer contributions.

Congressional units, and the Executive Branch, have recognized that legislation should be enacted during the 92nd Congress for improvement of private pension coverage. This interest, culmination of several years of close scrutiny of the pension system, could produce additional, and important, impetus in our progress to a national commitment on retirement income.

Even more important than the factors described above is that action *must* be taken early in the 1970's because the problem is so grave.

To those who say that major reform is not possible in a Nation which is fighting a war, inflation, and at least semi-recession at the same time, this Committee points out that it is far more reasonable to assume that we in this Nation will resolve these problems, rather than succumb to them. It is also reasonable to assume that we will resolve them fairly early in this decade.

And therefore it is imperative that we be prepared to act in a spirit of confidence, rather than despair—to have an action plan ready to become reality.

On the pages that follow, several recommendations are made for legislative action. Several proposals are also made for what appear to be fact-finding mechanisms. Actually, the Committee is not calling as much for fact-finding as it is for problem-solving. An "Institute on Retirement Income," for example, is proposed—not for the sake of more "study" or because this Committee is uncertain about the need for action—but because such an institute can provide as-yet unavailable information that will help the Congress and the Executive Branch to make hard decisions on specific, concrete issues.

Here, within our grasp, are ingredients for a solution which now must be "sold" to policy makers within government, to informed persons throguhout the field of aging, no matter what their specialty; to older Americans, and to each young person who will some day find that today's solution for others will be his, too, in fewer years than he thinks. As a first step toward the "selling" of this solution, the Committee now offers its recommendations, followed by two sections in which witnesses and others who contributed to the study are quoted at some length.

[2] "Toward A Brighter Future For the Elderly," The Report of the President's Task Force on the Aging, April 1970.

[From the Philadelphia (Pa.) Evening Bulletin, Jan. 21, 1971]

POVERTY HITS THE AGED

It's not a reassuring picture that the Senate's special committee on aging draws of the income problems of millions of Americans getting up in years—

Inflation digging away at the base of their security; health and hospital costs constantly threatening financial disaster; unemployment depriving many now aged 55 to 59 of the last productive years they have remaining to set aside a nest egg.

According to the commitee, nearly five million persons over 65 are already existing in poverty conditions, and the number is steadily increasing.

Since January, 1969, the number of jobless men 45 and older has doubled to over a million. As bad as unemployment is for the young, it is akin to catastrophe for anyone too old to be easily retrained or too rooted to move where jobs might be available.

The report points out that unemployment for this age group lasts longer than it does for the young. Persons over 45 represented one-third of those out of work longer than 15 weeks and nearly 43 percent of those out of work for more than six months.

Thousands have not only lost work but also pension coverage when plants shut down. They have found it increasingly difficult to keep up premium payments on insurance which they planned as part of their retirement income.

Meanwhile, it has been ascertained that Medicare pays less than half the total medical care costs of the elderly, which averaged $692 during 1969 for a person over 65.

This grim report, two years in the making, should arouse support in Congress for a much-needed hike in Social Security. Sen. Harrison A. Williams Jr., New Jersey Democrat and chairman of the committee, plans to reintroduce his bill upping benefits by 10 percent.

But along with a boost in benefits, Congress might also look into ways of protecting private pension funds when plants fold and workers are caught without a vested interest; some better health insurance plan is overdue, not to mention adequate housing and nursing facilities for the elderly.

Senator Williams called the problems of the aging an "unnoticed crisis." With the report of his committee, the nation is now on notice. The question is, will the crisis be met?

[From the Home News, New Brunswick (N.J.) Jan. 20, 1971]

THE AGED POOR: A NATIONAL CRISIS

After two years of study, a Special Senate Committee on Aging, headed by Sen. Harrison A. Williams Jr. of New Jersey, has issued a report painting a dark and depressing picture of millions of older Americans living in poverty and ill health.

Declaring that "the retirement income problem in the United States has become a retirement income crisis," the report warns that both the number and the proportion of aged poor increased between 1968 and 1969,

with one out of every four Americans 65 and over now forced to live on a poverty-level income.

Senior citizens are especially hard-hit by rising medical costs, still inadequately covered by Medicare, and have suffered greatly because of the economic slowdown. Many older workers and their families have lost "more than their jobs," the report says. "Thousands have also lost their pension coverage—even though they may have worked most of their lives to provide a 'nest egg' for retirement."

While warning that a "new group of aged poor" might be in the making, the report expressed optimism that the 1970s could be "the decade in which this nation will achieve its declared goal of 'an adequate income in retirement in accordance with the American standard of living."

To reach that goal, the report suggested that Congress create an institute on retirement income, urged that a minimum income be set for Americans of all ages and proposed that "serious consideration be given to the use of general revenues in the financing of the Social Security system."

Senator Williams, in a preface to the report, appealed to the 92nd Congress to approve a 10 per cent increase in Social Security in 1971, a measure which died in a conference committee of the 91st Congress.

If this country is to give its older citizens the honor and dignity and security they deserve, more than lip service must be paid to the recommendations of this exhaustive report.

And beyond the obvious moral obligations of society to provide adequately for its senior citizens, the commission members reminded today's young person: "Today's solution for others will be his, too, in fewer years than he thinks."

ECONOMICS OF AGING

A report by the Senate's Special Committee on Aging, headed by New Jersey's Sen. Harrison Williams, has come up with a pretty grim picture of income problems among older Americans.

Coming after a two-year study of the economics of aging, the report finds that poverty increased among Americans over 65 years of age by 200,000 between 1968 and 1969, and by 12,000 for those from ages 60–64. For all other age groups, poverty declined by 1.2 million.

Older Americans are twice as likely as younger persons to be poor.

Aged Americans live on less than half the income of those under age 65, despite the stopgap 15 per cent Social Security increase of December 1969.

Our nation, says the report, has not yet resolved retirement income problems which severely damage the economic status, morale, and even the health of millions of Americans, including many well above the poverty line.

The report presents a clear case in favor of speedy enactment by Congress of the Social Security amendments adopted at the last session by the Senate, modified to include the House-passed provision for financing cost-of-living increases.

Social Security increases early in 1971, are a must.

Sen. Williams, whose record in Washington long has been distinguished by his efforts in behalf of the elderly, also had some pertinent comments on the report.

If there was any doubt about the crying need for Social Security reforms, he said, this report should dispel it.

Williams tells of what he calls the "unnoticed crisis" that springs from generally inadequate retirement income. He says it is intensified by new demands upon that income, and it is made more desperate by the fact that we have yet to declare a genuine national commitment for dealing with the crisis.

The new Congress should look to the Williams committee report for guidance in its determinations on the wide-ranging needs for Social Security reform.

THE TREATMENT OF JEWS IN THE SOVIET UNION

Mr. ALLEN. Mr. President, on Tuesday, December 29, 1970, the Birmingham Post-Herald editorially condemned repression in Russia with particular reference to sentencing two Jews to death for allegedly conspiring to hijack a Soviet airliner in an effort to escape to freedom. It is true, Mr. President, that the death sentences have since been commuted. However, the entire system of repression remains, Soviet secret police remain, firing squads remain, the crude barbarisms of extorted confessions remain, and a repressive system of Communist Party dictatorship remains, and the plight of Russia's unfortunate Jews remain. Mr. President, the editorial deals with these and other related questions. Hopefully, the editorial will serve to refresh our memories on the fundamental nature of Russian communism. It is for this reason that I commend the editorial to the thoughtful consideration of Senators and the public in general. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

JUDICIAL MURDER IN RUSSIA

Sentencing in Leningrad of two Jews to death and nine other persons to prison camps for allegedly planning to hijack a Soviet airliner is a brutal, repressive act that tells much about the Kremlin's police state.

We utterly oppose aerial hijacking—whether by Soviet Jews, Arab guerrillas, Black Panthers or assorted psychopaths. It is a crime that endangers innocent passengers and deserves to be punished.

But in the Leningrad case no hijacking took place. The worst that can be charged against the 11 defendants, nine of them Jews who wished to emigrate to Israel, is that they plotted to seize a Soviet plane and fly it to Sweden. To put two "Zionists" before a firing squad for that is savagely excessive punishment.

We have no idea if the 11 are even guilty as charged. Naturally, the trial was closed to the foreign press. No trial record has been or will be made public. The Soviets say all 11 "confessed, pleaded guilty and repented their crimes."

That means less than nothing. After a few weeks in the hands of the Soviet secret police, anybody will confess to anything. This is proved by writings ranging from Arthur Koestler's great novel Darkness at Noon to Khrushchev's famous secret speech to the 20th Soviet Communist Party Congress in 1956.

Also, the efficiency with which the KGB rounded up the Leningrad 11 and some 20 other Jews indicates that the police knew about the alleged "plot" all along. It is even possible that a police agent instigated the escape effort: the tradition of police provocations is strong in Russia, going back to Czarist times.

Interestingly, the Leningrad Jews are charged with violating article 64A of the Russian federation criminal code. This makes it treason to flee the country. All we can say is any country that makes it a capital crime to try to leave is not a country, but a concentration camp.

Recently, the Kremlin has been frightened by the stirrings of the more than three million Soviet Jews, many of whom wish to escape from government fostered anti-Semitism in the Soviet Union and go to Israel.

The reaction of the ruling clique of Communist hierarchs, secret police satraps and Soviet army marshals is in the purest tradition of the late despot Stalin: Arrest, beat, exact confessions, stage show trials, execute—and thus terrorize the survivors into docility.

The new repression is not only aimed at Russia's unfortunate Jews. It is also meant to silence non-Jewish dissidents, scientists, writers and intellectuals who have courageously demanded civil rights and the freedom to think and speak.

In Russia there are no independent courts or judges in political cases. The guilty verdict and death sentences in Leningrad were decided by the Communist Politburo. If Mark Dymshits and Eduard Kuznetsov die before a firing squad, mankind will remember that the trigger fingers belonged to Brezhnev, Kosygin and their cohorts.

PRIVATE-SECTOR INVOLVEMENT IN INDIAN AFFAIRS

Mr. KENNEDY. Mr. President, almost a year ago, after the issuance of the final report of the Special Subcommittee on Indian Education, I became interested in the extent of involvement of the private sector, as well as the Federal Government, in Indian affairs. Information on who in the private sector was doing what had never been brought together. Thus I initiated a survey of various private entities so that the Government, the private sector, and American Indians would have a fuller awareness of what the private sector was doing—and could do—to assist the Indian people.

A number of church groups have been extremely active in assisting American Indians and Alaska natives. Sectarian involvement in Indian affairs includes the Bureau of Catholic Indian Missions, the United Presbyterian Church, the National Council of Churches, the American Baptist Home Missions Society, the Episcopal Church, the Methodist Church, the American Friends Service Committee, the Reformed Church in America, and the United Church of Christ. These church organizations expend annually over $8 million on projects relating to Indian affairs.

Foundations have also played an increasingly important role in supporting programs and projects relating to Indians. Last spring I wrote over 120 of the largest foundations asking for a description of past involvement with Indian projects and current plans that were or might be related to Indians. I have compiled a preliminary list of those foundations who have demonstrated or suggested an interest in Indian matters. Category A represents the highest degree of involvement in Indian projects. Category B contains those foundations with limited involvement in the area; and the final category C consists of foundations who indicated an interest in Indian affairs but who have not in the past 5 years been involved in this field. Mr. President, I would like to have this list,

along with brief descriptions of some of the activities of those foundations listed in the first category, printed in the RECORD at the end of my remarks.

A large number of letters come into my office daily concerning American Indians. Many of them contain proposals for programs that need funding. I hope that the list of foundations below will aid these correspondents in finding sources of funding for their projects. Of course, the Federal Government makes a large number of grants for projects relating to Indians and Alaska Natives, generally through the Bureau of Indian Affairs, the Office of Education, the Public Health Service, and the Office of Economic Opportunity. These agencies, whose relevant offices are listed below also, have proved to be valuable resources for funding useful and imaginative proposals.

A number of colleges and universities are also becoming more and more involved with Indian affairs—not through the traditional approach of studying the Indian, but through special studies programs, and community outreach programs. I fully support such efforts and hope that alumni and other funding sources will respond to the needs in this area by supporting these college and university programs.

A few national organizations with general membership, who are involved in promoting and supporting the programs and efforts of native Americans, have played an important role. Their activities should be recognized and applauded, and I have always found them helpful and responsive in matters in which they were involved that are related to my own activities. A listing of these organizations are attached also.

Mr. President, I realize that I have probably inadvertently left certain organizations or offices off my lists. I do not pretend to be presenting an exhaustive and complete survey of those who are involved in Indian matters on a national level. But I hope that this presentation will prove useful in spurring greater involvement in Indian matters by the private sector, and as well in directing Indians, tribes, and groups to those who may be helpful.

I ask unanimous consent to have this material printed in the RECORD.

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

I. FOUNDATION INVOLVEMENT AND INTEREST IN INDIAN AFFAIRS

CATEGORY A—HIGHEST FUNDING

Arrow, Inc., 1346 Connecticut Ave., N.W., Washington, D.C.

William H. Donner Foundation, Inc., Franklin A. Johnson, President, 711 Lincoln Building, 60 East 42d St., New York, N.Y.

The Field Foundation, 100 East 85th St., New York, N.Y.

W. K. Kellogg Foundation, Philip E. Blackerby, President, 400 North Ave., Battle Creek, Mich.

Louis W. and Maud Hill Family Foundation, Robert W. Bonine, Assistant Executive Director, W-975 First National Bank Building, Saint Paul, Minn.

Max C. Fleischmann Foundation, Julius Bergen, Chairman, 405 Union Federal Savings and Loan Assoc. Bldg., 195 South Sierra St., Reno, Nev.

The Luke B. Hancock Foundation, 770 Welch Road, Courtney J. Catron, Chairman of the Board, Palo Alto, Calif.

Carnegie Corp. of New York, Barbara D. Finberg, Executive Associate, 437 Madison Ave., New York, N.Y.

The Ford Foundation, Siobhan Oppenheimer, Program Officer, 320 East 43d St., New York, N.Y.

CATEGORY B—LIMITED INVOLVEMENT

Great Western United Foundation, Michael C. Moore, Program Director; Equitable Building, Denver, Colo.

Humble Oil and Refining Co., Public Affairs Department, Legislative and Political Affairs, Kenneth P. Fountain, Coordinator, P.O. Box 2180, Houston, Tex.

Josiah Macy, Jr. Foundation, 227 Park Ave., New York, N.Y.

Presbyterian Medical Services, P.O. Box 2384, Jack Schacht, Development Director, Santa Fe, N.M.

Wieboldt Foundation, R. M. Johnson, Executive Director, 29 South La Salle St., Chicago, Ill.

New York Foundation, Bernard L. Friedberg, Senior Associate, 4 West 58th St., New York, N.Y.

The Glenmede Trust Co., Allyn R. Bell, Jr., President, 1608 Walnut St., Philadelphia, Pa.

Richard King Mellon Foundation, Elston R. Law, Associate Director, 525 William Penn Pl., Pittsburgh, Pa.

The Arthur Vining Davis Foundation, William R. Wright, Executive Director, Box 2238, Miami, Fla.

Raskob Foundation for Catholic Activities, Inc., Gerard S. Garey, Executive Secretary, 1205 Hotel Du Pont, Wilmington, Del.

The Danforth Foundation, W. David Zimmerman, Vice President, 222 South Central Ave., St. Louis, Mo.

Rama, Inc., Suite 905, The Watergate Office Building, 2600 Virginia Ave. N.W., Washington, D.C.

Rosenberg Foundation, Mrs. Jackson Chance, Executive Director, 210 Post St., San Francisco, Cal.

Joint Foundation Support, Inc., Mrs. Elizabeth W. Troubh, Executive Director, 575 Madison Ave., New York, N.Y.

The New York Community Trust, Miss Isabella H. Sommerhoff, 415 Madison Ave., New York, N.Y.

The Cleveland Foundation, Greater Cleveland Associated Foundation, Seymour Slavin, Foundation Associate, National City Bank Building, Cleveland, Ohio.

The Kresge Foundation, William H. Baldwin, President, 211 Fort St. West, Detroit, Mich.

Boettcher Foundation, John C. Mitchell, Executive Director, 818 Seventeenth St., Denver, Colo.

The Charles E. Merrill Trust, David A. Thomas, Administrator, P.O. Box 488, Ithaca, N.Y.

The San Francisco Foundation, L. A. White, Associate Director, 425 California St., San Francisco, Calif.

Phoebe Waterman Foundation, Inc., 330 Boulevard Building, Richard K. Bennett, 1819 John F. Kennedy Blvd., Philadelphia, Pa.

United States Steel Foundation, Inc., Howard B. Barr, Vice President and Executive Director, 71 Broadway, New York, N.Y.

CATEGORY C: THOSE WITH NO INVOLVEMENT SINCE '65 BUT WITH INTEREST

Lilly Endowment, Inc., Mr. John S. Lynn, General Manager, 914 Merchants Bank Building, Indianapolis, Ind.

The New World Foundation, Mr. Vernon Eagle, Executive Director, 100 East 85th St., New York, N.Y.

El Pomar Foundation, Mr. William Thayer Tutt, President, Broadmoor, Colorado Springs, Colo.

The Louis Calder Foundation, Mr. Reinhold Dreher, Trustee, 10 Rockefeller Plaza, New York, N.Y.

The Andrew W. Mellon Foundation, Mr. Charles S. Hamilton, Jr., President, 140 East 62nd St., New York, N.Y.

Edward John Noble Foundation, Mr. Alger B. Chapman, Executive Director, 32 East 57th St., New York, N.Y.

Independence Foundation, Mr. Robert A. Maes, President, 2500 Philadelphia National Bank Building, Philadelphia 7, Pa.

Alfred P. Sloan Foundation, Mrs. Muriel P. Gaines, Assistant Secretary, 630 Fifth Ave., Rockefeller Center, New York, N.Y.

The Grant Foundation, Inc., Mr. Philip Sapir, Director, 130 East 59th St., New York, N.Y.

Rockefeller Brothers Fund, Dana S. Creel, Office of the President, 30 Rockefeller Plaza, New York, N.Y.

Zale Foundation, Mr. Warren D. Bachelis, Executive Director, 512 South Akard, Dallas, Tex.

Firestone Foundation, Mr. Joseph Thomas, Executive Director, 1225 West Market St., Akron, Ohio.

The Hazen Foundation, Paul J. Braisted, President, 400 Prospect St., New Haven, Conn.

Woodrow Wilson International Center for Scholars, Mr Albert Meisel, Smithsonian Institution Building, Washington, D.C.

Charles Stewart Mott Foundation, Mr. C. S. Harding Mott, 500 Mott Foundation Building, Flint, Mich.

Stern Fund, Mrs Marilyn Klein, 21 East 40th St., New York, N.Y.

DESCRIPTION OF ACTIVITIES OF CATEGORY "A" FOUNDATIONS

ARROW, INC.—A REPORT ON CURRENT PROGRAMS

The programs that Arrow is currently sponsoring reflect our long-standing emphases on the areas of American Indian life that we feel are most crucial and to which we feel we can best make our contribution: management training in all aspects of Indian commuity life, economic development of Indian lands, and assistance to Indian youth.

Though limitations of staff and funds make it impossible to pursue each of these areas fully and constantly, Arrow has made a significant contribution to each. Through cooperation with other organizations, both private and government, and through careful concentration of Arrow's assets in the areas where they will provide maximum returns, we have made noteworthy progress with all our programs.

I. Management training institute program

Management training for Indian leaders, has, to date, been sorely neglected by both private and government groups. Training programs sponsored by the government reach less than 20% of the approximate 2500 elected Indian leaders annually. As the management of, or the potential management of, almost a half million Americans who live on and own 52 million acres of land, Indian leadership is analogous to the "management groups" in private business. And almost all large business groups in the nation, many of which have less resources and potential than the American Indians, have regular training and review sessions. It is widely accepted that these sessions contribute significantly to the efficiency and productivity of businesses.

Training for Indian leaders requires regular workshop sessions in management that are geared to today's American Indian. It requires both knowledge of and sensitivity to the unique forces in Indian community life: isolation of reservation areas, lack of proper communication, and the traditional outlooks of the Indian people. Arrow's Management Training Institute program concentrates on providing training for Indian leaders upon those leaders' requests, utilizing the talents of men and women who have a

good understanding both of management techniques and of the American Indian's way of life.

Since the summer of 1968, Arrow has sponsored fourteen Management Training Institutes covering a wide range of topics. A total of over 275 Indians have participated in them, and each institute has been judged successful by its participants. Following are descriptions of a few of the most important of those sessions. (A complete report on each Institute is available at the Arrow office.)

Indian Elders Management Training Institute, Denver, Colorado. Co-sponsored by The Myrin Institute for Adult Education.

During the course of the Myrin Institute conference on Indian lore, six elderly American Indians, all of whom have held positions of authority within their Tribes, spoke at length with Mr. Sylvester Morey and Dr. Franz Winkler of the Myrin Institute of New York. The elders were asked to speak about their early spiritual training, their people's traditional religious beliefs, and their attitudes toward nature, mankind, and white society. Both Mr. Morey and Dr. Winkler have a deep interest in American Indian life. Mr. Morey has written an article entitled "American Indians and Our Way of Life," in which he suggests that a melange of some seemingly irreconcilable facets of Indian and Anglo life could lead to a healthy, harmonious life style for all American people. The discussions at the Indian Elders' Institute were all recorded, and with the help of Dene Curtis (Cherokee) of the BIA in Washington, they were transcribed. After some editing work on the part of the Myrin Institute and some gathering of biographical data on the elders on the part of Arrow, the 156-page transcript is now ready for publication. Robert L. Bennett has written an introduction to the volume.

Indian Court Judges' Management Training Institutes

The Management Training program for Indian Tribal Court Judges has yielded some particularly exciting results since its inception in June, 1968. At the Washington, D.C. Institute March 26–28, the Judges elected a Board of Directors and incorporated as the National American Indian Court Judges Association (NAICJA). The Washington meeting also afforded the Judges an opportunity to discuss in depth with government agency officials the potential funding available to the Association and to individual courts from the federal government. Representatives of the Law Enforcement Assistance Administration in the Justice Department, the Juvenile Delinquency Office of HEW, and the Federal Judicial Center made lengthy presentations.

At the Denver Institution, May 14–16, the Judges provided substantial information on what they feel their courts need most. That discussion covered everything from judicial robes to expanded staff and facilities and comprehensive probation and parole programs.

During the Albuquerque Institute, June 16–19, each of the Directors of NAICJA led an institute session followed by a discussion period. Fifty-seven court officials from the Albuquerque, Navajo, and Phoenix Areas were in attendance; all requested further information on NAICJA and membership therein. The Custer Institute, held September 12–14, met with similar success. Interest in finding more about and in joining the new Judges' Association was again universal, and Institute sessions were judged extremely educational by the 54 participants. Robert L. Bennett, past Commissioner of Indian Affairs; Gorden Mydland, South Dakota State Attorney General; and James Gamble, professional staff member of the Senate Interior and Insular Affairs Committee, were present at Custer.

A third expanded Indian Judges training institute is being planned for late this year. Invitees to this institute will include members of the Northwest Judges Association. (Arrow's Executive Director and NAICJA members had the opportunity to speak with representatives of the Northwest Judges Association at the National Congress of American Indians convention, held October 6–10 in Albuquerque. At that time, the Northwest group expressed definite interest in working closely with the national Judges' Association as a group.) The next Judges' institute should complete NAICJA's canvass of Indian judges throughout the United States, and prepare the Association for future efforts on a national basis.

NAICJA's emphases are on research, education, and communication, all of which it hopes to foster through the Judges' institutes. Its purpose is to upgrade the tribal court system in the United States through professional advancement and continuing education.

Navajo Agricultural Products Industry Management Training Institute, Farmington, New Mexico—August 14–16, 1969

One of Arrow's most recent Management Training Institutes was for the directors of the Navajo Agricultural Products Industry, an organization that will put to use the resources provided by the Navajo Indian Irrigation Project. Arrow's Executive Director attended the Institute, which included a tour of the Irrigation Project area and of former Arizona Governor Bolack's "B Square" Ranch, a model of agricultural accomplishment in desert regions.

The Navajo Indian Irrigation Project is now 16% complete based on the ratio of funds expended for project cost. When completed, it will place San Juan County, New Mexico among the top thirty counties in the United States in irrigated acreage, and it will bring an improved living standard to an estimated 30,000 Navajos through increased employment.

Members are now being selected to serve on the Board of Directors of the Navajo Agricultural Products Industry, which is a recent offshoot of the Irrigation Project. The Industry seeks to provide sound business management for the development of Navajo Reservation lands to their fullest potential. This will include overseeing the raising, processing, and marketing of produce grown at Navajo, the attraction of industry to the area, and the training of young Navajos in the management of the Industry to assure its self-perpetuation. One of the programs discussed at the Farmington Institute with which Arrow hopes to be helpful in the future is the training of selected representatives of the Industry in desert irrigation and agricultural production techniques. A training mission to Israel has been proposed for approximately six Indians to learn first-hand what the most effective techniques are.

II. Economic Development

"Tools for Training" Project

The ideal of each of Arrow's Management Training Institutes is positive concrete follow-up, especially in the field of economic development. During an Institute held at Idaho State University in Pocatello in 1968, a discussion was held on concrete follow-up at the reservation level. The Institute participants listed a number of ideas for economic development projects which could be initiated and carried through on reservations. A repeated observation of this discussion was that machinery, such as drills, grinders, cutting implements, etc., was needed in order to set up training for any project. Arrow's Director pursued this problem in further talks at Pocatello.

As a result, Arrow obtained donations of tools and machinery that were obsolete by the companies' standards, but still in good working order. The results have been heartening. We have not only distributed a number of tools and tool sets in Indian country, but we have put into motion the "Tools for Training" program sponsored by Arrow.

Operation Mainstream Project

Last fall, at the request of Tony Lincoln, a Navajo economic development official, Arrow negotiated a contract with the Navajo Concentrated Employment Program (under the Navajo Office of Economic Opportunity) to undertake sponsorship of Operation Mainstream. This program is designed to employ, on a short-term basis, Navajos for whom the conventional sources of employment assistance are closed. (Some of this program's participants had never held a permanent job before.)

An Arrow-Operation Mainstream office was set up in Gallup, New Mexico, and Mr. William Collins, Jr., a Navajo, was chosen as Project Director. The projects to which Operation Mainstream enrollees were assigned to assist other Navajos and included clean-up work, remodeling of chapter houses, and assistance in schools and in U.S. Public Health Service hospitals on the Reservation. Enrollees were held in Operation Mainstream projects until a place was found for them in vocational training programs, which in turn availed them of the opportunity to find permanent employment in the area. By last July, when Arrow's contract for Operation Mainstream sponsorship expired, the program was operating at full capacity with approximately seventy-five enrollees per week. It had an all-Navajo staff, including the Project Director, office personnel, and regional project supervisors. Mainstream was transferred to sponsorship by the Navajo Concentrated Employment Program, where it continues to provide the above-mentioned services. Arrow is pleased to have been helpful in getting Mainstream started; we feel that its approach and aims are most important to the Navajo Reservation.

III. Youth

One of Arrow's major interests continues to be in American Indian youth. All Arrow programs are designed to contribute to a better future for Indian people; Indian youth *are* that future.

Summer Youth Work-Experience Program, 1969

The Summer Youth Work-Experience Program has finished its second highly successful year of placing Indian youth in positions in National Parks and Monuments in the Southwest, Dr. Irving Handlin, who spent many hours with the program again this year, has provided us with a lengthy report on the summer of 1969. Through the efforts of Dr. Handlin, Jerry Tuttle (United Pueblo Agency, Albuquerque), Elizabeth Marcus and James Atcitty (Neighborhood Youth Corps), Frank Kowski (Regional Director of the National Park Service), and many others, ninety-four Indian youth were employed this summer, an increase of 50% over last summer. New positions were created for these young people not only with the National Park Service, but also with the General Services Administration and with the U.S. Forest Service, the last two being new to the program this year. Over twenty Indian youth will return with full-time jobs in the National Park Service next summer, as a result of the work they did this year. As during last year's program, this year's employees utilized their talents in a variety of ways. Some, for example, worked on horse patrol, some conducted tours, some gave live demonstrations of Indian craft work, and some took on heavy laborers' tasks.

The fact that the 1969 summer program was even more successful than the 1968 program despite a cut in operating funds speaks highly not only of the program itself but of the dedication of everyone directly involved with it. When there was no money to transport the summer employees to and from the parks, a number of concerned people offered

their own time and gasoline to provide that service. There was volunteer counseling, willing provision of housing for the young people, and a good deal of initiative used in just plain scrounging some needed equipment and supplies.

Suggestions have been made for next year's program, and plans are now being made as well. It is hoped that next year's summer park employees will be better prepared ahead of time to meet the challenges of working away from home with minimal housing and general supplies (although next year's group could hardly be more determined than this year's was to meet those challenges once faced with them). It is also hoped that more individual counseling can be provided for next year's employees and their families. One most interesting prospect for the 1970 program is the initiation of a study on future permanent positions for young Indian people with the U.S. Forest Service.

Supplemental Scholarship Assistance Program, 1969–1970

Arrow has had the privilege of administering scholarship funds in larger amounts this year than in previous years. With funds from several sources, including the Jonathan Winters-Andy Williams benefit performance held last year in Los Angeles, Arrow has so far assisted more than thirty young Indian students with $5900. The scholarship fund from the benefit performance is earmarked for Indians living and/or attending school in California, and is still relatively full at this time. We continue to receive requests for financial assistance and to send our scholarship forms and make evaluations as they are returned. We are limiting our assistance to supplemental scholarships, modest in amounts. In this way we can assist a larger number of students for whom a small grant can make the difference between being able to attend college and not being able to attend.

We have given assistance both on the undergraduate and the graduate level, to Indian students pursuing studies in law, public health, psychology, art, and a number of other fields. One of our most recent grants was to provide transportation to Albuquerque for two students chosen by the Phoenix Indian School student council, so they could attend the Judges' Association meeting and the National Congress of American Indians conference October 6–10.

Poster Contest, March 11, 1969

At a luncheon held March 11th at the Congressional Hotel in Washington, Arrow presented awards to the four Indian students whose posters were judged the best of 159 entries in the BIA-Arrow sponsored Poster Contest. Robert L. Bennett, then Commissioner of Indian Affairs, Congressmen Ben Reifel and Ed Edmondson, and Mrs. Stewart Udall were on hand to congratulate the winners and help present the awards. The posters were all on the Contest theme, "Discover America With The First Americans." The students had combined ancient Indian motifs and coloring with modern design to produce exceptional artistic work. The awards, all provided by Arrow, included $300 in scholarships.

After the luncheon, the students visited Congressman Ray Madden and Congresswoman Julia Butler Hansen in their offices. Tours of Washington, D. C., and New York City were arranged for the students with the help of Arrow and BIA personnel. The three top prize-winning posters are now being marketed by the BIA; they are available to the general public, as well as to Indian interest organizations who may wish to resell them.

Other Youth Interests, 1969

Arrow continues to maintain its ties with, and interest in, the Council of National Organizations for Children and Youth, and the United States Youth Council.

We continue to work with Ray Sweazey of the Boy Scouts of America on Indian scouting programs. We recently provided scholarship grants of $50 each to four recipients chosen at the Spearfish, South Dakota Twelfth American Indian Tribal Leaders' Conference on Scouting.

A national social sorority with chapters all over the country, is now engaged in a fund-raising campaign, the proceeds of which are to go to Arrow. We have, since last spring, been providing small amounts of assistance to individual families and to several programs with funds raised by the sorority. A portion of the funds raised this year will hopefully be contributed to the Agricultural Products Industry for the study mission to Israel described above.

Keyette International, a branch of the nationwide high school girls' service and scholastic honorary, has recently chosen Arrow, Inc. as its annual social service project. We are now awaiting word from Keyette's social service chairman as to when their fund-raising activities will begin.

Miscellaneous

To the best of our ability Arrow responds to requests from Indians and Indian leadership. A number of requests have been filled such as: (a) An Indian's house with everything in it burned to the ground and there was no insurance. We provided clothing and emergency funds; (b) Several hundred dollars was provided to a Reservation area where heating homes in the winter is a major problem. This money paid for transportation costs and hourly wages to Indians for their services to cut and haul fire-wood to many of the homes, most of which do not have central heating as we know it in the cities; (c) A speaker to provide the Indian point of view was needed at a national sorority convention and Arrow provided the speaker; (d) The Independent Order of Forresters gathered, screened, cleaned and pressed 2,500 lbs. of clothing to be donated to Indians. Arrow arranged for its proper distribution and provided the shipping costs; (e) A local church needed a small amount of money to complete the financing of their summer youth work-camp at the Northern Cheyenne Reservation, Arrow provided the needed supplemental finances; (f) Arrow participated in the President's Commission on Human Rights meeting; (g) is now participating in preliminary planning meetings to prepare for its role in the 1970 White House Conference on Children and Youth; and (h) Arrow is considering ways in which to be of assistance to Indians who have relocated to urban areas.

Finances

Unlike many Foundations—such as Ford and Rockefeller—Arrow does not have a fixed or certain source of income. All Arrow money must be raised either through appeals for contributions or through proposals to Foundations, government agencies, or individuals for grants usually for specific projects. Your Executive Director has been and continues to provide both the fund raising and the program organization and administration services. Therefore, you can understand when I express my appreciation to each of you for having assisted in one way or another during 1969. Nancy—now Mrs. Nancy Tune—has provided us with excellent help during this year but she will be leaving in December to locate in the San Francisco area with her husband, Dr. Tune. I will be employing one full and/or two part time Indian assistants in an effort to modernize Arrow's files and records, as well as to carry on our current programs. Hopefully, we will move into somewhat larger quarters in the near future.

The Executor of the Custer Estate in Phoenix is not yet ready to discuss preliminary details of the proposed Custer Library project. However, your Executive Director will be meeting with the bank and their attorneys during the next two months and will have a report about the first of the year. The Executive Director has suggested that the first step be to obtain the preliminary research needed to develop basic definitions, content, direction and alternative location sites for the Custer library. Nor has the Executor made a final report on the gift from Mrs. Sexton. However, funds received from this source, which is now in restricted status by action of the Board, are to be invested in U.S. Treasury Bills and draw 7 percent plus interest. Funds raised through contributions are also to be placed into the reserve fund authorized at the April and May, 1969, Board of Directors meetings, to assure financing for Arrow overhead and administration for the immediate years ahead.

CARNEGIE CORPORATION
OF NEW YORK,
New York, N.Y., May 15, 1970.

Hon. EDWARD M. KENNEDY,
United States Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Alan Pifer has referred your letter of April 28 (which for some reason did not reach us until May 11) to me for reply because of my particular interest in Indian affairs. We are glad to provide the information necessary for your survey of activity by the private sector in Indian affairs and look forward to receiving a copy of the survey.

The grants that Carnegie Corporation has made for Indian programs since 1965 are:

United Scholarship Service—For a counseling and fellowship program for graduate work for Indian and Spanish-American college students, $150,000—1967.

National Indian Youth Council—For a study and demonstration project in Indian education; grant administered by the Far West Regional Laboratory for Educational Research and Development, $95,000—1967.

Far West Laboratory for Educational Research and Development—For completion of the program in Indian education begun under the auspices of the National Indian Youth Council and transferred, at its request, to the Laboratory. The report of the study is expected to be available in June; we have asked the Laboratory to send you a copy as soon as it is published, $73,800—1968.

National Indian Training and Research Center—For support of the Center's program to develop Indian leadership and to orient those working with Indians to Indian life and culture in order that Indians may improve their educational, social, and economic conditions through self-help programs, full use of the resources available to them, and the stimulation of new resources, $100,000—1969.

Dine, Inc.—For the development of Navajo curriculum materials at Rough Rock Demonstration School, $75,500—1969.

The Corporation is a foundation primarily concerned with education, and our interest in Indians has derived from our interest in the education of the disadvantaged. Our grants reflect our preference for projects that have been developed and conducted by Indians and that have implications and perhaps applications beyond the immediate project. These include an interest in the higher education of Indians to provide leadership, services, and models to their own people, which was the principal reason for our making the grant to the United Scholarship Service, Inc. We do not, as a general policy, make grants for undergraduate scholarships, and even general graduate fellowship support, such as the USS grant, is rare for the Corporation. Grants for graduate study are usually related to specific program developments as, for example, the development of new competencies in early childhood education or medical economics.

We have appreciated your interest in Indian education, for in this area, as in all other Indian programs, the public and pri-

vate sectors need to examine much more carefully our real objectives in Indian affairs and the alternative methods open to us to achieve those goals.

Yours sincerely,

BARBARA D. FINBERG.

WILLIAM H. DONNER FOUNDATION, INC.

Re Formation of an American Indian Scholarship Corporation.

Introduction

1. This memo is designed to ascertain the views of the Board of Trustees on my initiating action to set up, and fund, with other foundations, for a three to five year period, a national organization whose limited purpose would be the award of scholarships, fellowships and research grants to American Indian students and scholars. This item will be on our January Board of Trustees meeting agenda, but I welcome your comments beforehand.

Need

2. In the 2½ years of William H. Donner Foundation's interest in Indian affairs, in which $998,500 in grants has been appropriated,* I have observed with dissatisfaction both the national Indian associations and the Bureau of Indian Affairs in their educational work on behalf of Indians. The reasons need not be detailed here, but the fact is that the moneys available to Indians, especially at the graduate and professional level, from both public and private sources, is pitifully small. One reason is lack of effective raising of money for this purpose, and this in turn is partly due to the absence of a nationwide private organization to do so. Of the two national bodies which could do so, one is discredited in the eyes of whites and Indians alike by a propagandistic policy (besides a chief concern for secondary students), the other is solely interested in the secondary level. I am exploring further a third remote possibility, the fledgling National Indian Training and Research Institute.

3. Yet a desperate need for funds lies just ahead—Bureau of Indian Affairs aid now goes to 4,200 undergraduates, yet not over $3,850,000 of federal funds (10 times that of 10 years ago) is available to these students. Only 1.1% is available from BIA, and virtually nothing from other agencies, for graduate students. The dropout rate among Indians is very high, twice the national average, but it is dropping, and so we can see ahead a horde of graduate students, many being responsible older persons with families, whose leadership and skills are sorely needed, but who cannot afford to seek masters and doctors and law degrees. (Estimates are that we have about a dozen practicing Indian lawyers, 15 Ph. D's and Ed. D's, and 30 physicians, in 1969, 241 Indians got bachelor's degrees with BIA aid.) As the BIA seeks more Indians for ranking jobs, the scarcity of the qualified persons will worsen. The present and past Commissioners of Indian Affairs inform me that there is little likelihood of increased BIA funding soon; even now funding undergraduates is by the term, not year, for financial reasons. In a Report to the Commissioner requested by Bob Bennett (December 31, 1968), it is pointed out that little opportunity for urban Indians for academic higher education, contrasted to vocational education, is available (pp. 11, 12, 14, 33). Although the creation of an organization such as is sketched below stretches the immediate resources of the William H. Donner Foundation, I have reluctantly concluded that the need warrants creation of a new body of limited purpose.

A conference of heads of 16 leading university Indian programs, called on December 8 at Albuquerque by the Foundation, clearly showed both a growing academic expertise and interest, and a concern about the Indian talent unable to find financial help in the usual university scholarship programs.

We now have before us proposals from colleges concerning Indian scholarship programs; we have approved two thus far, at Brigham Young University and Wisconsin State University.

Organization and functions

4. The corporation would consist of a Board of Trustees, Executive Director, and a staff of one or two. The trustees would consist of representatives of the sponsoring foundations, the Executive Director, the Commissioner of Indian Affairs, and a minimum of one-third the total membership selected from the Indian community.

The Executive Director, preferably an Indian respected by the tribes, and experienced in student scholarship and financial aid matters, would assay applications, handle grants coordinated with the Bureau of Indian Affairs scholarship efforts, deal with universities, and raise funds. His headquarters should be in the West, probably Albuquerque, which is central to Indian students and is also the site of the Bureau of Indian Affairs' national scholarship office. Details of this entire operation should be developed after consultation on methods with the National Merit Scholarship Corporation, the Woodrow Wilson Foundation, and others.

Finances

5. The William H. Donner Foundation would expect to provide the initial organizing, and a grant of $100,000 p.a. for a minimum of three years, for both scholarship funds and overhead. We would need the cooperation and help of others, such as Mrs. Moses, the Arthur Vining Davis Foundation, the Doris Duke Foundation, and the Hancock Foundation.

Recommendation

6. What I should like at the January Board of Trustees meeting would be an authorization to research further the solution to this problem, with full understanding of costs we might eventually incur.

*1968—$305,000. 1969—$693,500.

THE FIELD FOUNDATION,
New York, N.Y., June 30, 1970.

Senator EDWARD M. KENNEDY,
United States Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: We delayed replying to your inquiry of April 28 until after our June board meeting, knowing that several Indian matters would be on the agenda of that meeting. The attached listing gives, therefore, an up-to-date report of our grants since 1965 and one that is complete through our 1970 fiscal year.

With best regards,

Sincerely,

LESLIE DUNBAR.

THE FIELD FOUNDATION, INC.

Grants for American Indian programs made since October 1, 1964–June 30, 1970

All Indian Pueblo Council, Albuquerque, N. Mex. (with administrative support from NCAI Fund, Washington, D.C.): Toward the Council's community development programs (1966—$24,650; 1967—$25,000; 1968—$25,000; 1969—$25,000; 1970—$25,000), $124,650.

American Indian Development, Boulder, Colo.: To help meet costs of six-week summer workshops for American Indian college students on Indian culture, history and current problems. (1965—$5,000; 1967—$15,000; 1970—contingent $15,000), $35,000.

Bacone College, Bacone, Okla.: For in-service training of faculty at this American Indian college and for on-reservation summer remedial program for its American Indian students, during 18 months beginning 1/1/66, $6,600.

Citizens Advocate Center, Washington, D.C. (with administrative support from Center for Community Change, Washington, D.C.): For the Advocate Center's Indian Task Force Project, which assisted in the preparation and publication of study titled: *Our Brothers' Keeper,* $25,365.

Commission on Indian Affairs of State of New Mexico, Albuquerque, N. Mex. (with administrative support from University of New Mexico Law School, Albuquerque): Toward the Commission's project to help tribes of New Mexico in their programs to reform and strengthen tribal governments (1968—$25,000; 1969—$20,000; 1970—$15,000), $60,000.

Eight Northern Pueblos Organization, Santa Fe, N. Mex. (with administrative support from American Friends Service Committee, Philadelphia, Pa.): Toward cost of the Eight Northern Pueblos Organization's tribal information program, during 1968, $1,500.

National Indian Youth Council, Albuquerque, N. Mex.: For central administrative costs, year beginning 6/1/69, and year beginning 6/1/70, $79,300.

NCAI [National Congress of American Indians] Fund, Washington, D.C.: Grants were made toward establishing the Fund (1965–$10,000) and toward its general support (1966–$45,000; 1967–$46,000; 1968–$40,750), $141,750; Toward legal costs of gaining official tribal status for the Tigua Indians, El Paso, Texas, $3,000.

University of New Mexico Law School, Albuquerque: Toward program planning for the Indian Law Center during 1968, $10,000; toward support of American Indian work carried on by the School's Legal Research Services Department, 1969–70, and 1970–71, $40,000.

Original Cherokee Community Organization, Tahlequah, Okla.: (with administrative support from NCAI Fund, Washington, D.C.): For pilot project in legal education by Stuart Trapp, Esq., $24,600; For support during 1967–68 of OCCO newsletter and other tribal communications, $10,000; Toward general support during 1968–69, $42,584.

Original Cherokee Community Organization, Tahlequah, Okla.: For a legal education program ($29,500) and toward central administrative costs ($13,000) during 1969–70, and 1970–71, $85,000.

Phillips Brooks House Association, Cambridge, Mass.: Toward 1966 costs of American Indian Project and support of American Indian participants, $6,075.

Rough Rock Demonstration School, Ariz. (with administrative support from DINE, Inc., Chinle, Ariz.): Toward prospective deficits of this innovative Navajo Reservation School, occasioned by cutback of federal funds, for academic years 1968–69 ($40,000) and 1969–70 ($30,000), $70,000.

NAACP Legal Defense & Educational Fund, New York, N.Y. Planning grant (in 1969) for an American Indian Legal Defense Fund, $5,000.

United Scholarship Service, Denver, Colo. Studies of child custody laws and welfare administration for Indian clients (1970). $12,400.

Total of grants listed above, $782,824.

MAX C. FLEISCHMANN FOUNDATION,
Reno, Nev., May 11, 1970.

Hon. EDWARD M. KENNEDY,
United States Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: As requested in your letter of April 28th, enclosed you will find our list of grants for the benefit of American Indians and Alaska natives since 1965.

We have no current plans specifically related to Indians, but we do receive applications right along from many minority groups, all of which are considered on their individual merits.

Sincerely yours,

JULIUS BERGEN III,
Chairman.

MAX C. FLEISCHMANN FOUNDATION

Grantee, purpose, and grants since 1965

American Indian Development, Inc., Denver, Colorado: Scholarships for Indian students, $5,000.

Department of Education, State of Nevada, Carson City, Nev.: Indian scholarships $60,000.

Fort Simcoe Area Council, Boy Scouts of America, Yakima, Wash.: For camp improvements (Indian Scouts), $9,060.

Inter-Tribal Council of Nevada. Reno, Nev.: Toward operating expenses (Alcoholism program), $1,600.

Midnight Sun Council, Boy Scouts of America, Fairbanks, Alaska: To support scouting in outlying Alaska native villages, $29,700.

Nevada State Museum, Carson City, Nev.: For Archaeological Study of Pyramid Lake Indian Reservation, which specified that employees be Indians, $89,292.

Reno-Sparks Indian Colony Park Improvement and Beautification Trust Fund, Reno, Nev.: To improve conditions at Reno-Sparks Indian Colony, $37,500.

Total, $241,152.

NOTE.—Additionally, many of our other grants for Nevada high school, Fish & Game and Forestry Scholarship programs, Nevada Hospitals, youth organizations, parks, swimming pools and other recreational projects, have benefited both Indians and non-Indians.

THE FORD FOUNDATION,
New York, N.Y., May 15, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Mr. Bundy has requested that I respond to your letter of April 28 regarding Ford Foundation grants in aid of American Indians and Alaskan Natives.

We share your concern for the welfare of all native Americans and have made the following grants to assist efforts by American Indians to strengthen multi-tribal organizations, to encourage cooperation among Indian leaders, to increase awareness of their cultural heritage, and to take greater advantage of educational and economic-development opportunities. The grants are:

1965—University of Alaska, $579,000.

1967—National Indian Youth Council, $27,500.

1966–1970—Leadership Fellow (18 Indians participated—total # fellows—198), $1,500,000.

1968—National Congress of American Indians, $310,000.

Alaska Federation of Natives, $100,000.

Center for the Arts of Indian America, $150,000.

University of Alaska, $56,500.

1969—Citizens Crusade Against Poverty, $38,000.

National Congress of American Indians (American Indians United), $90,000.

1970—Oklahomans for Indian Opportunity, $54,450; Navajo Community College, 250,000; American Indian Historical Society, 52,852; Demonstration in Navajo Education Inc., 100,152; Whatcom Museum of History and Art, 10,000.

I am enclosing press releases announcing these grants which briefly describe the activities of each organization as well as short summaries of those grants which were not announced by our offices. I shall forward releases on the 1970 grants as they become available.

Our current emphasis is on the development of potential Indian leadership—preparing Indians to manage their own affairs both on the reservation and in urban settings. Additionally, we are concerned that all scholarship money available to Indians be utilized.

If I can be of further assistance to you, please do not hesitate to communicate with me further. I look forward to reading a copy of your final report. I am confident that it will prove to be a valuable resource to Indian organizations as well as to those who are active in the field of Indian Affairs.

Sincerely,

SIOBHAN OPPENHEIMER,
Program Officer.

NEWS FROM THE FORD FOUNDATION

New York, Dec. 18—The Ford Foundation today announced grants totaling $654,500 to assist efforts by American Indians to strengthen multi-tribal organizations, to encourage cooperation among Indian leaders, to increase awareness of their cultural heritage, and to take greater advantage of educational and economic-development opportunities. They are:

$310,000 to the National Congress of American Indians Fund, the major national Indian tribal organization, to stimulate economic and community development. (Details follow.)

$100,000 to the Alaska Federation of Natives, a Native-run organization established last year to coordinate efforts of widely dispersed tribes. In Alaska, the term "Natives" includes Indians, Aleuts, and Eskimos—all groups directly or indirectly governed by Federal Indian policies. (Details follow.)

$150,000 to the Center for the Arts of Indian America, to introduce Indian art, literary, and theatrical programs into the curricula of predominantly Indian schools both on and off reservations. (Details follow.)

$38,000 to the Citizens Crusade Against Poverty, for an exchange program between ten American Indian leaders and ten leaders of the Maoris of New Zealand. (Details follow.)

$56,000 to the University of Alaska, for support of the first International Conference on Cross-Cultural Education in the North, to be held in Montreal in August, 1969. (Details follow.)

"The American Indians, beset with staggering problems of unemployment, education, health, and housing, are by any measure, save cultural heritage, the country's most disadvantaged minority group," McGeorge Bundy, president of the Foundation, said today. "Their efforts to overcome their depressed state are growing stronger, and they want more than ever to do things for themselves, rather than to be heavily dependent upon the white majority. The important inter-tribal Indian organizations are evidence of that determination. Our grants are designed to support efforts by American Indians, wherever they live, to enter the mainstream of modern American society without sacrificing—indeed, by capitalizing on and enriching—their own culture and tradition. The assistance seeks to help them implement those desires for self-government, economic independence, educational, cultural, and community development, and enable them to take initiative in shaping new Federal programs offered through the Bureau of Indian Affairs, the Department of Health, Education, and Welfare, and the Office of Economic Opportunity."

The *National Congress of American Indians* includes all of the major U.S. tribes, except the Navajos, and many of the small tribes. It will use the Foundation's grant to strengthen its Washington office, which assists tribes in working with Federal agencies, and to develop a field office in Denver.

The field staff will concentrate its activity on small, generally overlooked tribes. Some of these tribes are recognized as Indian groups by Federal agencies, but have been ineffective in taking advantage of available Federal benefits. Another group consists of tribes not now considered a Federal responsibility, and therefore unable to receive much help; these include "state tribes" and those which have been terminated by Federal action.

The *Alaska Federation of Natives*, organized in 1967 by representatives from twenty regional and community Native associations, will use its Foundation support to strengthen its organizational capacity and expand its efforts to establish a communications network among the various Indian communities through additional field staff and regional meetings. A small portion of the funds will be used for a special project in the Bristol Bay area of western Alaska, where Natives will be trained for work in the building trades.

Of all U.S. Indians, the 50,000 in Alaska live under the worst conditions. The harsh climate, great distance between cities and villages, and higher living costs than in the rest of the United States compound their problems. For example, the incidence of tuberculosis is twenty-five times the rate in other states. Infant mortality is twice as high, and life expectancy is thirty-nine years as compared to sixty-nine. Only 12 per cent of Native children now complete high school. For many, the nearest high school may be located hundreds—or even thousands—of miles from home. Of the few who enter college, only one out of twenty-four can be expected to graduate. Lack of education and job skill training, cultural differences, and isolation help account for the fact that although Natives represent more than 20 per cent of Alaska's population, they hold less than 10 per cent of the jobs. Their unemployment rate is 60 per cent.

The *Center for Arts of Indian America* was organized by cultural leaders in 1965 to promote Indian visual, performing, and literary arts, and to carry those arts to the Indians themselves, who have little access to museums, libraries, theaters, and concert halls.

The Foundation's grant will supplement the center's contract with the Bureau of Indian Affairs to organize and develop cultural programs. A committee of Indians will work with the center's staff on programming in bureau and public elementary and secondary schools in Arizona, New Mexico, and South Dakota. Funds will be used to employ part-time performers, to train Indians as art education and drama specialists for Indian schools, and to provide technical assistance for the preparation of exhibits and displays. The grant will also enable the center to furnish instructional materials and to conduct teacher-training sessions in the schools visited by the exhibits and performers.

The Foundation grant to the *Citizens Crusade Against Poverty* will cover the expenses of an exchange program for ten Indian and ten Maori leaders, representing a cross-section in terms of age, urban and reservation residency, and general philosophy. Each group will spend twenty-eight days visiting reservations, urban centers, and government agencies with a local group leader. At the end of the program, all participants will meet for a two-day evaluation session.

Like the American Indians, the history of the Maoris of New Zealand includes wars fought and lost, land confiscated, and placement on reservations. Since World War II, however, through the passage of legislation and other special measures, the Maoris have virtually achieved equal rights while retaining their racial identity, language, and culture. By the early 1960s, approximately one-third of the Maoris, like their American counterparts, lived in urban areas.

Through the maintenance of tribal governments, U.S. Indians have long had a formal leadership structure, but this has been limited to individual tribes and reservations. There has been little opportunity for leaders to broaden perspectives and to cooperate in confronting common issues. The exchange

program should provide for participants this overview currently lacking in most Indians perceptions of their people and their problems.

The first International Conference on Cross-Cultural Education in the North, cosponsored by the *University of Alaska* and the *Arctic Institute of North America*, will review the common problems and educational programs for Eskimos, Indians, and natives in Alaska, northern Canada, and Greenland. Approximately 100 government administrators, educators, and social scientists will attend the conference, to be held at McGill University, Montreal, in August 1969. Delegates from Canada, Greenland (Denmark), and the United States will participate. Because they have similar northern region problems, educators from the Soviet Union and the Scandinavian countries will also be invited. The Foundation's grant will cover the expenses of eighty delegates and other conference and administrative costs.

Another grant to assist Indian educational development was made by the Foundation in 1967, when the National Indian Youth Council received $27,500 to assist Indian communities in organizing summer programs and intercultural education studies.

Additional summaries of grants to American Indians

Whatcom Museum of History and Art

This $10,000 grant to a museum in Bellingham, Washington is for support of a program encouraging young Lummi boys to learn the fine crafts and associate traditions of their ancestors. The program will run between May 1, 1970 and October 31, 1970. During that time the participants will be instructed in carving and traditions by the two remaining master carvers in the Lummi tribe. The grant is designed to preserve skill and tradition and to thus allow the continuing development of a craft that has been passed down from generation to generation for hundreds of years.

Oklahomans for Indian Opportunity

This $54,450 grant is support for the development of program curriculum and training for the seventy-five OIO-sponsored Indian Youth Councils. The grant has enabled OIO to hire a Curriculum Development Coordinator who will undertake the development of a manual of program options, a program of Indian studies and a training program for Adult Indian Volunteer Council sponsors.

American Indian Historical Society

This grant supported a convocation of Indian professionals and youths this past March at Princeton University for an in-depth exploration of the problems and concerns of American Indians. The conference consisted of small panel discussions wherein specific subjects of concern to Indians were explored in open exchanges of views between the older scholars and established leaders and the students and potential leaders.

This conference provided an all-Indian forum wherein tribal leaders, youth and intellectuals could come together to explore options and design strategies, philosophies and programs against the day that they achieve greater decision and policy making authority.

Navajo Community College

This grant represents initial support to the Navajo Community College for an American Indian Leadership Training and Development Program which will incorporate technical assistance with in-service training techniques. Teams of professionals and student interns will work alongside tribal leaders in actual problem-solving situations in the fields of health, education, housing and economic development. A library consisting of current Indian information, data and materials necessary for long-range planning, as well as Indian training materials, are also planned as components of the program.

National Congress of American Indians—$90,000 grant, in support of urban Indian centers. The program, which will be focused on the development of centers to serve low-income Indians who live in cities of the middle West and far West, will be operated by American Indians-United, a group of forty-nine urban Indian organizations. The centers will conduct activities in education, employment, health, economic development, fund raising, and political participation to improve the status of urban Indians.

Leadership Fellows—a $1.5 million appropriation for a program, begun in 1966, to develop the leadership potential of rural educators by providing them with fellowships for a year of study, travel, observation of innovative school programs, and work with established educational leaders. Fifty-eight young educators have received awards to date under the program.

National Indian Youth Council—$27,500 grant, for a planning staff to develop education programs better adapted to the diverse cultural traditions of the nation's some 300 American Indian tribal groups, in hopes that such programs will reduce the present dropout rate from conventional public and private (mostly mission) schools of more than 50 percent by grade twelve.

University of Alaska—$579,000 grant, to support the training of teachers for remote rural schools in Alaska, where Aleutian, Eskimo, and Indian children face education problems similar to those of disadvantaged youngsters in other states. The university, in cooperation with the Alaska State Department of Education and the Bureau of Indian Affairs, will use the funds to establish and test a new recruiting and training program for approximately fifty candidates a year. These will attend eight-week summer sessions which will include language training, anthropology, and courses in health and community service. Trainees will also spend time in rural communities working as assistants to specially selected teachers in summer-school programs. The university will set up an educational-service center to supply materials and instruction on new teaching methods.

Demonstration in Navajo Education, Inc.—$110,152 grant, for an internship program at the Rough Rock Demonstration School to train American Indian education leaders.

The grant to *Demonstration in Navajo Education, Inc.* will support an internship program at Rough Rock Demonstration School to prepare American Indians as leaders of elementary and secondary schools on Indian reservations. Rough Rock, near Chinle, Ariz., is a resident school serving 400 children and about 60 adults in the community under a locally elected school board composed exclusively of Indians from the area. The bilingual and bicultural education includes the reading and writing of Navajo, Navajo history and religion, and Navajo Indian crafts. The only school of its kind in the United States, it is jointly funded by the Office of Economic Opportunity and the Bureau of Indian Affairs.

The grant will sppport annually four interns at the sechool who will specialize in curricula, bilingual education, English as a second language, or adult education as well as acquire general leadership and organizational experience.

THE LUKE B. HANCOCK FOUNDATION,
Palo Alto, Calif., May 14, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: In response to your letter of April 28, 1970, we are enclosing a schedule of grants made in support of various American Indian projects by the Luke B. Hancock Foundation.

The Foundation has been very concerned for a number of years about the plight of the American Indians and has responded to a number of appeals, as noted in the attached schedule. We are particularly proud of the results of the $100,000.00 grant made for economic and social development at the Ft. McDermitt Indian Reservation. The Foundation located an electronic company that was willing to build a branch plant making highly sophisticated electronic components and doing semiconductor subassembly work on the reservation. The company currently has approximately 25 male and female employees and expects to have 80 on the payroll by the end of 1970. Since the Ft. McDermitt Reservation has less than 400 residents, this amount of employment is having a significant economic impact in addition to increasing the morale and outlook of the American Indians.

The Foundation would like to receive a copy of your report when it is available, and congratulate you on focusing in on the American Indian problem.

Sincerely,

COURTNEY J. CATRON,
Chairman of the Board.

THE LUKE B. HANCOCK FOUNDATION

Grants to American Indians 1962–1970

Date, Agency and Amount—[Asterik indicates grants by American Friends Service Committee]

January 1962: A.F.S.C.*–Pyramid Lake Indians, Toward construction of a community center for Paiutes in Nevada, $1,000.

April 1964: A.F.S.C.–Intertribal Friendship House, Oakland, For Youth Worker, $5,500.

April 1965: A.F.S.C.–Intertribal Friendship House, Oakland, For Youth Worker, $5,000.

April 1965: A.F.S.C.–Hoopa Valley Work Camp, Set up teenage camp to repair flood damage of 1964, $2,500.

May 1966: A.F.S.C.–Intertribal Friendship House, Oakland, Toward purchase of their new building, $10,000.

October 1966: ARROW, INC., Washington, D.C., Leadership Training Program, Idaho State University, $2,500.

October 1967: A.F.S.C.–Intertribal Friendship House, Oakland, American Indian Staff leadership training program, $8,212.

October 1967: Inter-Tribal Council of Nevada, Reno: (a) Lovelock Community Building Improvement, $5,000; (b) To establish Arts and Crafts Program, $5,000.

October 1967: ARROW, Inc., Washington, D.C., Leadership Training Program, $2,500.

July 1968: Inter-Tribal Council of Nevada, Reno; Ft. McDermitt Reservation Community Building, $10,000.

October 1968: A.F.S.C.–Intertribal Friendship House, Oakland, American Indian Staff leadership training program, $8,212.

February 1969: ARROW, Inc., Washington, D.C., American Indian Management Training Institutes, $10,000.

April 1969: Inter-Tribal Council of Nevada, Reno, For the social and economic development of Ft. McDermitt Indian Reservation, $100,000.

April 1969: Bureau of Indian Affairs, Stewart Indian School, Stewart, Nevada, For emergency funds to needy orphans and disadvantaged students at the Indian school, $5,000.

April 1970: Humboldt County School District, Nevada, For Teaching aids at Ft. McDermit School, $1,000.

April 1970: Bureau of Indian Affairs, Stewart Indian School, For emergency funds to needy students at the Indian boarding school, $5,000.

April 1970, ARROW, Inc., Washington, D.C., American Indian Management Training Institutes, $10,000.

April 1970: Inter-Tribal Council of Nevada, Reno, For economic development at Ft. McDermitt Indian Reservation, $16,000.

Total grants, $212,424.

LOUIS W. AND MAUD
HILL FAMILY FOUNDATION,
St. Paul, Minn., May 15, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Attached to this letter you will find information that meets your request for a list of Hill Family Foundation's programs that have the American Indian as a major focus. You should be advised that the Foundation has funded a number of programs that seek to aid minority groups, but it is difficult to determine the benefited parties; hence, the attachement may be overly inclusive.

Of greater interest is your request for "a description of your current plans that are or might be related to Indians." It is to this subject that I wish to make comment.

Hill Family Foundation has long evidenced its concern and support for Indian-related programs. It is amazing, however, how few, well-structured requests are received by our office. Consequently, the Foundation is forced to begin the self-initiated search for Indian-related programs to support. Normally, foundations are loath to seek "business," but it is time to rise above petty concerns.

At this writing, Staff of the Foundation is pursuing the possibility of marrying the rural health-care delivery problem with the Indian "problem." The rationale behind this marriage is that health-care delivery is the foremost rural problem and when one views the Indian problem it is, in large part, a rural problem. This is not to ignore the urban Indian, but rather to focus on the most pressing issues.

The Foundation hopes to perform the role of broker to persuade those parties that could be of assistance to focus on the aforementioned problems. I am convinced that key components of the University of Minnesota's Health Sciences Center will be anxious to cooperate, particularly as Minnesota politicians continue to berate the health-care professionals for their failure to bring adequate health care to rural Minnesota. The University of Minnesota can soften the harsh criticism of Minnesota Legislature, aroused over student unrest, by unveiling health-care delivery models that soothe the complaints of rural constituents. And, most importantly, I am convinced that these delivery systems can be structured to dramatically assist Indians in Minnesota and the Dakotas.

I would like very much to see a report of your efforts as outlined in your letter and we thank you for your interest.

Sincerely,

ROBERT W. BONINE,
Assistant Executive Director.

HILL FAMILY FOUNDATION PROGRAMS—CONCERNING AND RELATED TO MEMBERS OF MINORITY GROUPS

Grants authorized

[Asterisk indicates Indian-related projects]

1963–64

*Blackduck, Minnesota School District: Vocational training of unemployed youth, $5,500.

College of Saint Thomas: Inter-college program for the improvement of Negro higher education—Planning Grant, $2,500.

*Palo Alto Medical Research Foundation: Research on problems of academic underachievers, $21,242.

1964–65

Hennepin County Department of Court Services: Experimental program in group therapy for juvenile delinquents, $48,810.

*Minnesota Foundation: Production of a documentary film on Blackfeet Indian dances and rituals, $1,500.

*Minneapolis Public Schools: Development of curriculum and instructional materials for low achievers, $22,500.

College of Saint Thomas: Inter-college program for the improvement of Negro higher education, $221,220.

*Palo Alto Medical Research Foundation: Additional grant for academic underachievers, $2,155.

*Saint Paul Metropolitan Improvement Committee: Home improvement demonstration program, $12,500.

1966–67

Saint Paul Urban League: Publishing report of study on Low Income Negro Families in Saint Paul, $1,500.

*Museum of the Plains Indian: Assist Blackfeet Indian tribal council in production of a pageant, $4,000.

1966–1967

Carleton College: 1966 and 1967—A Better Chance Program related entirely to underprivileged youth from the Northwest, $70,000.

Independent School Talent Search Program—Boston: A Better Chance Program Related entirely to underprivileged youth of the Northwest, $50,000.

Shakespeare in the Street: Mobile Theatre for the inner-city, $5,000.

Carleton College: A Better Chance, no figure supplied.

Oregon Museum of Science and Industry: Program to enrich disadvantaged children's scientific concepts. Children drawn from the model schools of inner-city, $50,550.

University of Minnesota: Pilot program in advanced training for medical trainee at Howard University, $1,200.

Liberty Plaza Corporation: Advanced financing for a nonprofit housing development to be financed under the National Housing Act, $60,000.

1968–1969

*Community Development Corporation of Greater Saint Paul: To establish a reserve for a Development Fund to encourage and aid a private, nonprofit organization to undertake multi-family medium income housing projects, $60,000.

Inner-City Youth League: To establish a reserve for support of a special youth program in the Summit-University area, $150,000.

Minnesota Foundation: Saint Paul Police Department Community Relation Center, $2,000.

*Saint Paul YMCA: To establish a Saint Paul American Indian Center, $43,090.

*Assumption College and Abbey, Richardton, North Dakota: Major James McLaughlin (Indian Agent) Papers, $17,100 (first grant).

*Assumption College and Abbey: Major James McLaughlin (Indian Agent) Papers, $9,000 (second grant).

1966–1967

College of Saint Thomas: To provide a training course for police instructors, $3,750.

Southern Education Foundation: In support of a program focused on strengthening the libraries of selected Negro colleges, $34,000.

Summit-University Teen Center: Development of a program for the Loft Teen Center, an inner-city recreational program, $35,000.

1969–1970 to date

University of Minnesota: Community University Health Care Center, $90,000.

*Archdiocese of Saint Paul and Minneapolis: Inner-City Nonpublic School System, $50,000.

Southern Education Foundation (May 1969): Strengthening the Libraries of Negro colleges, $15,000.

Southern Education Foundation (June 1969): Strengthening the Libraries of Negro colleges, $177,900.

*Dana College, Blair, Nebraska: Hidatsa Cultural Ecology, $6,825.

W. K. KELLOGG FOUNDATION,
May 14, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: We were glad to have your letter of April 28 expressing interest in this Foundation's activities and plans relating to the needs of American Indians and Alaskan Natives. We also appreciated the opportunity to review the very comprehensive and interesting report of your subcommittee's investigation of this problem.

We have noted your request for information concerning the W. K. Kellogg Foundation's activities since 1965, as they pertain to the special needs of these population groups, and I am enclosing a short summary statement which describes a major Foundation project at the University of Alaska which we believe has important implications for the developing economy of that region, with particular reference to the Eskimo.

Our staff is currently giving considerable thought to ways in which we might assist in improving the social, economic and educational status of the Indian population. While the Foundation has not previously been extensively involved in this problem area, we recognize its importance and will look forward to receiving suggestions from your committee, as well as from other sources, as to how we might contribute constructively to its solution.

For your further information, I am enclosing a copy of the Foundation's latest Annual Report summarizing our current activities in the general fields of health, education and agriculture.

If we may be of further assistance in the very important work of your committee, please let us know.

Sincerely yours,

PHILIP E. BLACKERBY.

Project: Domestication of Musk-oxen.
Grantee: University of Alaska, Fairbanks.
Amount of Foundation aid: $726,619 over the ten-year period, 1964–74.

This project of the University of Alaska is concerned with the well-being of Alaskan Natives, especially Eskimos. Musk-oxen, native to the Arctic tundra, are being domesticated as an economic resource. Qiviut, the animal's soft underwool, is utilized by Native women in producing articles for sale. The village councils will assume responsibility for the herds; a cooperative is being established by Native leaders for the marketing of products. See the Foundation's 1969 Annual Report for further detail.

GOVERNMENT OFFICES WITH INDIAN-RELATED GRANT PROGRAMS

(1) Bureau of Indian Affairs (202–343–7445), Office of Public Information, 1951 Constitution Avenue, NW., Washington, D.C. 20242.

(2) Office of Education, Education for American Indians Office (202–963–5894), Department of Health, Education, and Welfare, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(3) Economic Development Administration, Indian Desk (202–967–4322), Department of Commerce, Room 7313, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

(4) Office of Economic Opportunity, Indian Division (202–254–5960), 1200 19th Street, NW., Washington, D.C. 20506.

(5) Office of Manpower Development and Training, Indian Desk, Labor Department

(202-961-3911), 14th and Constitution Avenue, NW., Washington, D.C. 20210.

(6) Public Health Service, Indian Health Service (301-443-1097), 5600 Fishers Lane, Rockville, Md., 20852.

NATIONAL INDIAN-INTEREST ORGANIZATIONS

(1) Americans for Indian Opportunity, 1820 Jefferson Place, N.W., Washington, D.C. 20036.

(2) Association on American Indian Affairs, 432 Park Avenue South, New York, N.Y. 10016.

(3) Indian Rights Association, 1505 Race Street, Philadelphia, Pa. 19102.

(4) National Congress of American Indians, 1346 Connecticut Avenue, N.W., Washington, D.C.

(5) National Indian Education Association, 1605 West Pine Street, Stillwater, Minn. 55082.

(6) National Indian Youth Council, 3102 Central S.E., Albuquerque, N. Mex.

(7) United Scholarship Service, P.O. Box 18285, Capitol Hill Station, Denver, Colo. 80218.

ENVIRONMENTAL LAW

Mr. HOLLINGS. Mr. President, in the past 2 years, a new body of law has been developing that has great importance for all of us. In the new field of environmental law, no man has contributed more to the evolution than Prof. Joseph L. Sax of the University of Michigan Law School. Author of several books and articles, such as "Defending the Environment," Professor Sax presented a keynote paper to the Environmental Law Seminar sponsored by the Smithsonian Institution and the American Law Institute-American Bar Association. Said Sax in the course of his paper:

An environmental law problem is presented when there is a loss of effective control over the impact of human activity on natural communities. And the job of the environmental lawyer is to restore that control. The key word in this formulation is control.

The job of the law is to promote the attainment of knowledge which will permit us to *determine* whether the proposed activity is injurious, not simply to tell us how to act when we don't know (i.e., to tell us who wins the game of ignorance). In other words, to set out 'control' as the fundamental legal principle, is to make it the function of law to promote the search for knowledge which permits rational decisions to be made. To require a showing of knowledge, i.e., control, is not only to help assure that correct decisions will be made, but it is to use the law's coercive leverage to develop the tools for making rational decisions, and not . . . simply to resolve disputes . . .

Professor Sax's contribution is one of the most refreshing pieces that has appeared in this important field to date. It is clear and forward looking in a way that I know will be helpful to all legislators.

Mr. President, I ask unanimous consent that Professor Sax's paper, "Introduction to Environmental Law," be printed in the RECORD.

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

INTRODUCTION TO ENVIRONMENTAL LAW

(By Joseph L. Sax)

I have been asked to begin my comments with a definition of environmental law. Much as I dislike making myself so easy a target, I will try to comply. But first, I must say a few things by way of preface so as to stake out my own perspective, and to say thereby that any such effort—at this early stage in our history—must be more a credo than a description.

In the most important sense, there is no body of environmental law today. The significant history is yet to be written by lawyers such as those sitting in this room; and their success will, in my judgment, be measured by the degree to which this history goes beyond traditional legal aspirations. While it would, of course, be foolish to suggest that the *problems* with which we must deal are unique to legal experience, I do suggest that they call for approaches which are sharply distinct from the legal milieu in wihch we are accustomed to working.

Having sounded this rather extreme note of introduction, let me begin to explain myself by attempting to define what we ought to mean when we think about environmental problems and the law.

An environmental law problem is presented when there is a loss of effective control over the impact of human activity on natural communities. And the job of the envronmental lawyer is to restore that control. The key word in this formulation is control.

Probably the best known example of such a phenomenon is the buildup of pesticides in species other than the target organisms. This build-up, in man and birds for example, is uncontrolled in several respects. It develops at a rate and in a manner that is not intended or desired, and with consequences that are not well understood; in this sense the use of the pesticide is uncontrolled. How about harmfulness? Must it also be *proven* harmful to meet my test of being uncontrolled? The answer is no; for what you do not know you do not control.

From this formulation, I hope to make clear that I would not view every unintended and undesired consequence of human activity as presenting an environmental legal problem. For a side-effect, though undesired and unintended, the consequences of which are fully understood and considered acceptable in the achievement of some goal is quite within our control. As an example, consider a pharmaceutical drug for the control of disease, which has been fully studied, and whose undesired side-effects are known and deemed tolerable as a price for achieving the drug's central purpose. Such a situation does not present a problem of the kind I am discussing.

Let me also make it clear that what I call an environmental legal problem does not encompass everything that might be viewed as an environmental problem from a scientific or public policy perspective. If, for example, with full understanding and knowledge, and with the most adequately informed public consent, it were decided to destroy the Great Lakes as living systems and to convert them into waste sinks, that would not be an environmental legal problem, though it would surely be an environmental disaster of a high order.

Having thus briefly outlined a definition of the problem as one of control over the impact of human activity on natural communities, I would like to try to flush out the meaning of this definition by some of its implications for the development of environmental law, explaining why I think the task before us reaches quite far beyond a retouching of those legal doctrines and traditions which have, historically, dealt with the use or misuse of air, land and water resources.

Let us examine first an element of the problem which has often been noted in the context of environmental controversies, but has not been very deeply examined: The burden of proof. It is often said that we must lift the burden of proving harm from those who oppose developments or the use of potentially harmful substances, and impose it on the proponents of action. A number of practical reasons have been given in support of this suggestion, such as the generally superior economic and scientific capacity of industry or government developers; the reasonable expectation that they should already have done studies on potential harm and feasible alternatives before they come forward with a proposal, and should be prepared affirmatively to defend the conclusions they should already have drawn.

I personally find these arguments persuasive, but I think the issue is much more fundamental and far reaching than is implied by any such conventional legal dispute about the allocation of burden of proof. For if the essence of the problem is *control* then it seems to me indispensible (and not merely preferable) that the proponent of action which will affect natural communities be prepared to demonstrate that he is in control of the consequences of his conduct—which is to say, that he knows enough about the consequences to make possible a fully informed rational choice. Unless we are prepared to demand this, we evince a willingness to let control slip out of our hands, and thereby to give away the very heart of the principle upon which environmental law must, if it is to have any real meaning, be built.

From this perspective, much of the law which we now call environmental law is sorely deficient. As an example, I cite to you the water pollution statute and its current interpretation in my own state of Michigan. The statute, which seems conventional enough, reads in relevant part: [1]

It shall be unlawful . . . to discharge into the waters of the state any substance which is or may become injurious to domestic, commercial, industrial, agricultural, recreational or other uses which are being made or may be made of such waters; or which is or may become injurious to the value or utility of riparian lands; birds, fish, aquatic life or plants . . .

While this may seem a very broad mandate, in 1968 the Attorney General gave the following interpretation: [2]

The Water Resources Commission is vested with power to issue orders restraining discharges that may be made into the waters of the State so that they do not cause the injuries specified. It should be noted that any order so issued must be based on a finding of fact that the discharges unless restricted may cause any or all of the injuries specified. . . . Thus, to deprive a riparian owner from discharging any substance into the waters of the state it must be shown that such a discharge is or may become injurious . . .

This formulation is not simply a manipulation of the rules of evidence. To speak, as the Attorney General's memorandum does, in terms of proof of injury, impiles that there may very well be ignorance or uncertainty about consequences. That is to say, no one may be able to prove either that there will be injury or that there will not be. In such a case, assuming lack of sufficient information, the burden of proof is simply allocated to one, rather than the other, party to the controversy. Of course one can debate endlessly about how this burden (let us call it the burden of ignorance) should be allocated. The Attorney General, having allocated this burden (by interpretation) considers the legal job accomplished.

My point is that the function of law in this situation is now an allocative one at all, but is an innovative one. The job of the law is to help assure that decisions are not made in ignorance to any greater extent than is absolutely necessary and to prevent accepting ignorance as a stable fact.

The job of the law is to promote the attainment of knowledge which will permit us to *determine* whether the proposed activity is injurious, not simply to tell us how to act when we don't know (i.e., to tell us who wins the game of ignorance). In other words, to

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set out "control" as the fundamental legal principle, is to make it the function of law to promote the search for knowledge which permits rational decisions to be made. To require a showing of knowledge, i.e. control, is not only to help assure that correct decisions will be made, but it is to use the law's coercive leverage to develop the tools for making rational decisions, and not—as is so commonly stated—simply to resolve disputes (as by making burden of proof rules). Thus, one principal task of environmental law is to promote research.

Of course, the problem I am discussing does not arise only in the context of proof of injury, and the allocation of the burden of ignorance. It arises also in what might be called the "state of the art" defense which is so commonly encountered in pollution cases. If a factory, for example, is charged with creating an air pollution problem, a common response is that they have already installed the best pollution control equipment available and are in compliance with the fullest state of the pollution containment art now known.[3]

In light of the definition I began with, acceptance of this defense must be seen as an utterly unsatisfactory response, even more deficient as a legal technique than the allocation of the burden of ignorance. For such a defense does not merely accept as given the state of knowledge, but goes beyond it to accept—in some instances—the present state of commercial availability of equipment, which may be at a far lower state than even the existing state of knowledge could produce.

An environmental law which develops along these lines not only fails to promote innovation, but may even stifle it by locking in as acceptable the available commercial hardware which can be purchased on the market. The dangers of this approach have already been well recognized in an excellent article by Professor Milton Katz.[4]

In that article, Professor Katz calls attention to many old tort cases, particularly in the law of nuisance. One brief excerpt will suggest the usefulness of reading this article in regard to the comments I have made. Referring to an air pollution case from Oregon in 1963 [5] he says:

"The court's painstaking scrutiny of the evidence relating to the plant's equipment and processes, and its references to the general problem of air pollution and to national policies concerning pollution, suggest how the concepts and methodology of technology assessment can be absorbed into tort law.

"In appraising the defendant's equipment and chemical processes, the court applied standards derived from the better contemporary practice among qualified manufacturers. Perhaps no more was needed to give the plaintiff the relief he required. The opinion contained no intimation that the court might be prepared in an appropriate nuisance case to test the performance of a manufacturer not only by the criteria of technology actually available and in use, but also by the efforts he may (or may not) have made to find new alternative technology through the potentialities of research. . . . The path lies open, and the step may yet be taken; the balance of reconsiderations in nuisance cases may yet be broadened to include an appraisal of the defendant's search for possible new scientific discoveries or engineering designs.

The Katz article, in the rather modest context of analyzing standards for reparations in ordinary tort cases after the fact, identifies one essential task which lies before environmental lawyers. Lack of knowledge, or current technology, must no longer be accepted as the given, static, fact; the search for knowledge (and I would go further and say its attainment) must be set out as guiding principles of environmental law. In short, the first job, if we define our task adequately, is to move from a static function of rule-making for conflict resolution upon facts accepted as given, to a prod and force for innovation of new knowledge which alone permits conflict to be resolved rationally. Only in this way can human activity be brought under control.

In saying this, I hope I will not be misunderstood. I recognize full well that in any human endeavor there is always a significant element of uncertainty. I do not propose either that all human activity be constrained unless and until we have absolute knowledge of all its consequences. Nor do I envision the enactment of statutes which say, in essence, that a party must go out and invent the lightbulb, or cure cancer, within thirty days on penalty of being remanded to the custody of the sheriff. I am speaking, rather, of the thrust and direction of legal activity in the environmental area, and am suggesting that the goal of law must be to prod the search for as much knowledge as is reasonably possible as a prerequisite for action.

This suggests that the central question in environmental legal controversies will be essentially these: (1) If you wish to act, do you know enough to give us reasonable assurances about the consequences so that we can make an informed decision about whether we are willing to tolerate those consequences? (2) If not, can you satisfy us of the urgency of going forward without waiting upon that knowledge? In answering this second question an inquiry will be required into the alternative solutions available by which we might buy some time during which information can be made available. This question will in turn require us to ask about the need for the proposed activity; the reasons why the information required as to consequences is not now available, and how it can be made available. These, I feel confident, are the right questions, and they are not now being asked often enough.

How, exactly, one goes about devising techniques for promoting innovation is at this point the most important question awaiting the skills of environmental lawyers. We do have a few rather rudimentary experiments that provide a useful starting point. In the Katz article, which I mentioned earlier, it is suggested that the potential of successful damage claims, if based upon a failure to explore and use technology either present or available within the scientific community, would itself act as what the author calls a form of therapeutic deterrence. This is surely an approach worth pursuing, though I am afraid it will at best fall far short of our need, and for two reasons. The level of successful dollar damage claims, under the rubric of torts like nuisance and strict liability, even with a much enlarged ambit of liability, is likely to be very small compared with the magnitude of the problem. The large transaction costs in pursuing damage litigation, the narrow scope of recoverable damages under present interpretations, the narrowness of the plaintiff class entitled to damages under nuisance law, all suggest serious difficulties—or at least inefficiencies—in putting heavy reliance upon traditional tort remedies.

There is a more elemental difficulty too. Tort damage suits almost inevitably focus upon immediate and visible injury, whereas many of the most troublesome environmental problems are of a sort where the dangers are spread out over quite long time spans, and are diffused among exceedingly diverse populations. Thus, while it is easy to conceive of tort damage cases as a useful device in dealing with certain immediate problems arising from industrial air pollution—such as damage to houses and cars, and even some human health problems to those in the vicinity of the plants—it is obviously going to be extremely difficult to adapt the damage action technique to the dissemination of pesticides, or radioactive substances, or to the gradual degradation of oceanic resources.

If such techniques are to be tried, however, lawyers will have to cope with very sticky technical problems, such as the class action for damages. We are now in the midst of some perplexing experiments with that very problem in the area of consumer class actions under the antitrust laws. I call particularly to your attention the following case: *Eisen* v. *Carlisle and Jacquelin*,[6] an action on behalf of nearly four million purchasers of odd lot securities, which is going forward but under circumstances of extreme unease by the court. See also *Hacket* v. *General Host. Co.*,[7] a case on behalf of one and a half million retail consumers of bread, where Judge Weiner said:

It is our considered opinion that under the facts of this case, the problem of management of the proposed class is clearly insurmountable. The class is so large that it would be unmanageable and could only result in many, knotty complicated and unnecessary problems.

A similar case, involving millions of purchasers of gasoline, is presently pending.[8]

To be sure not every such case has been disposed of in this manner. For example, in *In Re Multidistrict Treble Drainage Action Involving Motor Vehicle Air Pollution Control Equipment*,[9] Judge Real said:

Manageability of the classes alleged herein may certainly tax the imagination and ingenuity of the litigants, counsel and the court. But until management is recognized as impossible or near impossible, the Court will depend upon the ingenity and aid of counsel to solve the complex problems this litigation may bring. If successful, the economics of time, effort and expense will more than compensate the effort.

See also *Siegel* v. *Chicken Delight*,[10] where 650 franchisers sued; or *West Virginia* v. *Chas Pfizer and Co.*,[11] the tetracycline case where a settlement fund was created for the benefit of a very large class of purchasers.

I cite these cases (which deserve careful study by environmental lawyers) and the impediments to such large scale damage actions, for it is cases of this kind that will have to be developed if the damage approach is to show truly far reaching results in the environmental area. And I think it fair to say that a major environmental damage case, such as one involving pesticides, is likely to be considerably more difficult than even the most expansive antitrust case—both in terms of the numbers of people involved in the plaintiff class, and in the difficulties of proving damages. While some cases of this general type have been instituted in the environmental area, none to my knowledge has yet survived.[12]

Some other devices, with which there is now a little experience, may offer more efficient possibilities for promoting innovation and needed research. One is the effluent charge, which has been long used in Germany to deal with water pollution,[13] is now getting its first test in the United States under a recently enacted Vermont Law.[14] The effluent charge can take many forms, but in its most important sense it is an economic device with two important functions. By charging those who discharge defiled water into a stream, it imposes some of the external costs or social costs (that is, the costs incurred by downstream users) on the discharger. If the charge is skillfully set and administered, it gives the discharger an immediate and continuing economic incentive to seek means for reducing the costs to others—by process changes in the plant, or by treatment of his wastes before discharge: and thus it presses him to bring his wastes under control, in the sense that I have used that term in this discussion.

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If used correctly, the effluent charge provides the innovation-prodding benefits of tort damage litigation without the problems of litigation. In essence it requires an administrative determination of damages (and in a broader sense than damages are usually understood in a tort case) and it imposes what is probably the most efficient means of collecting those damages—that is, the tax approach. By requiring the immediate and continuing payment of these charges, it also puts the burden of delay upon the user.

Another legal device, similar in concept to the effluent tax, through it has never been employed to the best of my knowledge, appears in the legislation of my own state of Michigan.[15] Section 10 of our Water Resources Act provides that anyone (except a municipality) which discharges substances into the waters of the state in violation of law shall be guilty of a misdemeanor, and

In addition to the minimum fine herein specified the Attorney General, at the request of the Department of Conservation, is authorized to file a suit in any court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state by such violation.

While I do not consider this provision of law to be efficient, in the sense in which I spoke of efficiency earlier, the provision does offer a most important opportunity to bring into environmental law the idea of social cost as a recoverable element of damage, and thus to mute the inevitable criticism directed at one trying to expand traditional damage concepts. The statute explicitly recognizes such damages and provides an express mechanism for their recovery.

Finally, as to techniques, let me call your attention to a provision in the new federal air quality act that addresses itself in a most interesting way to the promotion of research and innovation. The provision in essence provides that beginning with the 1975 model year any new light duty vehicle shall be required to meet emission standards which at a minimum shall represent a 90 per centum reduction from allowable emissions for 1970 model year vehicles or engines.[16]

The discussion which took place in the Congress over this provision was fascinating. Its proponents were asked whether they were not decreeing, in effect, that the light bulb be invented by a certain date, and what exactly they planned to do if the decree were not executed by the automobile companies. Obviously, it was suggested, they were not going to close down the automobile industry.

Senator Muskie replied,[17]

Since the late 1940's, a quarter of a century ago, the industry has been occupied with the problem by its own statements. Every time it is pressed to apply the technology, it pleads for time. It says it is not possible. It said this to California in 1964. It said this to us in the hearings in 1964 and in 1965. It says it again now.

What we need in this five year period is a period not only for production line work but also time for development of the concepts which have been on the drawing boards all these years. Because that is time the committee does not want to reduce, that is why we fix a time.

The first responsibility of Congress is not the making of technological or economic judgments—or even to be limited by what is or appears to be technologically or economically feasible. Our responsibility is to establish what the public interest requires to protect the health of persons. This may mean that people and industries will be asked to do what seems to be impossible at the present time. But if health is to be protected, these challenges must be met. I am convinced they can be met.

I note this response by Senator Muskie because it is one of the few examples to be found in legislative records of what I would call the dynamic, as opposed to the static, view of the role of law. Senator Muskie is making the point that if we are to obtain innovation, it may be necessary to demand in law the product of innovation not yet available, for that demand may itself be the very thing which, as a practical matter, will produce the innovation. This view is nothing more, of course, than a congressional recognition of the old saw that necessity is the mother of invention.

I see the elaboration and sophistication of this attitude as one primary task of environmental law. To be sure, it is easier to say it than to implement it in workable fashion, for the legal system cannot afford to get the reputation of making unreasonable demands or futile threats.

It is hard to think realistically of closing down the automobile industry, but there may be devices available to create credible pressures toward producing control over the impact of the automobile on environmental quality. In this context, the leverage for control may lie in creating some balance between the pressures for growth and development of the industry and the need for research.

We do have some experience with efforts to use legal tools to bring these two elements into balance. In a number of states proceedings have been instituted—in the area of water pollution control—to constrain the granting of further building permits unless and until the sewage treatment facility, already overloaded, was brought up to capacity to deal with potential new developments. Court orders to that effect have been obtained in New Jersey in some well known cases.[18]

The idea behind this technique seems to me an extremely sound one. Development must be brought into phase with the public facilities needed to service that development; this is one means of obtaining control over the impact of human activities on natural communities. The goal is to give an advantage to those communities which are ready and able to provide adequate facilities, and to press others to move forward with such facilities in order to accommodate development.

I have heard reports, and they have been repeated in the press, to the effect that this approach, at least in the short run, has had an adverse impact on needed housing. I should think, however, that in the larger and longer term sense, the communities here hold the key to their liberation, in that by providing the required services they can go forward.

One can conceive of an adaptation of this idea to problems like that of the automobile industry. Might it not be possible to condition growth in the registration of additional automobiles upon the industry's meeting the air pollution problem? Or might not constraints be imposed as of some fixed future date upon the size of new automobiles, so as to limit the total use of fuels conditioned upon the same solution? Might not even the large investment in such relatively unimportant things as cosmetic new model design be suppressed temporarily as an incentive to invest in environmental research?

Plainly I do not set out these thoughts as fully considered proposals, but as possible sources of leverage to promote invention. I suspect that in such ways we will have to fashion practicable devices for implementing the broad and far reaching idea of control.

I have spoken thus far about the fundamental task of environmental law, as a lengthy commentary on my definition, and about some techniques which might realistically be built into the legal system for the fulfillment of that task. Now let me turn briefly to the question how one knows when he has a problem that calls for the imposition of these, or other, such rigorous measures. I said earlier that I was not suggesting a halt in all human activity which might have any effect on natural communities simply because we lacked absolute and certain knowledge about consequences. The problem is, how do we know when we have a problem that calls for cautionary action?

The very elaborate concerns I have expressed need not be applied to every form of activity which affects existing natural communities—every excavation for a building, every road, dam or bridge. It must be remembered that as to many such enterprises we have a great deal of knowledge, based on long experience and observation. While serious environmental problems are presented by many prosaic enterprises, the problem of control as to these is not of the burden-of-ignorance type to which I called attention earlier, but relates to control of the governmental and political mechanisms for decision making, and that area of control I will come to in just a few moments as the last part of my comments.

I am now speaking of the question of identification of those environmental controversies where control is an issue in the sense that no one is presently prepared to assert knowledge of the consequences. How do we know when we have one of these problems, and when, thus, we ought to worry about loss of control by default?

Not long ago, in talking to some people in the scientific community, a definition was tentatively suggested that seems to me most helpful in beginning to address ourselves to this problem. It was suggested that we define pollution as the input of substances in amounts or concentrations for which natural communities have had no evolutionary experience. The idea of using evolutionary experience as an indicator of problems seems to me a particularly felicitous one, for a modification of a community for which there is no experience is surely a danger sign of a situation likely to be out of control, in the sense that I have been using that term.

It is, more significantly, an indicator which arises out of a scientific concern about the problem of manipulating natural communities, which is the central issue, rather than—as is so often the case—an indicator formulated as a legal convenience that is then imposed upon a scientific problem. Moreover, because we are concerned with controlling potentially grave problems, rather than merely with regulating completed harms, it is a desirable improvement over the conventional legal test of proven or provable injury. It is a way of helping us to get the legal system into a posture where it can look ahead to long range problems.

This is most important, for one test of the efficacy of environmental law will be its ability to enlarge its perspective to grasp large scale, long term, cumulative problems. For this it must begin to develop indicators of danger—of which this definition is simply a helpful illustrative example—that suggest the points at which significant issues of control are likely to be presented.

Earlier in my discussion I mentioned the dissemination of pesticides and radioactive substances as particularly obvious examples of important matters for environmental law, and I think it clear that a definition of the sort I just mentioned can be tested by noting that it plainly identifies them as problems. Another example might be the development of electric generating plants around the southern Lake Michigan shoreline, which has raised considerable concern about thermal discharges. Rather than asking, as our Michigan Attorney General's memorandum would seem to, whether an objector can point to injury, it might be much more frutiful to begin by asking whether those who would make such discharges can point to any such experiences by way of assurance that we are in control of the consequences; and from that point begin to inquire into the need for developing information about such experiences,

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the time we can buy to develop such information, and the alternatives available during such a time period that would not impose insufferable consequences upon the consumers of electric power. This is the perspective toward which we should, I believe, be moving, and this is the context for which we have to build legal standards and decisional techniques.

I now want to turn to a quite different aspect of the control issue, what might be called political control of the consequences of human activity. For even if we are able to formulate the right questions—and that is what I have been talking about thus far—it is still essential that we assure that those questions are asked, and asked fairly and fully, and that decisions be based upon the answers to those questions.

I shall limit my comments on this last element of my discussion, for this aspect of the control question is one to which I have addressed myself at some length in my book, *Defending the Environment*,[19] and in an article I wrote last year in the Michigan Law Review.[20]

In my judgment, it is not possible to move in the directions I have been suggesting unless and until the legal regime begins to recognize a much more ample conception of the idea of public rights. While it is true that the law is full of declarations about public rights, it is also unfortunately true that when environmental controversies come before legal tribunals for resolution, the protection of the private property right of individuals or industrial users is very much the center of attention. While it is routinely noted that these rights are not absolute, they are used as the baseline for decision-making in a way that should not be allowed to persist. Let me give you a few examples to illustrate what I am saying. Once again I refer to the opinion of our Michigan Attorney General, who in speaking of the requirement that injury be shown in water pollution cases, emphasizes that any other rule would probably be an unconstitutional taking of the property of the riparian owner, with his right to discharge into the waters of the state.

Nowhere in that opinion is it said that the waters of the state into which wastes are to be discharged need to be considered as of equal dignity to the riparian owner's property right. I say this not to suggest that in a technical sense one need speak of a taking of the property of the state in the water (though such issues have been raised in litigation)[21] but rather to indicate that the focusing of attention on private property and not on coequal public and private rights gives a tone and bias to conventional legal analysis that tends to undervalue commonly held resources such as air and water.

To illustrate this difference, let me point to one area of law—broadcasting—where courts have been quite explicit and emphatic in speaking of public rights. In the first WLBT case[22] Judge (now Chief Justice) Burger said:

A broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts that franchise it is burdened by enforceable public obligations. . . . After nearly five decades of operation the broadcast industry does not seem to have grasped the simple fact that a broadcast license is a public trust . . .

Many years earlier, Justice Frankfurter noted "the Communications Act is not designed primarily as a new code for the adjustment of conflicting private rights through adjudication. Rather it expresses a desire on the part of Congress to maintain . . . a grip on the dynamic aspects of radio transmission."[23] The Second Annual Report of the Federal Radio Commission, issued in 1928, had already said:[24]

The emphasis must be first and foremost on the interest, the convenience, and the necessity of the listening public, and not on the interest, convenience, or necessity of the individual broadcaster or advertiser.

It is this conception, unfortunately, which still remains to be understood four decades later by most of those who are responsible for the regulation of natural resources. It is still the necessity—and even the convenience—of the private user which dominates their thinking. While the scope of regulatory authority itself is no longer much questioned, the old persistent enamourment with private rights, and a discounting of public rights remains.

Today that bias in attitude is often cloaked in what are said to be constitutional concerns with property rights. The potential for enlarging opportunities for the service of public rights within the constitution's limitations have hardly begun to be explored. Indeed, there are few fields of law in which those opportunities are greater than in that dealing with natural resources. Even in its most traditional format, the law of water resources is full of statements that private rights are to be considered only usufructary, and are not to be confused with the more rigorous property law tradition that had elsewhere prevailed.

The navigation servitude, deeply rooted in our law, is a conception of enormous importance and promise, that has hardly begun to be examined in the context of contemporary environmental concerns. The statement of the United States Supreme Court sixty years ago in the *Chandler-Dunbar* case[25]—"that the running water in a great navigable stream is capable of private ownership is inconceivable"—is an invitation for the contemporary study of environmental law, with vast implications. This task is yet to be undertaken and applied to contemporary problems.

Even more ancient than the navigation servitude, and part of its doctrinal paternity is the centrally important doctrine of the public trust. I am happy to report that the public trust doctrine is beginning to be revived and brought to the attention of courts in environmental cases,[26] and I am confident that it will pay large dividends.

But the job is just beginning; thus far we have paid a heavy price for our lack of public-rights consciousness, and that price is reflected in many contemporary judicial decisions in problem areas such as strip mining[27] and wetlands protection.[28] Restraints on private users have too often been found unconstitutional because of a fixation on the notion that regulations which deprive a private owner of the *present* opportunity to make some profit from his land must be an infringement of his constitutional rights.

If we were to take another look at such cases in the context of a legal system concerned with promoting innovation, they would appear quite differently. To demand, as a matter of constitutional law, that a landowner be allowed to take a profit from his land with existing technology is to deprive the law of the opportunity to create pressures for publicly advantageous technological improvements. It is, in essence, to raise the state of the art defense to a constitutional level. Not only is this unwise, but it is unnecessary as a matter of constitutional law.

It is, of course, commonplace to condition the use of property on the adoption of safety devices, or expenditures therefor, despite the economic impact they may have upon the affected person. In this respect, it is well to remember Justice Holmes' comment in the *Erie Railroad* case—where the railroads argued that regulations requiring them to pay for grade separations might bankrupt them and must therefore be held unconstitutional—"That the states might be so foolish as to kill a goose that lays golden eggs for them has no bearing on their constitutional rights."[29]

Surely this approach can be adapted to activities such as strip mining and to the promotion of innovation, by requiring the adoption of protective measures (even if not now available on the market) sufficient to assure the protection of public resources such as lakes and streams into which there is mine drainage.

Another device for achieving this end might be the requirement of a bond to assure compensation for the full costs to the public of the miner's operations. Such an approach would be similar to the statute I mentioned earlier which allows the Attorney General to collect the damages done to the state's natural resources. If the costs to public resources were adequately calculated, and bonds set at a sufficiently high level to reflect the problems of existing technology, it might well be that mining would at present become prohibitively expensive. But this would not be a prohibition on the use of the miner's land; it would simply assure that coal would be mined only when the value of the coal exceeded the true costs of recovering it, including the costs to public resources.

It hardly seems likely that this is forbidden by the constitution, for such a technique would merely follow the old tradition of nuisance cases which favored a big and valuable property interest against a smaller one, protecting the greater interest even at the expense of the smaller.[30] The format would be the same, but the result might differ, because for the first time the right and values on the other side of industry would be seen not merely as a single individual's home, for example, but as the much larger public right in the water resource as a living community.

As a final comment on problems such as surface mining, it is worth calling attention to an ironic fact about technology and constitutional rights. Were it not for the modern development of huge machinery which makes strip mining profitable under present legal standards, the land now being mined would no doubt be sitting idle, producing nothing but—as some courts put it—the right to pay taxes. The asserted constitutional right to profit from the land as a source of surface mined coal is no ancient expectation, but the product of a speculative investment that awaited technological development.

In this sense, any constitutional right recognized is itself the result of one kind of technological innovation. An innovation that degrades public resources. Is there any reason to refrain from demanding that the opportunity to profit from the land wait until we have a technology which will also protect those resources?

Finally, I turn to that aspect of the control issue which relates to participation of citizens, and their access to the decision making process. As I said earlier, because my book deals with this question at some length I will not belabor it here. I note only two points by way of emphasis. First, if control is to be the lodestar of our concern, it is essential that we think not only of scientific knowledge as a source of control, but of control over human activity in light of the opportunity for all interested segments of the public to have a genuine opportunity for participation.

The present administrative process—by which we now manage environmental controversies almost exclusively—can hardly be said to be a successful implementation of that principle. There are few administrative officials who do not view their role principally as one of quiet and friendly negotiation; a role which may get him the maximum results within the limited powers available to him, but hardly a role consonant with that which a claimant of legal

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rights (such as a property owner) should and does assert when his rights are put in jeopardy. This is simply to say in brief fashion that the institutional structure we have, and rely upon so greatly, itself reflects the failure in our public-rights consciousness that I have just been discussing.

It is in large part to reorient our sense about public rights, and about their status, that it seems to me useful to spend a good deal of energy in the courtroom, for all its limitations as an efficient place for decision making. It is, despite those limitations, preeminently a forum in which rights-consciousness is at a high level, and it is that tone which needs to be strongly emphasized for at least the short term and intermediate future.

Another failing in the administrative system is that it creates a middleman between the rights holder (the public) and his opponent. The citizen comes to a regulatory agency as a supplicant, requesting that they undertake to examine and to pursue his rights. In a courtroom, he comes directly and as a claimant; there is no insulation of administrative discretion between him and his claims. This too is a matter of tone and of emphasis, but one of very great importance.

Finally, there is at least in one important sense an element of directness about the litigation process that is lacking in the usual administrative process. If one is to be in control, it is, after all, important that he have the opportunity to affect action with a certain directness and forthrightness. The suit for immediate injunctive relief is a forthright institutional tool. The usual administrative process is loaded down with an incredible weight of procedural baggage which often brings it to a halt as an effective tool. The ordinary range of conferences, hearings, preliminary orders, negotiation, delay, more hearings, stipulations, more conferences, and finally—perhaps—an order which can then be taken to court for litigation, is endemic to the regulatory process.

The laws under which administrators operate usually compel at least a good deal of this plodding, with the result that problems are frequently drawn out over many years. The consequence is that the system loses control over the problem. During the past year, I have had students examining the time chart of a number of environmental controversies, and the mere chronological facts are appalling.

Let me cite you one such example, as an illustration. I am sure it has its counterparts in every state of the country, and in the federal system as well:

The company operates a rendering plant, slaughter house and meat-packing facility. The plant is located about one mile south of the limits of Traverse City. Numerous citizens complained of a nauseating and putrid smell emanating from the plant. In some cases the smell caused vomiting or fainting (1) and was noticeable one and a half miles from the plant (2).

1963

July 18: Engineer for the State Department of Health visited the company subject to a complaint referred from a local health department. It appeared that there had been an equipment breakdown and dead animal bodies and other foul and decaying matter created a severe odor. There was, at that time, no air control legislation and the State Health Department felt it had no power to pursue the matter. The State Department of Agriculture, although it licensed the company, was only interested in the quality of the animal food.

July 26: The Public Health Department sent a detailed report indicating measures to be taken. The company reduced the odor problem somewhat, but made no attempt to control the release of non-condensible gases from its cookers.

1968

May: A neighboring business complained to the Department of Health that odors from the rendering plant were making its employees ill. The plant said the problem would be resolved shortly.

1969

Spring: A new complaint was made by the neighboring business. Increasing numbers of citizen complaints were received by state and local officials concerning a severe odor coming from the company.

August 16: An Engineer for the new Air Pollution Control Commission wrote the company and asked for a resolution of the odor problem by November 1. He indicated that the matter would be brought to the attention of the Air Pollution Control Commission if progress was not forthcoming.

September 4: Air Pollution Control Commission informs Assistant Attorney General of the rendering plant situation and asks for an advance draft of a notice of violation against the company for consideration by the Commission. There is no response from the Assistant Attorney General.

September 16: At a Commission meeting, although a Staff Report recommended that the company be cited for violation of the Air Pollution Control Act, the company was given a 30 day variance to devise a control program. The Commission noted four major improvements for the company to follow. The company agreed to implement each factor.

1970

January 23: Attorney for the company submits a progress report. After-burner required by Commission is not yet installed.

April 14: The County government urges its citizens to direct complaints to the Commission. A petition with more than 1900 signatures requested the Commission to stop the noxious odors.

April 21: At a Commission meetings, it is recommended that the company be cited for violation of the Air Pollution Act. It is noted that no afterburners were installed, but rather unsatisfactory substitute equipment was used.

June 12: Air Pollution Commission returns a complaint for violation of the Air Pollution Act to Assistant Attorney General who is to be told *in a few days* whether to process the complaint. No subsequent correspondence is in the files.

July 21: A prominent Traverse City citizen complains about the odor problem in letters to—Governor Milliken, Senator Hart, Senator Griffin and Commissioner Soet. The citizen has heard that the citation for contempt of the Commission's rulings is being held up by an Assistant Attorney General and he asks, "Why?" On this same date the Commission adopts a complaint against the company.

August 28: A referee's hearing is held on the complaint. Public complaints were still being received.

August 30: The referee's decision is sent to the company. It is recommended (*inter alia*) that the company be ordered to take all necessary steps to remedy the situation or discontinue its rendering operations.

November 17: A hearing is set for action on the referee's findings.

The Commission, at its November 17 meeting, noted to accept the referee's findings and to request the Attorney General "to proceed with a notice of complaint and violation." However, the agency, probably, will not have the Attorney General take immediate action since the Commission also directed the company to submit abatement plans by January 4, 1971, to initiate installation of control devices by February 15 and to obtain total operational compliance by May 1, 1971.

Sad as it is to hear such recitations, everyone who has followed environmental controversies nods his head knowingly. Yes, that is—though perhaps in aggravated form—the pattern. The agencies somehow cannot seem to pull themselves out from this pattern. There is in here a lesson for those who are concerned about having control of problems, rather than simply having elaborate rules in the statutes.

There must be some institutional means for circumventing this process, some way in which control of problems can be grasped quickly and effectively.

It is interesting to note in this regard the kind of response that is made to a problem when a sense of urgency comes to surround it. The mercury problem and the federal government's response is an interesting example. Though the old, nearly forgotten, Refuse Act[21] was little used in the federal water pollution control effort, the task having been left to the rather leaden footed processes of FWQA, when the mercury issue broke,[22] the federal government—with some urging by members of Congress[23]—sent federal attorneys directly into the courtroom for injunctive relief under that law.[24]

To have a working, responsive system that permits control to be obtained over the problem, it was necessary to cut through the elaborate, elephantine "modern" system of water pollution control, and revert to a simple old equity action. There are some powerful lessons in these experiences, if only we will keep our eye upon the genuine aspirations of a system of environmental law—we are trying to bring ourselves into control over the effect of human activity on natural communities, of which we too are members. To lose that control is to make ourselves the involuntary white mice in a series of experiments in new evolutionary experiences; I don't think we want—or need—to be participants in that risky enterprise.

FOOTNOTES

[1] Mich. Comp. Laws Ann. § 323.6(a).

[2] Memorandum to L. F. Oeming, Executive Secretary, Water Resources Department, from N. V. Olds, Asst. Attorney General, Michigan, Feb. 19, 1968 (unpublished).

[3] E.g., *People v. Atchison, T.S.F. Ry Co.*, 268 Cal. App. 2d 501, 74 Calif. Rptr. 221 (1968) (State of the art defense).

[4] Katz, The Function of Tort Liability in Technology Assessment, 38 U. Cinn. L. Rev. 587 (1969). See also Note, The Role of the Courts in Technology Assessment, 55 Corn. L. Rev. 861 (1970); Technology: Processes of Assessment and Choice, National Academy of Sciences (Govt. Print. Off., 1969).

[5] *Renken v. Harvey Aluminum Co.*, 266 F. Supp. 169 (D. Ore. 1963).

[6] *Eisen* v. *Carlisle and Jacquelin*, 391 F.2d 555 (1968) (conspiracy to monopolize odd lot training).

[7] *Hackett* v. *General Host Corp.*, Civ. Action No. 70–364 (E.D. Pa., July 30, 1970) (suit on behalf of consumers of bread in Philadelphia market).

[8] *Philadelphia* v. *American Oil Co.*; Civ. Action No. 647–68 (D. N.J.) (suit on behalf of millions of gasoline purchasers); *Lah* v. *Shell Oil Co.*, 50 F.R.D. 198, 200 (S.D. Ohio, 1970) suit on behalf of 140 Shell dealers).

[9] M.D.L. No. 31, 1 Env. Rptr. 1643, (C.D. Calif., Sept. 4, 1970).

[10] *Siegel* v. *Chicken Delight, Inc.*, 271 F. Supp. 722 (N.D. Calif., 1967), mod. 412 F. 2d 830 (9th Cir. 1969) (suit on behalf of hundreds of restaurant franchisers).

[11] *West Virginia* v. *Chas. Pfizer and Co.*, 314 F. Supp. 710 (S.D. N.Y., 1970) (settlement of tetracycline drug antitrust case).

[12] *Diamond* v. *General Motors Corp.*, No. 947, 429 (Super. Ct., Calif., filed April 15, 1969) (suit for large damages for air pollution; dismissed); for a report of a criminal pollution case, in which a million dollar fine was assessed, see New York Times, Aug. 27, 1970, at 1, col. 1.

[13] See generally A. Kneese and B. Bower, *Managing Water Quality: Economics, Tech-*

nology, Institutions, Pt. III, ch. 6, 7 (Johns Hopkins Press, 1968) (effluent charges).

[14] Vt. Stat. Ann., tit. 10, § 912a(e) (1970 Supp.); Comment, Water Pollution Control in Vermont: A System of Effluent Charges, 4 J. Law Reform 135 (Fall, 1970).

[15] Mich. Comp. Laws. Ann., § 323.10 (recovery of damages to natural resources of state from violation of water pollution law). See *California v. Union Oil Co.*, No. 84594 (Super. Ct., Santa Barbara, filed February 1969) (suit for $560 million for harm to property, fish and wildlife from oil spill); Note, Liability for Oil Pollution Cleanup and the Water Quality Improvement Act of 1970, 55 Corn. L. Rev. 973 (1970); "Pollution Suits Filed," Wall St. Journal, March 16, 1970, at 6, col. 1.

[16] Clean Air Act, P.L. 91–604, §202.

[17] CONGRESSIONAL RECORD, vol. 116, pt. 24, p. 33088; and p. 32902.

[18] *Dept. of Health v. City of Jersey City,* No. C–2902–67, Ch. Div., Super. Ct., Hudson Co., N.J. (July 12, 1968); New York Times, March 3, 1969, at 62, col. 6. See also *Virginia Water Board v. Supervisors,* Ch. No. 31671, Cir. Ct. Fairfax Co., July 28, 1970, 1 Env. Rptr. 1482; *Westwood Forest Estates v. Village of Nyack,* 23 N.Y.2d 424, 297 N.Y.S.2d 129, 244 N.E.2d 700 (1969). See generally, 1 Env. Rptr., Highlights, pp. 245–8, July 10, 1970.

[19] J. L. Sax, *Defending the Environment,* (Alfred A. Knopf, Inc., 1971).

[20] Sax, The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention, 68 Mich. L. Rev. 471 (1970).

[21] E.g., *New Hampshire v. AEC,* 406 F. 2d 170, 176 (1st Cir., 1969), cert. denied 395 U.S. 962 (1969).

[22] *Office of Communication of the United Church of Christ v. FCC,* 359 F. 2d 994, 1003 (D.C. Cir., 1966); *Citizens Committee v. FCC,* No. 23, 515 (D.C. Cir., Oct. 30, 1970) ("commonly-owned public resources").

[23] *FCC v. Pottsville Broadcasting Co.,* 309 U.S. 134, 138 (1940).

[24] P. 170.

[25] *United States v. Chandler Dunbar Co.,* 229 U.S. 53, 69 (1913).

[26] E.g., *West Virginia Highlands Conservancy v. Island Creek Coal Co.,* No. 15, 028, U.S. Ct. App., 4th Cir., Brief for the Appellee at 50; *City of Long Beach v. Mansell,* L.A. No. 29, 700, S. Ct. Calif., Reply Brief of the State of California to Respondent's Return to Alternate Right of Mandate at 10, 14; *Paepke v. Public Building Comm'n.,* — Ill. 2d. —, 263 N.E. 2d 11, 16 (Sept. 29, 1970).

[27] *Dept. of Forests and Parks v. George's Creek Coal Co.,* 250 Md. 125, 242, A. 2d 165 (1967); *Mullins v. Beatrice Pocahontas Co.,* — F. 2d —, 1 Env. Rptr. 1693 (4th Cir., 1970). Compare *Stewart v. Chernicky,* — Pa. — — A. 2d —, 1 Env. Rptr. 1357 (1970); *Samsell v. State Line Development Corp.,* —W. Va. — S.E. 2d —, 1 Env. Rptr. 1304, 1970).

[28] *MacGibbon v. Duxbury,* —— Mass. —, 255 N.E. 2d 347, 1970); *Maine v. Johnson,* — Me.—, 265 A. 2d 711 (1970).

[29] *Erie R.R. v. Public Utilities Commr's.,* 254 U.S. 394, 410 (1921).

[30] *Madison v. Ducktown Sulphur, Copper and Iron Co.,* 113 Tenn. 331, 366, 83 S.W. 658, 666 (1904). Compare *Hulbert v. California Portland Cement Co.,* 161 Cal. 239, 251, 118 P. 928, 933 (1928). Jurgensmeyer, Control of Air Pollution Through the Assertion of Private Rights, 1967 Duke L. J. 1127.

[31] Rivers and Harbors Act of 1899, 30 Stat. 1152, 33 U.S.C. § 407.

[32] Detroit News, April 9, 1970, The Other Section, at 2, col. 3; New York Times, May 11, 1970, at 40, col. 4.

[33] CONGRESSIONAL RECORD, vol. 116, pt. 18, p. 24530; 1 Env. Reptr., Current Developments, Highlights, p. 272, July 17, 1970, p. 354, July 31, 1970; Report No. 91–917. U.S. House of Representatives, Committee on Government Operations, Subcommittee on Conservation and Natural Resources, March 18, 1970; Hearings Before the Subcommittee on Energy, Natural Resources and the Environment, U.S. Senate Committee on Commerce, on Environmental Protection Act of 1970, S. 3575, 91st Cong., 2d Sess. (1970), Serial 91–90, at 135–6.

[34] 1 Env. Rptr., Current Developments, Highlights, p. 349, July 31, 1970, p. 509, Sept. 11, 1970.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the laying before the Senate of the pending business and the approval of the Journal, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

Mr. BYRD of West Virginia. I ask unanimous consent that that period for the transaction of routine morning business be limited to not to exceed 30 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I have made this request today in order that all Senators may be aware that on Monday, even though we will convene following a recess, there will be a period for the transaction of routine morning business and they can be present with their statements and ready to present them.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER (Mr. CHILES). The Chair lays before the Senate the pending motion to proceed to the consideration of Senate Resolution 9, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate.

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.

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. HOLLINGS. 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. HOLLINGS. Mr. President, I speak today against the imposition of a stifling gag rule on this body. Once again, in the name of reform, we are asked to tinker with arrangements that have helped us over troubled waters time and time again. I speak specifically of the proposal to allow three-fifths of the Senators present and voting to shut off debate on any bill. More generally, I speak about the protection of minority interests in this country.

Mr. President, it is interesting to be able to speak for the majority. The distinguished Presiding Officer (Mr. CHILES), coming from the Southland, will be interested to know that while many who speak on this particular subject characterize it as southern, and characterize our efforts as obstructionist, the fact of the matter is that the South is no longer a minority, but a majority area, with, according to the 1970 census, 61.5 million persons. We are growing faster than any other section of the United States, forming into metropolitan areas, urbanizing faster than any other. In the past decade, more persons moved into the South than out of the South, for the first time in the past 100 years. We are the youngest section. According to the Carnegie Institute on Higher Education, our schools offering graduate degrees compare favorably with those of other sections of the country.

We have shown far more advancement in public education. Now that the civil rights battle is over and done with and the task of implementation is at hand, no one can think of any law—I say to the distinguished Senator from Alabama—no one can think of any civil rights law to introduce, because if he could, he would put it in. The matter of Southern obstructionism is moot; and we pass on to the majority section of the country, and we look to really what is obstructing progress in the United States. It is not seniority and it is not rule XXII.

The fact is, Mr. President, that what we really should do is mechanize and put in business procedures—computerize, if you please—as modern business has done. Congress does not have an Attorney General. We cannot tell how a bill is going to be ruled upon.

If we took the Executive's Attorney General, we would never have had an 18-year-old voting. We just had to do that on our own muscle, under the leadership of the distinguished Senator from Montana.

We do not have an analysis section for Congress. We pass a bill, and often we think the problem is solved, and it is merely identified. Coming back 4 or 5 years later, we find that the intent, the problems to be solved, have all been disregarded; and there is no real study-analysis section to tell what has occurred or to understand from a computerization standpoint what is likely to occur.

One of the greatest hangups, on a major piece of legislation was the family assistance program. Who could really tell what would happen if we voted that into law this afternoon? We certainly cannot tell from the administration's witnesses. They do not know. They do not have any idea, and they contradict each other; and every time you get them and put them in a position where they are obviously misinformed or do not have the facts, they say, "Wait a minute. We'll come back and give you a different bill."

That has been the trouble—not a filibuster, not rule XXII, but the lack, really, of business procedures in legislation.

The House Members really should have 4 years rather than 2 years, so that they would have time to legislate rather than just politic around the country. That is, practically, their burden.

The rollcall system, took last year over 2 workweeks of time to just vote—an average of 20 minutes on a rollcall. There are many other ways we could institute business procedures in the Senate, to cut down, to streamline, to prevent obstructionism. It is not seniority and it is not rule XXII.

What we talk for today, Mr. President, is to protect a substantial minority, so that the substantial minority can be heard. Do away with rule XXII? With the minority interests of this country so diverse, with the multiplicity of interests that we have and difference in sections and sectional interests, there will be no protection; there will be no chance to be heard.

While the Gulf of Tonkin resolution did not employ rule XXII, I think, in hindsight, that there still is tremendous doubt in this Chamber as to whether we, as a deliberative body, took time enough to consider really whether we were under attack. Did we go about this in a deliberate fashion? I believe the majority of the Senate think we did not.

I believe that the employment of extended debate in the last year by the minority leadership—specifically, the present chairman of the Republican Party, the distinguished Senator from Kansas—on the Cooper-Church amendment is in point. While I stood on the other side and voted for the Cooper-Church amendment, I readily have to acknowledge that the fact that he stood there, the fact that he talked, the fact that he required more deliberate consideration of this all important measure, gave us, in the U.S. Senate—and, thereby, in this Government and in this land, a chance to see what really was at hand and whether we were really just going into sanctuaries or spreading the Vietnam experience to a third Southeast Asian country.

The House devoted 3 hours and 40 minutes to debate on that issue and agreed that it was just sanctuaries. In the 7 weeks that ensued thereafter, we went from 9 miles to 20 miles to 90 miles inland, finding that 10-mile sanctuary and looking for COSVN headquarters. We went from no support to air support to every other kind of support.

Then they began to realize in this country that the President was not on all fours with the sanctuary story that he was giving; rather, that we were in danger of getting into another war and another Vietnam in Southeast Asia.

At the same time, we proved the need for rule XXII and extended debate as constituting the last vestige within our republic form of government to slow down, to listen, to deliberate, and to consider things objectively.

If I had my way—but I know I would be laughed out of court—I would extend this rule rather than cut back, the two-thirds requirement. If I had my way, I would go in the other direction and require three additional Senators and say that when 70 percent must consider a matter then to be terminated and have no longer any reason to debate it, therein and therein alone shall debate be terminated. Under the modern development of communications, the pressures from the White House, and the accession to power of the executive branch of Government, I believe what we really ought to guarantee, in essence, is that 30 percent in this country, constituting what we would call a substantial minority will be heard.

The trend should be the other way. We should not be using this salami approach of a little slice here and a little slice there to get down to 51–49 government. That is what we are talking about. We are not talking about civil rights. We are not talking about the Southland. We are not talking about obstructionism. We are talking about protecting the rights of the individual. We do not find that in headlines and stories. We will not ever hear it or see it.

The question, among some of our colleagues is that they do not want to believe it, because they might have the label of being an obstructionist and a bigot and a southern filibuster.

That is all they call it—the southern filibuster continues on today—when in essence we are protecting majority rights, because the Senator from Michigan is beginning to live in a minority area.

We, in representing the majority of our country and our Southland, have spoken out time and again against these efforts to deprive Senators of their right to debate the important issues confronting our Nation. The Senate was designed for careful and deliberate debate, and its history is filled with examples of the minority wisely tempering the haste of an overly zealous majority. If the Senate should now allow 60 of its Members to gag the other 40, the advocates of cloture will not rest until 51 of them can silence the remaining 49. And if ever the Senate is reduced to the sad point where a minority of its members have no freedom to speak on behalf of their constituents, then we are in grave peril. Those who came before us understood that unrestrained power is bad, whether it is wielded by one, a few, or a majority. They knew that we are a country not just of individuals, but of varied and diverse groups. We are laborers and farmers, lawyers, and teachers, businessmen and clergymen. The interests of farmers must be safeguarded, for instance, even though farmers represent only a minority of the population. Obviously we cannot say to the farmer that his interests are to be sacrificed because he does not constitute 51 percent of the populace. The interests of each and all of our diverse groups must be shielded from the whims of 51–49 Government. The Founding Fathers established a government to protect the rights of all the people, and they insisted that minority rights be protected whether that minority be 49 percent of the total or one-half of 1 percent.

Thomas Jefferson, the founder of our Democratic Party and our democratic system, once said:

> The rules of the Senate which allow full freedom of debate are designed for the protection of the minority, and this design is part of the warp and woof of the Constitution. You cannot remove it without damaging the whole fabric.

If any changes are going to be made, we ought to consider going in the opposite direction—of requiring a 70-percent vote rather than 67 percent to shut off debate. Never before have there been such opportunities to sway the sentiments of the people. Demagogs and radical schemers perform before an audience of millions every night on television—they are given every opportunity to propagandize their cause. A real demagog, a man on horseback shrewd enough to make maximum use of the media, could pose a real threat to the institutions of this Republic.

One has only to look at the history of the past quarter century to understand the importance of preserving open and free debate in the Senate. These have been years of steady growth in the executive branch, and of the gradual erosion of legislative authority. The executive branch has assumed powers galore in these years, and as a result it is increasingly difficult for Congress to make itself heard. The executive has a vast array of tools and levers to influence the formation of public opinion. The Congress has very few. In short, Mr. President, it is far easier today for an administration to influence public opinion, form majorities on a particular issue, and then ram its legislative proposals through Congress. One of the best defenses Congress has to ward off this type of instant legislation is deliberate debate. It must safeguard, perhaps even strengthen, that weapon. Instead of making it easier for hastily put together majorities or the executive to push legislation through Congress, we ought to make it more difficult. Hence my suggestion that we increase the number required to invoke cloture from 67 percent to 70 percent in view of the changed conditions of the past 25 years.

The tradition of open debate has surely not weakened the role of the Senate. On the contrary, it has made reality out of the dreams and visions of this country's Founding Fathers. The Senate was not intended to to be a rubber-stamp to the changing whims of successive administrations. Quite the contrary, Mr. President—the Senate's primary role in American history has been to provide a check on hasty administration action, and on hasty legislative action by the lower House of Congress. One weapon to check such haste has been the tradition of free and open debate. Indeed, not until 1917 did the Senate inaugurate cloture procedures to limit debate. In the years before 1917, the United States progressed to greatness.

I might interject at that point, Mr. President, because the distinguished Senator from Michigan (Mr. GRIFFIN) is in the Chamber with us now, what I said concerning the headlines on rule XXII, calling it a "southern filibuster," "obstructionism," and "bigotry from our section," In addition to the extended debate we had on the war in Vietnam and the incursion into Cambodia, we also had

extended debate on a judicial appointment. If we had not had that extended debate on the appointment of Justice Fortas to be Chief Justice, and Judge Thornberry to be Associate Justice, those two gentlemen would be on the Supreme Court today. I would have preferred the two gentlemen who are now there, Chief Justice Burger and Justice Blackmun. I believe the distinguished Senator from Michigan (Mr. GRIFFIN) will readily acknowledge that had we not had the advantage of extended debate, that would have occurred.

Looking at that, perhaps our distinguished minority whip would join us in our cause, having enjoyed the benefits of extended debate, and come with us now from other sections of the country so that it will not look like a sectional thing, and maybe, the great State of Michigan and South Carolina can be integrated on this point.

Mr. GRIFFIN. Mr. President, will the Senator from South Carolina yield at that point, without losing his right to the floor and without having it constitute a second speech?

Mr. HOLLINGS. I am glad to yield to the Senator from Michigan under those conditions.

Mr. GRIFFIN. I rather have the impression that the distinguished Senator from South Carolina may be seeking some response from the junior Senator from Michigan. Let me acknowledge that the junior Senator from Michigan as well as others in this body who favor a change in the rules have, nevertheless, taken advantage of the existing rules when to do so would serve our particular point of view in a given situation. There is no denying that.

I would be the first to agree with the distinguished Senator from South Carolina that it is absolutely necessary and in the national interest to make certain that there is adequate debate on the great issues which come before this body, open and full debate. However, I would not want the rhetoric to cloud over a basic difference in our point of view: I do not equate the opportunity for full and open debate with the proposition that we can never get to a vote on an issue in this body; and that seems to be the practical result.

I must say, I am rather startled by the suggestion of the distinguished Senator from South Carolina that we move in the opposite direction, away from reform, and require a three-fourth rather than a two-third vote of the Senate before we could terminate debate. I think it would be very unfortunate if we were to move in that direction.

Mr. HOLLINGS. Does not the distinguished Senator agree——

Mr. GRIFFIN. My response to the Senator is that while I would join him in securing procedures which guarantee adequate debate so as to make sure the Senate does not move too hastily on important issues, still, I believe we must have procedures which permit us, after a reasonable period of time, to get to a vote.

Mr. HOLLINGS. Does not the distinguished Senator from Michigan agree that the power of the President specifically, not hypothetically, in the Fortas appointment came to bear when the President submitted this particular questo to the Senate? At the very time that appointment was sent up, 75 percent of Senators, generally speaking, were ready, willing, and prepared to vote for confirmation. It was only the Senator from Michigan's careful perusal and study, and bringing the facts to light that held that up and, as a result, finally, the nomination was not confirmed. But, therein, the Senator saw, felt, and knew the power of the executive. The Senator from Michigan was a definite minority, probably within 20 percent, rather than 33⅓ percent. Therein is whereof I speak. The Executive does have this power. With the news media and all the ramifications connected with it, the Senator and I both know what the ill of the Government is, that the executive branch has preempted the legislative branch by completely ignoring its Cabinet and Cabinet officers when it talks about the reorganization of the Government and the institution of new departments.

I believe that the first new department that should be instituted would be "a department of lost articles." I dealt with the Secretary of Commerce for a year, trying to get something on textiles, but until they started to do something with the Japanese, it was over at the White House.

On the question of food stamps, I dealt with the Secretary of Agriculture and when we started to get results, they transferred that over to the White House. I can give the Senator example after example after example, such as the Secretary of the Interior did on his departure, when he said, "I have not been able to see the President."

Everyone knows that the State Department does not formulate foreign policy. Last year's message on the state of the world was written, prepared, and delivered during the time the Secretary of State was over Africa, some 30,000 feet in the air, and did not even know it was coming up, to his embarrassment.

Therein we see congealed more and more into the White House all these various things. Perhaps it is wise. Perhaps it would be better to get rid of the Secretary of Labor and let the President make decisions about the Labor Department, and forget and abolish the Labor Department. But all we are doing is getting an all-powerful executive branch which has all the resources, all the facts, and all of the authoritative information to back up the position taken. All the news media jump on that. And bam, bam, we look like we are dragging our feet. We should stop to think in this body as the Senator from Michigan stopped to think on the Fortas matter. As the Senator knows, history was made in that matter, and the Senator is proud of that, I am sure.

Mr. GRIFFIN. Mr. President, will the Senator yield further for a comment?

The PRESIDING OFFICER (Mr. EAGLETON). Does the Senator yield for a comment to the Senator from Michigan?

Mr. HOLLINGS. I yield.

Mr. GRIFFIN. Mr. President, of course, I appreciate the very generous comments of the Senator from South Carolina concerning my work with respect to the Fortas nomination. I am proud of the Senate and its judgment in that case.

I might say I hold the view now, as I did then, that as in the case of treaties which require two-thirds approval, it would be a good reform of our procedures to require a two-thirds approval vote on Supreme Court nominations.

I say that even though I realize my suggestion might not be too welcome at the other end of Pennsylvania Avenue where, at the moment, a President of my own party happens to be in the White House.

I believe it would be in the national interest if every appointment to the Supreme Court sent up to the Senate had substantially more than just 51 percent support.

Mr. HOLLINGS. I agree.

Mr. GRIFFIN. Aside from what we might do with respect to voting on legislative issues, a great deal can be said for a two-thirds voting requirement with respect to Supreme Court nominations. But I do not think that the same reasoning or logic applies with equal force to other matters which come before the Senate. For example, in the last session of the Congress the Senate was tied up with filibusters on such matters as conference reports and appropriation bills.

The Senator has asked for my comment on some of his suggestions; I would like to throw a question back at him. Does not the Senator from South Carolina think there should be some limitation on debate so we could get to a vote in the case of conference reports or an appropriation bill, upon which the functioning of our Government absolutely depends.

Could we afford to allow the Government itself to come to a halt because we cannot get to a vote on an appropriation bill, for example, which would make it possible for the Government to proceed? I think that increasing the cloture requirement to 75 percent would be very unfortunate, particularly in those areas.

Mr. HOLLINGS. Mr. President, in response to my distinguished colleague, the Senator from Michigan refers specifically to the appropriations and the conference report on transportation and the other appropriation bills. The bill containing the SST came up at the very end of the session and they made a successful filibuster. I cannot think, other than on this particular issue in and of itself; namely, rule XXII, that we could not have had a vote on the SST if there had been time. The conscience of the Senate will see to that.

On an appropriation of x or y dollars, there is always room for compromise. The only lever the distinguished Senator from Wisconsin had on us was time. He did a good job and brought a lot of facts to the surface. We saw him arraigned against the entire White House and Pentagon with all their authority. He was in the back of the Chamber with two administrative assistants. He was sitting back there for several weeks and was bringing out the facts.

I believe if there would be a compromise on an appropriations measure, it would be fine, because we have to appropriate funds.

We would not have a minority that was

not heard. I am talking about minority interest, minority groups as individuals and population groups, minority sections. Those issues just could not come out which, I believe, responds to the logic of my distinguished colleague relative to a Supreme Court Justice appointment requiring two-thirds.

The Senator and I know the significance of that. But therein he recommends a two-thirds vote. If he feels that strongly on that particular point, I suggest that he should feel just as strongly about minority interests and their particular concerns and their particular sections.

I believe the two-thirds requirement should be adhered to. If there is to be a change, I categorically state that it should be in the other direction as a result of the history of communication and the handling of the press that every President has been accused of. President Johnson was accused of manipulating the press. They accuse every President of it. But the President has everyone right there.

Look at the situation we had on the west coast in the last election, in San Jose. It was characterized as the most heinous situation. When I read it, I thought it was one of the worst things I had ever heard. It was not like that at all when the matter was investigated. We had the media respond at first blush by saying that such and such happened. But when we have the press make a careful and competent investigation as to what went on, then we have the truth and we begin to realize what happened.

This rule XXII is the only protection within this body of representative government in America. By it, I think we create stability in our Government.

If the ones who write the headlines do not understand it that way, they say we are dragging our feet in the Senate. Those things could be expedited in many other ways than the one safeguard we have in representative government in America.

We can all be represented here. No one has an inherent fear of a majority vote, 51 percent. We are trying to get it down to 60 percent. The Senator and I can never agree on that. They will say "What about 55?" We practically have a 51-percent Government, a bare majority can ram it down the throat of practically all of the country, 49 percent.

Therein you instill instability, which is something the Senator and I, as Senators, have been under the gun about in the last several years with respect to representative government and the confidence of the people in representative government for the past several years.

Mr. GRIFFIN. If I may comment further, I wish to indicate that while I believe we should be able to get a vote on conference reports, I was opposed to the SST. If we had been allowed to vote on the transportation conference report in the last session, along with the Senator from Wisconsin, I would have voted against it.

Nevertheless, in the interest of the orderly workings of the Senate and of the Government of the United States, I believe it is vitally important that we be able to get to a vote at some point on such matters as conference reports and appropriation bills. I rather gathered from some of the comments of the Senator from South Carolina that he may agree to some extent with the proposition that these measures are of a different order or standing than authorization bills, for example, which are presented to determine policy, in the first instance.

Once we have worked our will and voted on an authorization bill and established policy, I believe we should be able to get to a vote more easily in deciding the amount of money to be appropriated for that particular purpose.

Mr. HOLLINGS. If my distinguished friend would discuss this matter further, is it not a fact that really it is not rule XXII which is involved but rather the matter of expedition in both parties, and the executive branch itself? We have always been able to vote on everything. But when we got to the appropriations for the SST, family assistance, social security, and foreign trade, they all occurred in December. Why did it all occur in December? It occurred in December because, for instance, the appropriation for the Transportation Department hearings did not commence until midyear. We did not get the bill until approximately election time. We tried to expedite hearings and get out a bill. That occurred not because of rule XXII.

I do not think we should ram anything through in the closing weeks. I feel the solution to that problem, which the Senator and I feel keenly about, is on our shoulders to make certain we start hearings as soon as possible with, perhaps, a deadline of midyear so that the hearings can be completed around June, July, or August, and the bills can be reported. Then, we will not be faced with these matters in the closing days just before Christmas. That is what recently occurred.

I would yield somewhat on the appropriation bills. Included therein are new matters. We are talking about issues and concerns of the people, and not the money amount.

Therefore, while three-fifths is maybe six less votes, who are we playing with? We are trying to play with the headlines without relation to the principle as to why it was there. How is a matter decided on just six votes, or by saying that 60–40 or three-fifths is the rule? That sounds pretty good. That will satisfy the crowd in the galleries. That will satisfy the news media.

They will say that we are finally getting progress and that we are moving on; but it would not be progress at all. The Senate would really be running roughshod over the rights of individuals in this country when you start tapering or cutting back to a 51 to 49 government.

Therein is the real danger. The Senator and I know how things are manipulated and backgrounded, and that we do not have the information at hand. I might relate this to another matter. In connection with garnering the facts and statistics, they might tell us how the price increases relate to productivity in America. Who in this Congress knows? No one. They do not have that information. You can get any opinion you want from the executive branch on economics. But what do we need? We do not need a change in rule XXII. We need the information. Rather than arguing back and forth we need to try to get to the truth.

With respect to the recommendation of a wage price guidelines board in the legislative branch, the distinguished leadership on both sides of the aisle was interested. By overseeing the work of that particular board you are going to get a pretty good nonpartisan objective judgment, and that is what we need. But we continue to cut back and we fail to adopt business-like methods here. The editorial writers back home and the headlines grab off the easy things. It has also been employed by some people in my part of the country on civil rights matters.

It should come through clear but, unfortunately, the question is asked when they sit before the lights, "Are you joining the southern filibuster on the rules?" That is like asking, "Have you stopped beating your wife?" It is one of those double questions, and a Senator runs because he does not want to get into a constitutional argument in a 1-minute squib on the television tube. Those who feel keenly about the matter find themselves in this situation, but we can bring it to the attention of our colleagues.

Not until 1917 did the Senate inaugurate proceedings to limit debate. The United States became the foremost power on earth and its institutions were performing admirably in the light of all the many changes which were occurring. I submit that our march to greatness was helped, not hindered, by the deliberate debate of public issues. And I submit also that one reason our varied minorities fit in so well was because they knew their voices and problems were being heard in the highest councils of government.

I might add, Mr. President, that this lesson has relevance today. We all know that there is much anger in the land, that people are shouting and demonstrating and generally losing confidence in government. If this great country of ours is to be bound together to see it over the next few, troubled years, the restoration of confidence must receive the highest priority. No minority can be expected to acquiesce in the decisions of government unless it knows it has had its day in court. Majority rule rests upon minority acceptance. And rule XXII is a guarantee that minority voices will be heard and minority rights respected.

I believe that the Constitution itself specifically prohibits total rule by a simple majority and the deprivation of anyone's right to full expression, and I believe those who fought the first battle—the framing of an acceptable document to weld a jealous, loosely knit set of far-flung colonies together—recognized this. There is ample evidence that this is so.

The framers provided in many instances for votes requiring a majority of two-thirds.

No person shall be convicted on impeachment without the concurrence of two-thirds of the Senators present. That can be found in article I, section 3.

Each House, with the concurrence of two-thirds, may expel a Member. That too is in article I, section 5.

In section 7 of this same article, it is

provided that a bill returned by the President with his objections may be repassed by each House by a vote of two-thirds.

The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. The Constitution provides for this in article II, section 2.

The Constitution further provides that Congress shall call a convention for proposing amendments to this document on the application of two-thirds of the legislatures of the several States.

The 12th amendment to the Constitution provides that when the choice of a President shall devolve upon the House of Representatives, a quorum shall consist of a Member or Members from two-thirds of the various States of the Union. This same amendment further provides that a quorum of the Senate when choosing a Vice President shall consist of two-thirds of the whole number of Senators.

So, Mr. President, I say again, to argue that the Constitution of these United States provides for rule by a simple majority is wrong.

There are too many instances where much more than a simple majority was specifically required for constitutional acceptance for this not to be so. If the framers of the Constitution—men who spent much more time debating the merits and demerits of each word, every phrase and every idea than we—had intended that a simple majority should rule, they would have said so.

They said no such thing because they meant no such thing. It is as plain as that. They knew something about government and they also knew something about human nature. They knew that the government they were establishing was novel in many respects, and they knew that some theorists had doubts about whether a representative government could be held together. They understood that factionalism and discontented minorities could endanger the fabric holding the Nation together. What they understood was that without the confidence of all the people, democratic government was doomed. So they designed an intricate and ingenious set of checks and balances to safeguard the rights of every American citizen. Those checks and balances tided the country over stormy seas and innumerable crises over the years, but we always made shore safely. A major reason was that minorities knew, even when legislation went the other way, that their voices had at least been heard, their opinions discussed, their sentiments solicited. If we now suddenly tear down one of the prime methods of recourse left to minorities, confidence will erode and the national well-being will be jeopardized.

A great but obscure writer once said that the strength of this great Nation lies not in the views of her manageable majority but in the ideas of her unmanageable minority.

Somewhere, Mr. President, there must be a solid line of defense against total rule by a simple majority.

There must be a safeguard somewhere to assure that the strength of an emotional majority can be tempered with the reflections of a differing minority.

It makes no difference, Mr. President, what the issue is or who constitutes the minority. That consideration is irrelevant to this discussion.

I would defend just as vigorously the right of minorities who differ with me to engage in extended debate as I would the rights of those who agree with me.

The many are not always right, just as they are not always wrong. All I ask is a safeguard to insure that when they are wrong and the few are right that the ideas of the few have time to be heard, to be planted, and to grow.

As James Roscoe said:

> The individual champion of a cause is more likely to have thought seriously and safely than the blind followers of partisan leaders. The world's history is strewn thick with such incidents. Nearly all of the great issues have been lamentably in the minority and the men who have stood in the front of them have had to bear abuse.
>
> The great consideration is not the voices of today but the voices of the tomorrows into which will be streaming the light of accomplished facts.
>
> It is safe to assume that the voice of progress will be vindicated by the ages. To protest small concepts, to champion great proportions is sure prophecy. It is out in that direction that we find the purpose and plans of God. It is out in that direction that we follow the orbit of large and noble human events.
>
> The right to be heard is inherent in man and fundamental in his free land. The right to be followed must depend upon what reason and sound arguments he makes known.
>
> If no age, neither his own nor any succeeding one, hears him, he has spoken in vain. If he utters truth and wisdom, somewhere at some time it will accomplish that whereunto it is sent. It will not return void. If it proves to be a mistake, nevertheless he who speaks his convictions has the ennobling satisfaction of having obeyed the command of duty as he saw it.

Careful, thorough, and prolonged debate in the Senate provides the best insurance that laws, which must be obeyed, correspond with the prevailing judgment of people in all parts of the country about what men owe to other men. The framers of the Constitution regarded the power to make laws as a power to be exercised only with the greatest deliberation. They understood that government ought to govern by the consent of the people rather than by force. They understood that laws, to be truly effective, must take effect in the minds of the people through their recognition of what is just. They understood that laws must, therefore, express a consensus—a general agreement about what is just and right—among people everywhere in our great country. They wished to preclude the danger to order and tranquillity of radical, sweeping, arbitrary legislation unsupported by a matured consensus among the people and rammed through the legislative branch without the adequate consideration which would have revealed that people everywhere in the country were not with it. For the framers knew that laws which do not command the consent of people through their recognition of what is just must be given effect, if at all, by force or threat of force.

The remarks I make today, Mr. President, center around the thesis that our Senate rule XXII has been and continues to be perhaps the last great barrier to oppression by the majority and to the destruction of the personal liberties of this country's minority views. It is certainly no exaggeration to say that this and all previous attacks on rule XXII seek to emasculate the very fabric of our constitutional system.

Mr. President, the annals of history are filled with testimonials to the free and unfettered exchange of opinion, to the benefits flowing from the protection of minority rights, and to the role of the Senate in safeguarding the interests of every American. Such have come from the North and South, East and West. They have come from Democrat and Republican. Too often, Mr. President, the views of a southern Senator on the subject of cloture are curtly dismissed. Today we should refresh the minds of our colleagues from the country as a whole of what their own predecessors had to say on the subject of cloture.

Senator George T. Hoar of Massachusetts—a Senator from Massachusetts, mind you—speaking in this very Chamber in a key speech against cloture said:

> There is a virtue in unlimited debate, the philosophy of which cannot be detected upon surface consideration.

Deeper consideration on this matter has brought a change in attitude to many former opponents, many former crusaders for strict cloture to the realization reached by Senator Key Pittman of Nevada, one of the crusaders:

> Experience, through long years of legislative practice, has forced me to the conclusion that I was in error.

He went on to note of the House cloture procedure that—

> It must be admitted that bills of great importance, containing thousands of different items, are passed within a few hours and without sufficient debate or consideration. It has been the extended and full debate in the Senate that advised the country with respect to vital legislation and, through this information, molded public opinion. The Senate was founded as a part of our institutions for the protection of minorities, not alone minority parties but minority populations and minority principles. To establish a cloture such as they have in the House would nullify the very purpose of the United States Senate.

Therefore, Mr. President, we appeal to the Senate. We look at this, not as an assault upon parliamentary procedure or a procedural maneuver employed by certain Senators at certain times; we look at this assault upon rule XXII as an assault upon the integrity of the U.S. Senate as a constitutional body.

I agree also, Mr. President, with Senator Albert J. Beveridge of Indiana, who challenged those who were at that time pushing for cloture to show him "a single great wrong that has been perpetrated upon the American people," because of unlimited Senate debate and to name "a single great benefit which has been denied the American people" because of it.

I would ask Senators, particularly the

proponents for the change of the rule embodied in Senate Resolution 9, even at this particular hour—some years later—to name one single bill, one single important matter of legislation, that has been defeated by rule XXII, which they cannot do.

On the other hand, we can name proposed bill after proposed bill which has been held up—proposed reactions, proposed misdeeds, and proposed wrong courses, that have been held up by rule XXII.

That same test, mentioned by that distinguished Senator, could be applied this very day, to the last 12 months or 24 months, and its effect on the procedures of this U.S. Senate, which is the thrust of the proposed change embodied in Senate Resolution 9.

Senator Pittman agreed with this point when he said:

> Let those who contend for the cloture point to particular instances, if they can, wherein the Rules of the Senate have been destructive of the progress of our people. It is possible that our country suffers from too much legislation, rather than too little.

That was never more valid than it is today.

All the bills, all the legislation, all the progress—notwithstanding a President who talked of the great society and the great progress of history—was under rule XXII. All the civil rights measures were passed under rule XXII. What has been defeated? What has been foreclosed? Nothing

The filibuster is a commonsense way to get a thing in shape so people can understand it, and they will know what we have done in this body. They certainly do not on the House side.

The Secretary of Health, Education, and Welfare came before the Senate Finance Committee, and made a miserable appearance—a very distinguished man, and a very erudite one. Finally, he admitted that he was not prepared. Then later he came back and made a creditable presentation. But it was not until we in the Senate, under our deliberate procedures, held it up, and even more so on the floor of this body, a holding up that finally brought it to the attention of individual Senators that what was being sold in the name of welfare reform was actually going to constitute welfare deform—we were really going to deform the welfare process, and abuse the causes of the hungry poor in this land by all the provisions in that bill that had never been worked out as a human problem.

All we had was the wheel and the spokes; we were going to put in x dollars for hunger, y for shelter, z for health, and add so much for clothing and so much for job training and say, "Here, that adds up to $452 a month, you take the money."

That sounds fine in theory, but where does a man buy himself a hospital? Where does he buy himself a job training center?

My distinguished colleagues know that you have got to deal with the problems directly; there has got to be local supervision and education for all to see.

It sounds nice to throw out money. It sounds very convenient, because we have not been holding back too much money up here. That should have been done long ago. But it is a human problem, that has to be dealt with in a human fashion.

Senator Hiram Johnson of California in a scathing speech opposing cloture contended that—

> The last place in all this world where freedom obtains, the place where freedom of speech may be abused, abused and abused again, but the last free forum in that day will then have been destroyed and we here this day have commended and made easy that destruction.

This was a Senator from California. This was not a sectional partisan of the filibuster, but an authority for those who seek to understand the principles of parliamentary government and the unique role the U.S. Senate has played in having made our republican form of government succeed.

In 1917, during the debate on the first cloture rule, Senator Robert LaFollette, Sr., from Wisconsin—maybe he had Senator PROXMIRE in mind, his distinguished successor from Wisconsin, who last employed rule XXII—made one of his most hard hitting and lasting speeches in this Chamber. He said:

> Mr. President, believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of free institutions, I shall stand while I am a member of this body against any cloture that denies free and unlimited debate. Sir, the moment the majority imposes restrictions contained in the pending rule upon this body, that moment you shall have dealt a blow to liberty; you shall have broken down one of the greatest weapons against wrong and oppression that the members of this body possess. This Senate is the only place in our system where no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is an opportunity to speak at length and where, if need be, under the Constitution of our country and the rules as they stand today, the constitutional right is reposed in a member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be in violation of the Constitution which Senators have sworn to support. When you take that power away from the members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here.

Many, many of our predecessors in this body have vigorously opposed any cloture. The great names of Borah of Idaho, Mayfield of Texas, Townsend of Michigan, Smoot of Utah, Phelan of California, Brandegee of Connecticut, Reed of Missouri—have made a lasting impression on my own mind and I beg you all to take heed to those who have gone before us.

The agonizing consequences which would be the inevitable result of a majority cloture were pointed out in 1926 by George Norris, the former Senator from Nebraska:

> The Senate is the only forum in our country where there is free and fair debate upon proposed legislation, and it is the forum where the legislation of the country is made. If we adopted majority cloture in the Senate as they have in the House, the last vestige of fair and honest parliamentary consideration would entirely vanish.

Mr. President, the thrust of Senate Resolution 9 to change the rule is to drive to 51 to 49 government and resolve this body into a House of Lords and let the House of Representatives rule supreme. Then we would have the same rules, and we would just have majority approval. We would have a majority, and we would all stay in office, and the country would be destroyed.

While the distinguished Senator from Missouri is now gracing the chair, I think it is well that we quote from Senator James Reed of Missouri.

He speaks strongly. The Senators from Missouri have not changed too much. I quote him:

> Gag rule is the last resort of the legislative scoundrel. Gag rule is the surest device of the rascal who presides over a political convention and proposes to accomplish something which will not bear discussion. Gag rule is the thing that men inexperienced in legislative proceedings always advocate at first, and, if they have any sense, nearly always retire from as gracefully as possible after they have seen it in operation.
>
> As long as we can keep this forum free, as long as a vigorous and determining minority can prevent the passage of a statute, so long this country will be safe, reasonably safe at least, for no great act of treachery can ever be consummated where there are not some brave souls to stand in its resistance and to stand to the end.
>
> But strike down this safeguard of public discussion, apply the gag, and imagine if you please, that it is to be applied only to pass good measures, only to accomplish the virtuous and the wise and the holy, only to bring the thing of rectitude; imagine that if you please. He is a fool, he is every kind of a fool, that has ever cursed this earth or cursed himself who thinks that any power will always be used wisely and justly. Power is almost invariably abused.

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

Mr. HOLLINGS. I yield to the distinguished Senator from Idaho.

Mr. CHURCH. I am wondering, since I have just come into the Chamber and have not had the advantage of hearing the Senator's address in full, what he is referring to by the term "gag rule." Certainly, he is not referring to the resolution that has been offered by Senator PEARSON and myself. He would not characterize that resolution as a gag rule.

Mr. HOLLINGS. Of course, Mr. President, I have yielded under the unanimous-consent agreement, and I have not lost the floor.

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

Mr. HOLLINGS. I think it ultimately comes to that. You cannot say, in essence, when you take off and jockey the number of one or two or three Senators, what is good, by the change of a few Senators.

It almost becomes a gag. But I think that is exactly it. This is what the Senator from Missouri thought it was, yes, when they tried to change it at that time from two-thirds.

But in response to the previous colloquy we had in the early part of my discussion here—yes, coming to 51 to 49 would be gag rule. One just could not be heard.

Mr. CHURCH. As the Senator well

knows, the resolution that is pending would require three-fifths of the Senators present and voting to impose the limitation on debate. I do not know how that kind of resolution could fairly be characterized as a gag rule.

Mr. HOLLINGS. I hope to try to characterize it as fairly as I can by characterizing it accurately. Accurately stated, when you get down to 60-to-40 government, where you have the executive, where you have the mass media, where you have the communications explosion, then minority rights are endangered. I recall the commitments resolution that the distinguished Senator from Idaho appealed for, to try to put this whole governmental process back in kilter—specifically, to make the Senate a coequal body and a check on the excutive. Why do we need that check? Because, with all the developments I have mentioned, the Executive, by a few phone calls, a TV appearance, repeal or veto on TV on the 7 o'clock news, is far, far more persuasive and powerful than a nominal debate of a few hours in this body. It takes time for us to deliberate and to get to the truth of many of these things.

As I have suggested earlier in my discussion, if anything, the persuasion from experience and the actual developments call for an extension of the rule in the other direction, the whole purpose being to protect a substantial minority.

Really, what is a substantial minority? In the two-thirds requirements that I outlined—over a dozen of them in the Constitution—the Founding Fathers thought that one-third constituted a substantial minority.

I think that with the urbanization, the growth, the trends, the speed of communication, and other such things, we ought to put three or four more votes on the other end of the spectrum. It ought to be 70 to 30 rather than 60 to 40, if we are going to change the two-thirds rule at all. Thirty percent, feeling as keenly as they do in this country, ought to be protected and heard—their principles, their beliefs, their sections, their concerns. There should be an inner feeling that somehow this Government is not so big that you cannot get at it and not be heard. That is the frustration in the ghetto.

Mr. CHURCH. Let me say to the Senator that if his principal concern is to see to it that a minority is heard, that questions of great moment are adequately debated, then I fully concur with him. I think that one of the most important functions of the Senate is to allow, whenever necessary, lengthy, careful, considered debate, for the purpose of better informing ourselves and the country.

But, in all candor, I say to the Senator that the opportunity for extended debate is not being placed in the slightest jeopardy. It is so deeply imbedded in the habits of the Senate that no one seriously thinks of even attempting to invoke rule XXII until several weeks of debate have transpired. If the rule were amended to permit three-fifths instead of two-thirds of Senators present and voting to impose limitations on debate, I do not believe that would change the ingrained habits of this body. We would continue to permit lengthy debate before an attempt was made to limit it.

But there comes a time when the legislative business of the Senate must be dispatched. Once an extensive debate has taken place, then at least a substantial majority of the Senate should be entitled to proceed to the merits of an item of legislation, to get a vote, in sum, to transact the public business.

I have heard a great deal, in the last 2 or 3 days, about the "tyranny of the majority." I must say it is a curious notion, particularly so when no one has mentioned any tyranny of the minority. It is possible for tyranny to express itself in both ways. It lies not in the exclusive possession of the majority. I suggest to the Senator that the present rule gives to one-third of the Senate plus one the right to prevent two-thirds of the Senate less one to act. Is that not a form of tyranny; specifically, is that not a tyranny of the minority?

If one were to choose between the right of the majority to act, as against the right of the minority to block, which is the greater tyranny?

Mr. HOLLINGS. When has that occurred?

Mr. CHURCH. That occurs whenever——

Mr. HOLLINGS. When did that occur? When has that prevented good legislation from being enacted?

Mr. CHURCH. Every time an attempt has been made to secure cloture, and that attempt has failed because of the votes of a minority of 34 or more Senators——

Mr. HOLLINGS. That is a numerical answer. But what bill?

Mr. CHURCH. This rule, as now written, can prevent 66 Senators from proceeding to a vote on any measure that comes before the Senate. What this establishes, in truth, is minority rule, the right of the minority to govern. Now I assure the Senator that, for reasons he and I are very familiar with, I think it would be a mistake to adopt a majority cloture rule.

I recognize there is merit in his argument: whenever a question of such great gravity is before this body that it evokes visceral and inflammatory opposition, then such a question, for the good of the country, and for the unity of the country, should better not be decided by one vote. I agree. For that reason, I never have endorsed, nor do I foresee the time when I will vote for a majority cloture rule. But I say to the Senator that I sometimes grow impatient with the constant reference to the tyranny of the majority in this body or the threats of the majority, when the whole operational effect of the present rule is to permit 34 Senators at any time, on any bill, to prevent the Senate from reaching a vote and discharging its responsibilities.

We are here primarily to legislate. I think the rules of the Senate should be such that we can legislate in a way that gives adequate opportunity for careful, lengthy deliberation. But I think the rules should not remain in such form that, once that deliberation has taken place, a substantial majority is not enabled to proceed with the public's business. Yet, that is our present condition. There is proof of that. In the 54 years we have been operating under rule XXII, attempts to limit debate have been tried 49 times and only on eight occasions has it been possible to secure a two-thirds vote.

Mr. HOLLINGS. And where has that——

Mr. CHURCH. This is practically an insurmountable barrier——

Mr. HOLLINGS. Where has that really killed good legislation? In the 49 times the Senator spoke of, has it not been employed for the good of the country generally and not for the bad? I ask my distinguished colleague from Idaho to name any time it was employed for the bad.

Mr. CHURCH. I would be happy to identify those occasions. I do not pretend that I could recite at this moment each occasion during the last 54 years.

Mr. HOLLINGS. Make it the past 10 years.

Mr. CHURCH. I can tell the Senator that during the 1970 session of Congress, we had before the Senate legislation that I regarded as highly meritorious. It reflected the view of 80 percent of the American people—if the public opinion polls can be trusted—that the electoral college has become an anachronism and the direct election of President and Vice President by the people is desirable.

I thought that was an extremely timely and important legislative proposal to amend the Constitution. The Senator from South Carolina may have disagreed with that proposal. But because of a filibuster we were unable to reach a vote on the merits of this constitutional amendment even though 60 percent of Senators approved the amendment. That is the most recent example of the harsh effect of rule XXII as it is presently written.

Mr. HOLLINGS. Does the Senator have any more than just the electoral college, because I have some comments on that?

Mr. CHURCH. The most recent example was the funding for the SST. I do not know what the Senator's position on the SST is. I personally oppose it. I will cast my vote against it, but once there is full and considered debate, pro and con, at that point, I think the Senate should be entitled to proceed to vote on the SST, regardless of the outcome. That, after all, is the essence of the democratic process.

Suppose the Senator faced rule XXII in the elections in South Carolina? Suppose he could not get elected if one-third of the people plus one voted against him? Does that recommend itself to the Senator as being consistent with the democratic process?

Mr. HOLLINGS. I have enjoyed the experience where I could not get a majority, much less two-thirds. In fact, the other fellow got the two-thirds.

Mr. CHURCH. Surely, but would the Senator really endorse an electoral system that requires a two-thirds vote to elect a candidate to office?

Mr. HOLLINGS. No one put that in. We have to have a majority of the votes on the candidates themselves.

Mr. CHURCH. The principle is the same.

Mr. HOLLINGS. The principle could not be the same. If it is the same in the distinguished Senator's mind, then I must differ. As to issues, principles, and concerns, yes, but not on candidates. They are completely different. We have to have a majority vote, or win or lose. In fact, we have a minority President. We have a difficult time getting a majority. If we had rule XXII, it would be completely impossible. The Senator knows that. Now, let us get to some other points——

Mr. CHURCH. The distinction may be clear to the distinguished Senator from South Carolina, but it is not clear to the Senator from Idaho. The effect of rule XXII is to permit 34 Senators, a third of the Senate, plus one, to block a measure that the other 66 Senators support.

Mr. HOLLINGS. Let us clear that up.

Mr. CHURCH. That is the effect of the rule. The Senator would agree with that. Let us assume we took that rule and applied it to an election in South Carolina. In that event, one-third of the voters plus one could block the election of any candidate. If that situation prevailed, there would be revolution in South Carolina.

Mr. HOLLINGS. I am afraid——

Mr. CHURCH. Yet, that is how the XXII operates in the Senate.

Mr. HOLLINGS. I am afraid my distinguished colleague is appealing to the weakness of his argument. He could not contend that the matter of candidates, winning or losing, 51 to 41, would hold. With 51, 52, or 53, shall we say, or more over 60 percent, we might get it. The Senator from Washington, I think, got almost 70 percent. The President himself is a minority President.

Here we are talking about issues, we are talking about minorities, we are talking about concerns, we are talking about sections of the country.

I ask, Is it my distinguished friend's contention that the addition now, all of a sudden that we are an undeliberate body and we cannot get on with our business, but the mere addition of six Senators kills that in the Senator's mind? Make it 60. Make it 40. Does the Senator think the problem has been solved? Is that right?

Mr. CHURCH. No. I simply say that the philosophical basis for the Senator's argument is——

Mr. HOLLINGS. Ah.

Mr. CHURCH. That protection is needed from the tyranny of the majority. It is an argument I cannot reconcile with the whole philosophical basis of democratic government.

Let me say to the Senator that I know there are reasons I respect for not adopting a majority cloture rule in this body. I think that if we were to settle on a three-fifths voting requirement, this continuing controversy over cloture might be resolved for many years to come. I think a three-fifths formula is a happy balance that we could strike. It would tend to satisfy most Senators and we could then lay this issue to rest. However, if we are not able to do this, or worse still, if after a prolonged debate we are denied the opportunity to reach a decision on the merits, then I say to the Senator that the issue will not only remain alive, but sentiment will grow for majority cloture with each passing year.

If the Senator really wants to jeopardize the traditions and the historical role of the Senate, rigid resistence to any change in rule XXII is the way to do it.

Such a circumstance came to the Senate in 1917 when our country faced the question of war in the Atlantic. The overwhelming majority of the people favored the arming of our merchant ships. A prolonged debate—a filibuster—prevented the Senate from reaching judgment on that question. The first cloture rule was established in response to the wrath of the American people.

If the Senate persists in retaining rule XXII, unchanged, the day may come again when such public anger at the Senate will rise up in such form that all of us will scurry for cover. We will then see the Senate transformed radically, even as it happened in 1917 when, after a long period of time during which there was no possibility of limiting debate, the Senate scurried for cover and in March, by a vote of 76 to 3, imposed the cloture rule.

I do not want to see that happen again. I think it is too important to the country to preserve the essential character of the Senate. I want to see its historical role safeguarded. That is why I believe that tempering this rule now is the best insurance we could offer the Senate for preserving its historic role as a deliberative assembly.

I, therefore, believe it would be a mistake to insist that we adhere rigidly to a barrier so high that in 49 attempts to limit debate, we have managed successfully to hurdle it on only eight occasions.

Let us not ask for another crisis of the kind that occurred in 1917, leaving everyone sorry at the consequences.

Mr. HOLLINGS. I had been hoping that the science of reverse English had not come over from the Pentagon to the Senate floor and that we would begin not to advance but to retreat, or not to retreat but to advance, and that the best way to build was to destroy and that the best way to destroy was to build. We have come all the way around.

The best way to protect is to adhere this to what all of the others have done who have come before us from the various sections of the country, from Wyoming and elsewhere, on what is fundamental; namely, that a substantial majority shall receive protection and protection alone. That does not mean a government of tyranny by a minority. My distinguished colleague cited the electoral college. I differ. I said it had always been employed for the good. I think it was employed for the good. I disagree with the 80 percent.

I think that a far greater majority of the Senators are opposed to the proposed change in the electoral college as it was then proposed on the Senate floor.

I think additionally that when the Senator from Idaho moves into the various other arguments, like the one in which he alluded to the election or nonelection of candidates themselves, as to whether they receive a majority vote, and when he asked what we would do if we were required to get a two-thirds vote, that is specious and without substance whatever.

Over two-thirds of the Senators in the present body were elected with somewhere between a 50- and 60-percent vote. Therefore, we would not even have a U.S. Senate if we were to apply that rule.

He tried to come around to the point that we do not have any real concern because we have never even in the present instance tried to apply two-thirds cloture, that what we really want is a matter of form because we are not going to do it anyway.

I would agree as to the present form. And I agree with respect to all of it as it concerns the present leadership. I think the leadership is distinguished. It is outstanding. Our distinguished majority leader, the Senator from Montana, has done a wonderful job in these days in these times in considering everyone.

When we come right down to it, as long as we have our present distinguished majority leader, I would just as soon do away with all of the rules.

I used to pride myself on the rules and on presiding. I do not pursue them as rigorously anymore. I know that as a junior Senator I will be heard and I will not be cheated. But we will not have the distinguished majority leader forever.

Referring back to the former distinguished majority leader, Lyndon B. Johnson, if we were to ask him to apply that principle, how many times does the Senator think we would be heard as junior Senators?

How many times were things ramrodded through this particular body? We cannot change the rules with the leaders. The principles of the minority are involved and the integrity of the Senate. The present persuasion of the Executive and the very action taken on the commitments resolution of the Senator from Arkansas in this body indicates how 10 extra votes can be picked up by wheeling and dealing.

The danger is not that we have too many or too few, in order to get the business done. The danger is that the minority is in great danger in that 20 or 30 percent constitutes a minority that must be protected. We have the development of the mass media and the communications explosions as I stated before.

The Senator from Idaho says that six would satisfy him. What about the other Senator from Idaho? I do not know about him. What about the Senator from Idaho 10 years from now? Would six satisfy him? Perhaps he would say seven.

We are talking about a 51-percent Government and the distinguished author of Senator Resolution 9 knows it. That is what they have been asking for. They have been asking to create a House of Representatives in the U.S. Senate with the rules of the House and vote by majority and get on with the business and rubberstamp it.

Mr. CHURCH. Mr. President, the Senator has suggested that the intention of the Senator from Idaho is to move this body toward a 50-percent cloture rule. I feel constrained to remind him that I made the argument only a few minutes ago against majority cloture. That is not the intention or the purpose of the Sena-

tor from Idaho. I can speak no more plainly—I am opposed.

So far as I know, I can say quite confidently that it is not the intention of the distinguished majority leader or of the distinguished minority leader in endorsing the pending resolution. I think most of us who have joined in the cosponsorship of this resolution would not endorse a majority cloture rule.

Therefore, it does not follow——

Mr. HOLLINGS. Mr. President——

Mr. CHURCH. It, therefore, is not correct to state the end objective we proponents of change have in mind is a 51–49 cloture rule in this body. I also remind the Senator of the other argument I made based on historical experience.

The eruption in the Government in 1917 with respect to the armed ship bill was the thing that caused the Senate to retreat from the principle of unlimited debate and to overwhelmingly adopt the first cloture rule. It is altogether likely if we keep the barrier as high as it is today we will find ourselves once more in that kind of crisis and the ensuing public eruption in the country against us will force us to a revision of the present rule far more drastic than I or the Senator from South Carolina would want to see.

Such a situation could, unfortunately, bring us to majority cloture. A modest reduction in the two-thirds cloture requirement, as Senate Resolution 9 contains, is insurance against majority cloture. As history bears me witness, that is a better way to protect the historic rule of the Senate than the position the Senator from South Carolina has taken.

Mr. HOLLINGS. I do not doubt the motives of the Senator from Idaho in his plea now for three-fifths rather than two-thirds, but taking a page from the book of our distinguished leader, President Richard M. Nixon, who said that it is what we do and not what we say, when you cut off the six you join with that group that wants to cut it down to a 51–49 Government. That is where the Senator is headed and that is what we have to watch in this country.

Mr. President, I ask unanimous consent that I may yield to my distinguished colleague from Arkansas (Mr. FULBRIGHT) without losing my right to the floor, and without my subsequent remarks counting as two speeches.

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

Mr. FULBRIGHT. I thank the Senator. I was very interested in the comments of the Senator from Idaho and his profession of intention that it was not majority rule. That reminds me very much of the present intention of the administration to get out of Southeast Asia.

The question is not the intention of the Senator from Idaho or any other sponsors as to what will take place or happen. If the Senator is so convinced this is going to cause an eruption such as the revolution in 1917, all he needs now is two-thirds. I do not know why he does not bring cloture; it is perfectly open to him now.

It strikes me this argument has been going on for a long time, and I think it often gets off on an aspect that is not the crucial one. It is not a question of how many hours anyone wants to speak or that we do not have enough opportunity to talk at length under the present rules or any other rules. The question should be put in a slightly different context.

The Senator from South Carolina has stated the matter and all I can do is perhaps rephrase it. This is a great country with 200 million-plus people, 50 States, great diversity among the people, and there is a tremendous impetus toward centralization of government and, in fact, toward dictatorship of the Executive. There is no other country in the world that I know of with a divided government; that is, an Executive apart from the legislative branch, which still has any degree of democracy in it. They have all become dictatorships of one kind or another, either civilian or military dictatorships. If we can make this system continue to operate it will be a miracle. No country as big as this country has ever had a democracy, unless one could refer to the British Empire, which consisted of a great many colonies. Britain, however, is a relatively small and homogeneous country.

The problem is to keep functioning with our system, unless we change it. The question of changing it to a parliamentary system is a different problem requiring constitutional amendment and I do not care to go into that at this time since I am not proposing it. My problem is to make the country we have function properly.

In 1949, Walter Lippmann, who was then at the height of his intellectual powers, wrote a column on this subject. It has occurred to me it might be well to recall that column. Many of the newer Members are not as well acquainted with Walter Lippmann, but for 50 years or more he was one of the leading commentators and one of the most respected analysts of governmental affairs. He was a very great intellectual leader. He has retired now and is not writing as much as he did.

He wrote a column on this matter at the height of the controversy over civil rights. Most people were astounded when he wrote the column in defense of rule XXII. I would like to read the column for the benefit of some of the newer Members. The column should be included in this debate just as it was in that debate. This was March 1949.

I hope the Senator from Idaho, if he has time, would listen to this particular statement because I am sure he does remember it. Even though he is much younger than I, he does remember Walter Lippmann.

The column by Walter Lippmann reads as follows:

Although the question before the Senate is whether to amend the rules, the issue is not one of parliamentary procedure. It is whether there shall be a profound and far-reaching constitutional change in the character of the American Government.

The proposed amendment to rule XXII would enable two-thirds of the Senate to close the debate and force any measure, motion, or other matter to a vote. If the amendment is carried, the existing power of a minority of the States to stop legislation will have been abolished.

"Stripped of all mumbo-jumbo and flag waving," says the New York Times, "the issue is whether the country's highest legislative body will permit important measures to be kept from a vote through the activities of a few leather-throated, iron-legged Members who don't want democratic decision." This is an unduly scornful and superficial way to dispose of a great constitutional problem. For the real issue is whether any majority, even a two-thirds majority, shall now assume the power to override the opposition of a large minority of the States.

In the American system of government the right of democratic decision has never been identified with majority rule as such. The genius of the American system, unique I believe among the democracies of the world, is that it limits all power—including the power of the majority. Absolute power, whether in a king, a president, a legislative majority, a popular majority, is alien to the American idea of democratic decision—

I think that is a very significant passage—

The American idea of a democratic decision has always been that important minorities must not be coerced. When there is strong opposition, it is neither wise nor practical to force a decision. It is necessary and it is better to postpone the decision—to respect the opposition and then to accept the burden of trying to persuade it.

For a decision which has to be enforced against the determined opposition of large communities and regions of the country will, as Americans have long realized, almost never produce the results it is supposed to produce. The opposition and the resistance having been overridden, will not disappear. They will merely find some other way of avoiding, evading, obstructing, or nullifying the decision.

For that reason it is a cardinal principle of the American democracy that great decisions on issues that men regard as vital shall not be taken by vote of the majority until the consent of the minority has been obtained. Where the consent of the minority has been lacking, as for example in the case of the prohibition amendment, the democratic decision has produced hypocrisy and lawlessness.

This is the issue in the Senate. It is not whether there shall be unlimited debates. The right of unlimited debate is merely a device, rather an awkward and tiresome device, to prevent large and determined communities from being coerced.

The issue is whether the fundamental principle of American democratic decision—that strong minorities must be persuaded and not coerced—shall be altered radically, not by constitutional amendment but by a subtle change in the rules of the Senate.

The issue has been raised in connection with the civil-rights legislation. The question is whether the vindication of these civil rights requires the sacrifice of the American limitation on majority rule. The question is a painful one. But I believe the answer has to be that the rights of Negroes will in the end be made more secure, even if they are vindicated more slowly, if the cardinal principle—that minorities shall not be coerced by majorities—is conserved.

For if that principle is abandoned, then the great limitations on the absolutism and the tyranny of transient majorities will be gone, and the path will be much more open than it now is to the demagogic dictator who, having aroused a mob, destroys the liberties of the people.

Mr. President, I think that column, in the inimitable manner of Mr. Lippmann, summarizes what I believe to be the real principle involved in this debate. It is

not a question of whether you can speak for 10 hours, or 24 hours, or 100 hours, or 1,000 hours; it is a question of whether or not a transient majority, as he says, is to be given the power to coerce the minority.

Now, if we were a small country of 5 million, or even 1 million people, or if we were a county court, or a city council, and we wanted majority rule, I think there would be no danger in that. That would be small and homogeneous in nature and the problems would be small and limited in nature. But when you are dealing with a country of 200 million people, a country which has the capacity to destroy the world, so to speak, you are dealing with a great, diverse population, and one of the serious problems is to avoid serious mistakes made, as Mr. Lippmann says, by a transient majority.

In my own experience here, of course I have often regretted that I did not use the capacity to resist given by rule XXII. I just simply did not recognize at the time how serious the situation was. I cite one which is well known, the Gulf of Tonkin matter. If I had known then what I know today about the Gulf of Tonkin, I would have used rule XXII. Of course, I did not know then what I do today, and I did not realize what we were getting into.

I want to dissociate rule XXII from any substantive piece of legislation, whether it is civil rights or any other measure. We have recently had the example of the capacity of the Senator from Wisconsin (Mr. PROXMIRE) in another area. The only reason why the Senator from Wisconsin was able to stave off the ultimate decision on the SST was that he knew he could use rule XXII. I believe in the past he has been in favor of changing it. But, in an emergency, he took advantage of the rule, and the fact that there was this rule avoided or prevented his being coerced, along with, of course, the rest of us. He was not alone in that. He was the main spokesman. The rule prevented the coercion, in the last minutes of the last Congress, of the Senator from Wisconsin and the majority of his colleagues.

I think he was absolutely correct. I am quite sure history will show that his judgment in that issue, along with that of others, was correct on the merits.

I believe the question is dissociated from the merits of any substantive issue. The case of the arming of the merchant ships has been cited in connection with this issue. I can hardly think of a more trivial subject to get excited about. That is cited as an example of the need of the destruction of this great principle. That is what has preserved the Senate as a unique body in the world. The distinguishing characteristic of this body is that it has the capacity to force a compromise or to resist immediate action by majority rule, such as they have in the House.

So I would like, if possible, to examine it, and cause others to examine it, not with regard to any substantive issue, but as to the nature of the role of the Senate in our constitutional system. As has already been said so often, the Senate is the only upper body I know of that has any scintilla of power left when every other upper body is ceremonial, or at most has a very limited power of delay. I believe the British House of Lords has limited power to delay certain kinds of issues. I do not think they can even delay what we call money bills—appropriation measures. But I do not want to go into that now. In any case, their function is largely ceremonial. It is used to reward people for public service. They are made Members of the House of Lords.

In Canada they also have a senate which is very limited in power, if it has any. It also is, to a great extent, a place of dignity for elder statesmen.

I do not wish to derogate any of these bodies, but they do not have the kind of political power to influence legislation or government decisions that the Senate has. It is the only body, to my knowledge, in a bicameral system which has retained any authority.

What happens if you change the rules? We will be subject to being managed by any executive that comes in, just as I believe the other body to be, and as they largely are. It is true that occasionally, on some domestic matter, there may be a difference, but on major issues, especially in the field of foreign relations, in a field that involves what is called the Commander in Chief's war powers, if he has any, that authority has been almost eliminated, or certainly temporarily subdued. I hope it has not been eliminated, because I hope the Senate will reassert its constitutional rights and responsibilities. That is a subject on which I shall have something to say later.

The Executive has, since World War II, and during the period of either preparation for or prosecution of war, assumed so much power that it has been able to override us to a great extent, even with the existence of rule XXII. But if we remove that power Senators will gradually realize that they really do not have any power to resist any Executive. That would be true of a Senator like the Senator from Wisconsin or any other Senator who feels strongly. Of course, he had support; he was only the spokesman; he had very substantial support behind him. He could not and would not dare do it, by himself, I think. And he could not, as a physical matter, do it by himself. He has to have assistance. He would know that, entering into a fight in opposition to the Executive power, if he did not have this capacity to require a two-thirds vote, he would have very little chance of success.

In other words, whenever you enter into a contest with the Chief Executive, under any system, it is not a very pleasant thing to do; you usually do not get any reward for thwarting any executive, especially our Presidents, now that they have become almost the equivalent of the royal court—they have all the appurtenances. As George Reedy puts it, it is like a royal court now—they have all the privileges and perquisites that the oldtime emperors had, and have become insulated from all the ordinary influences that work upon political figures.

But when you consider taking up a contest against any President, you would be a very foolish man to undertake it if you did not have the requirement that he has got to get two-thirds. I am speaking, of course, of important matters. You do not contest on trivia in this field. It has to be something important, unless you are completely without a feeling of responsibility. I know that there have been very few occasions in which the issues involved have not been of great importance.

Sometimes we read in the newspapers that some individual filibustered for 24 hours. Well, that is not a filibuster; that is just an act of eccentricity. A real filibuster is forcing a compromise. That is the only thing that qualifies as a filibuster, if you want to use that word, or a delay to force a compromise and force the majority either to get two-thirds or to lay the matter aside for further consideration and probable compromise, or to put the burden upon the majority to persuade the minority.

That is the essence of the democratic system. I cannot put it any better than Walter Lippmann. I can only try to apply it to our present conditions.

I think anyone would be blind not to recognize today that it is certainly an uphill battle, a very difficult undertaking, to challenge in an important area the Executive of the moment. I am not speaking just of this present President or his predecessor. Any of them, certainly, since World War II, if they chose to use all the power at their command, could subvert the independence of the Senate.

We have had some experiences with the type of organization which is at their disposal, in contrast to what Members of the Senate can do in appealing to the public and in appealing for support. We had the Starbird memorandum. I cite that only as an example of how it is possible for the military establishment to muster the full force of the industrial establishment and the political and journalistic establishments of this country in the promotion of a particular program which they wanted, which in that case was the ABM. Of course the effort proved successful.

More recently, I have read stories—although there is not a convenient name like the Starbird memorandum—of orders which have gone out to do much the same thing in selling the President's present program.

I am not saying, in this latter case, that there is anything wrong with that. Certainly he has a perfect right to try to sell his program. I cite it only as an example of the tremendous power, in organization and number of people at his disposal, to sell something, in contrast to what we have in the Senate in the way of staff assistants, and so on. There are 2 million employees of the Federal Government at the disposal of the President. They have experts of all kinds. As I say, I am not objecting to all this; I am only citing it as an example, in modern days, of the tremendous development of the ability of the Executive to influence public opinion and, directly or indirectly, the Senate. They have the capacity to invite Senators and give them briefings, and so on. I wish to say again, I am not saying that is illegal, improper, immoral, or anything of the sort. It is a fact of life.

What does the Senate have to preserve

its independence, we will say, and its capacity to analyze and give advice, if you like, to the Executive? Really, one of its principal weapons is the preservation of rule XXII. Because otherwise they can come up here and, within a day or 2 days or whenever they like, force a matter to a vote, and it would be done before we ever have an opportunity to even consider it, or the country to understand it.

This is a most important tool for the preservation of the integrity of the legislative branch of Government. We are not disposed to criticize the House of Representatives, and I do not mean it in any critical way, but merely for comparison—under House rules, as Senators know, they can bring in bills and, with a few hours' debate, they have to vote them up or down. It may be an extremely technical bill, with all kinds of different propositions. I think that practically nullifies the capacity of the House of Representatives to refuse a determined executive branch. And they do not. It is very rare indeed that they do. Practically all the resistance that has developed, particularly in the foreign field, but in others as well, has been in the Senate, as Senators know, and the reason for that is because of this capacity to resist a measure, up to the point of the required two-thirds.

This argument about, "Well, we are only asking for three-fifths," to me is a wholly fallacious one. We might as well go on down to a majority, and get the misery over, if we are going to go to three-fifths. This is just taking it a little way at a time. The principle Lippman speaks of is not dependent upon whether it is two-thirds or three-fifths; it is the principle of the preservation of the right of a substantial minority to require that there be further consideration, or a compromise, or a delay, that they can resist the immediate enactment of whatever it may be. Without that, I would say, the ordinary Member of this body would be extremely foolhardy ever to undertake to resist, because he is very likely to be defeated, to begin with, with regard to any administration. It would remove, one might say, the principal hope that anyone has of the assurance that, if he has a good case and he thinks he can make it if we give him an opportunity to persuade his colleagues, he will have the opportunity to do so. If he does not have that opportunity, he will be emasculated, he will be run over immediately and he will look very foolish when you undertake to contest with a power as great and as all pervasive as the power of our Executive.

I think it is extremely important for a country as large as this, especially in this period of uncertainty and turmoil growing out of the war, that we preserve this basic right of the Senate to force consideration by the majority of whatever views we may have on important issues. I do not think this has been abused. There have been extremely few cases—I would not say there have been none, but there have been extremely few—in which the interest of the country has been jeopardized by delay. In most cases, it has benefited by delay and further consideration. When the Senator cites the fact that there are so few cases in which they have gotten cloture, well, the answer to that is that they should not have had cloture, because the matter was not meritorious enough to warrant it. That is no argument against it, merely because they have not gotten it. It can just as well be stated, "Surely, they did not get it because they did not deserve to get it, in the judgment of the Senate." It was not worthy of forcing it through and coercing, as Lippman says, the minority.

I again want to emphasize that I think one of the great mistakes of some of the sponsors of this resolution is confusing it with the substantive issue of civil rights. For all practical purposes, that issue is over. Practically every bill that anybody can think of in this field has been passed, and I would predict that if they bring in any other bills, they will be passed. Those of us from the South know that our views have been overridden, that the decision has been made. I stated in my last election, and I state again, that I recognize that we were defeated. The ideas of how to deal with this most difficult problem of another section of the country have prevailed. I accept it, and I will do the best I can to make it work, to make it acceptable, to make it as effective as I can. Whatever influence I have within my own State or here I have tried to use, although I still have some reservation about the wisdom of the approach. Nevertheless, I accept the decision. So that is out of the way.

Many other issues are coming up. Many of them, ironically enough, will be considered the liberal side, we will say. I dislike to use these words, because they can easily be distorted. That is not really the right word. I am thinking of the case of people who are unorthodox, I should say, perhaps, who are not conformists. They are often called liberals. I am not sure whether they are liberals or not. The word "conservative," it seems to me, is usually abused, and I dislike to use it as applicable to many individuals.

I think the shoe is going to be on the other foot. Traditionally, before, it was civil rights. Usually, those who were considered progressive, enlightened, beyond their day, perhaps, or unorthodox—I do not know how one would describe people like LaFollette, Borah Norris and others. These were the kinds of people who relied upon their capacity to force further consideration of what they believed to be ill-considered measures. I think it would be very difficult to cite any great harm that came to this country by the delay.

If we leave out civil rights I think we would be hard put to make any case at all that the general welfare of this country has been prejudiced.

In contrast, on the other side, is it not remarkable that in the entire world, with some 127 countries—I think there are more than that, but there are about 127 members of the U.N.—none is comparable to this country, with a body such as the United States Senate? Most of the big countries today are not ruled by anything resembling a democratic system. Start with Russia, if you like, or China. China has a highly restricted Communist system, similar to that of the Russians. It certainly is not democratic in the way we use that term.

Then consider the countries in South America, such as Brazil. They tried a democratic system. They have suspended it and have a general running the country. The same is true in Argentina. More recently, the generals took over in Peru, in Panama, and so forth. I do not know how I would describe the recent Chilean situation. Apparently, it is as democratic as some others and perhaps most.

It is not a matter that we should take as a matter of course, that the Senate can continue to be effective, that we can preserve our system, if we destroy the capacity of the Senate of the United States to have an influence upon the major issues, especially in the field of foreign relations; because, under our Constitution, the Senate is given a special responsibility in the field of foreign relations.

It is the only body that considers treaties, for example. However, the Executive is beginning to erode even that power by calling anything of importance an executive agreement and not submitting it to the Senate. If it is something trivial, they call it a treaty and send it for approval—something dealing with a minor question of reciprocity in taxation or some kind of border controls or mutuality in radio wavelengths. But if it involves something like the installation of military bases and basic commitments to the defense of a country, as in Spain, it is an executive agreement.

What are we going to do about it? I am at a loss to know. We cannot directly prevent it. There is no practical way to prevent that kind of action. If we are going to have any influence upon this kind of treatment, it will have to be indirect. It will have to be through appropriations or some other way. This is not easy to do.

We have made some valiant fights in recent years. The Senator from Idaho made a valiant fight last year on the Cooper-Church amendment. It was adopted, and he has already seen how utterly ineffectual it has been. It was easy to evade it. I congratulate him on his effort. I supported it, because I did not know any better way to try to do it. Of course, his original idea, which was much better, was emasculated or changed because of a difficulty with the House, and the one finally enacted was not the one he really preferred. It was only what he could get. It is simply a demonstration, in a more recent way, of the extreme difficulty the Senate has in influencing any of these matters.

We had our battle on the ABM. It was really all-out, and we failed by a tie vote. I only cite it to show that, even with this capacity, the ultimate capacity, requiring two-thirds, we still are to a great extent impotent in really important issues.

On a number of smaller, local things, we can on occasion influence the legislation, especially in domestic matters. If it is a matter of public works, there is a considerable unanimity among the Members, and we can usually get two-thirds, as a matter of fact, on issues of this kind, and we can override a veto. But when we get into the other field, which is not as close to the Members, we have much more difficulty.

When we are dealing with foreign relations, many Members perhaps are unduly

modest. They think, and they are told, that the President and his advisers know more than they do. They say that they have access to intelligence reports, and an illusion is built up that in some mysterious way they are smarter than Members and some Members hesitate to follow their own best judgment. This is a great handicap to Members of Congress.

I do not think it is true—if we stick to the major issues—that they know more at all. We are not talking about day-to-day tactics on how to dispose of troops, but the major issue of whether or not we should go to war, the major issue of whether or not we should intervene, whether we should follow the course, say, of policies on NATO. These are major, overall policies of our attitude toward Western Europe. There is no mystery about it. One need not know the latest report of the CIA. Commonsense tells us that our vital interests are involved in certain areas. There never has been any serious difference of opinion about our interest in and the preservation of the independence of Western Europe.

This type of issue does not need any particular information from the CIA. I cite that only to show how difficult it is for a body like ours, whose Members come from the various States and who may not have any particular background in this area, even to have the opportunity to be informed or to have any opportunity to influence the course of events through forcing an adequate explanation and forcing consideration by the Senate as a whole, and also the country, by the exercise of its rights under rule XXII. As I say, this has not been done too often but yet the very fact that it exists is sufficient to have great effect upon the attitude of the Senate as well as the Executive, knowing that there is the power to require two-thirds. The executive branch will hesitate to try to force us because they themselves will be restrained by the very existence of the rules. But they would know, if this rule is changed, that they do not need to have two-thirds, that all they need is to muster a majority, and they can find ways to do that because of the many favors and prerequisites which they have, in addition to party loyalty and the normal support they would have anyway. Thus, it would be much easier for them and, therefore, they would not bother even to analyze what were the wishes or the views of many Senators—which means many of the people in this country.

In a nutshell, what this is all about is whether the Senate is to continue to be a significant influence in the governmental structure of the country. I think it comes down to that.

When we talk about is 90 hours enough talk or 100 hours enough talk, that is entirely beside the point. The point is, it has nothing to do with how many hours of debate may take place but whether the proponent of a proposition—which in our case normally would be the executive branch—have to muster two-thirds on these important matters which are the only ones that really inspire genuine opposition.

I do not know how I could exaggerate the significance of this issue to the continuation of the Senate as an important and functioning body in our Government. So I would hope that as we proceed to develop this issue—I do not know how long it is intended for it to go on—but as we do, I would like at least for the proponents to approach it in this fashion and to answer the argument that to change this rule would not weaken the influence of the Senate.

I want to say that I do not see how they can possibly argue the idea that there will be a revulsion or a virtual revolution against the Senate if we do not change the rule. I think that is absolute poppycock. There is nothing whatever to indicate that. To the contrary, the question today, if presented in the proper light, is whether the Senate should be preserved as an influence in this country.

I firmly believe that the great majority of the people of this country believe the Senate does play a significant role. I do not believe it is a question of great revulsion against the Senate. It is true, when we read editorials such as the one in this morning's Washington Post, and like the one Walter Lippmann referred to in his article, that the people would get a distorted view on this particular issue that does not relate it to the real basic influence of the Senate. This is a very inflammatory, prejudicial editorial about the Senate's stalling, interrupting the business of the Government, and so forth, that is nonsense. They completely miss the point of what this rule is all about. None of us, really, likes long speeches, but that is not what we are talking about here at all. I do not like long speeches any more than I like editorials such as the one written by the Post editorial writer. He did not even touch upon the principal issue involved here.

Does he really believe that the Senate, as an institution, should be eliminated? If he really believes that, then let him make a case for it.

Perhaps the Senate should be eliminated. I do not think it should be. It strikes me that the way they should approach it, if they really are for this change in the rule, is to begin by saying, "The Senate has served its usefulness. We now need only the House of Representatives to fill in the details of what the executive wants, so that we can get through our business more efficiently. Let us get rid of the Senate and have only the House of Representatives and the great, enormous bureaucracy to prepare the bills, and we can get it all done in 30 to 60 days." Then everyone will be happy. There would be no grumbling. If that is the kind of country we want, then make a case for it. But grumbling about delay, while at the same time pretending that the Senate would still be an instrument of significance is nonsense, because I am quite sure it would not be. There would be no point in having a Senate, really, if it is not to perform its function of forcing real consideration, in depth, of controversial issues. I do not mean just ordinary, routine bills. We do some good there, of course, but we do our greatest good when it comes to the controversial matters that involve profound issues, either in the social, the foreign policy, or the military field—anything which involves the life and death of the Nation.

That is the real justification for the Senate. That is the role the Senate must play when it comes to the controversial issues of our time, the profound differences of opinion that may exist among the people of the great 50 States.

We had one civil war, and it was a bad one. Outside of that civil war, I would say our country has never found itself in greater difficulty than it does today, suffering now from disillusionment, dissension, and dissatisfaction with our overall policies. Our economic situation, I think, is very critical. I do not know of any other period that has been more disturbing and more serious for us than the present, so that I think it would be a great mistake, under the circumstances, to begin fiddling with our rules and changing the character of the basic structure of our Government. In 5 more years, we will celebrate the 200th anniversary of the founding of this country. That is a record few countries can match, outside of Great Britain, France, and a few other small countries, like Sweden, which have admirable societies—but none of them have our system, by the way. They have all survived. They have a continuing history. Most of the countries today have relatively new forms of government. I maintain that we have one of the oldest systems of government. I would be prepared to defend the proposition that one of the principal reasons is that the Senate was in a position to do what Walter Lippmann said, to force the majority to persuade the minority and not to ram down their throats whatever the transient majority happened to think was in the national interest.

Thus I think it would be most untimely and a great disservice to this country and to its constitutional system to change the rules at this time. I can see that if we did, almost immediately there would be quite a change in the attitude of Senators. I certainly would share the feeling that any effort to resist whatever the Executive wants me to do would be futile.

If I wished to continue—and I am not sure it would be any great distinction to continue in a body that is no more influential than the Senate would be if we were to change the rule—it might be all right if I wanted a place in which to retire and could go to international meetings and have no responsibility. It would be a nice place, like the House of Lords. But it certainly would not be the kind of office that would warrant a strenuous campaign. It would be the kind of office one would expect to be awarded if he had given $1 million to a college or something like that.

I think it most serious with a country as large and as diverse and that experiences as much conflict as this one does if we were to change the rules. I am afraid that it would be a real step toward a dictatorship and complete domination by the executive branch, which is true of about 75 percent of the people on the earth today. They are ruled by what I would call a dictatorship. That is an untrammeled executive rule. We

could call it by a different name. China and Russia have that kind of rule.

We have some hybrid situations that are difficult to understand—such as the so-called one-party democracy. That is certainly not our kind of democracy.

I am not sure that there is any great distinction between them. We look upon some of those as being antidemocratic. After all, the Communist Party is a one-party state. They have elections within the country. They have a collective leadership, the Politburo. The Politburo has much more influence upon Mr. Kosygin than the Cabinet has upon the President. Mr. Kosygin or Mr. Brezhnev cannot advise the members of the Politburo, if I am properly informed.

So, it is on a different level. There are many bases of comparisons. But what we conceive of as participation in the policies of our government at all levels is a very rare phenomenon. Outside of a few parliamentary instances it is very rare.

Mr. President, I certainly appreciate the Senator from South Carolina yielding to me. I will now yield the floor to the Senator from Idaho.

Mr. HOLLINGS. Mr. President, if I may, I wish to maintain the floor. I ask unanimous consent that I may yield to the Senator from Idaho without losing my right to the floor and without the resumption of my remarks constituting a second speech.

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

Mr. HOLLINGS. Mr. President, may I add at this particular point, and say very sincerely that he has focused on this problem with a bull's-eye. It is not a parliamentary thing. It is not a matter of rushing through with the debate. It is not a matter of getting on with the business. It is a matter of the Senate and its integrity as a legislative body itself.

I do not know of anyone who has spoken more persuasively on this matter than the Senator from Arkansas has in the informal discussion he has just had.

I hope that the news media will give just as much attention and headlines and coverage to the remarks of the Senator from Arkansas concerning this southern viewpoint, as they characterize it, as they do on the war and on the Senator's other viewpoints that my distinguished friend, the Senator from Arkansas, has expressed.

Mr. FULBRIGHT. Mr. President, I am afraid that is a vain hope. They do not consider that newsworthy.

Mr. HOLLINGS. I hope they do write an editorial about it.

Mr. President, I yield now to the Senator from Idaho under the conditions stated.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, if I entertained the slightest misgivings that the enactment of the pending resolution would work a profound and far-reaching change in our form of government, as the distinguished Senator from Arkansas has contended, I would oppose it.

The fact is that it is a very modest alteration in the cloture rule, one that would work no transformation in the character of this body, one that would not jeopardize the right of extended debate, one that would not permit a mere majority to force controversial legislation upon a large and determined minority.

There is nothing in this resolution that threatens the Senate as an institution, nothing at all. In fact, if history is any teacher, we would be best advised to accept this modest alteration of rule XXII, the better to insure that the Senate can continue in its historic role, than to adhere rigidly to the existing rule which raises a practically insurmountable barrier even to the right of a large majority to do the business of the Senate.

In a colloquy with the distinguished Senator from South Carolina about an hour ago, I pointed to an historic piece of evidence. Prior to 1917, there was no limitation at all on debate in the Senate. This institution prided itself in having no rule whatever that could, under any circumstances, limit the right of any Member to protract proceedings and prevent votes. But a time of national crisis came, and when a few Senators insisted on exercising their prerogative, when a handful of men combined together in a prolonged debate which prevented the Senate from coming to a vote on a bill to arm our merchant ships, when they were even then under attack from German submarines in the Atlantic, there was a reaction against the Senate in this country so severe that the Members who had stood up so resolutely only months before for the right of unlimited debate, scurried for cover.

In the face of that popular reaction against what the American people regarded as an abuse of senatorial prerogative, we saw the first limitation of debate established and made part of the rules of the Senate.

Mr. President, I appeal to those who say they want to maintain the traditions of this body to think about that, to ask themselves if their vision of the future is so clear that they can assure us that what happened in 1917 will not happen again.

I ask them to look down the road to a time when another national crisis might arise, and a large majority in the Senate is denied the right to act, and a reaction sets in throughout the country against the Senate, forcing them to scurry for cover and to radically revise the rules in the very way they fear, making of this body another House of Representatives.

So I suggest, in the name of preserving the traditions of the Senate, we would be well advised to consider so prudent a change in this rule. What will happen if we adopt it? Will the pillars of this institution crumble? Is the present rule so sacrosanct? Is it sanctified by holy writ?

I recall a time, within my experience in this body, when a man, never thought to be an enemy of the Senate or its hallowed traditions, our distinguished former majority leader, Lyndon Johnson, later President of the United States, assumed the lead in modifying rule XXII. That was 12 years ago. Prior to that time, the rule was written in such a way that a constitutional two-thirds of the membership was required to impose a limitation on debate, and no limitation whatever could be imposed on debate if the matter related to a change in the rules. Well, those two provisions were changed, the latter provision being stricken entirely from the rule so that cloture is now applicable to proposals to modify the rules, as to all other matters; and the requirement for limiting debate was reduced from the constitutional two-thirds of the Senate to two-thirds of those present and voting.

Mr. President, did the pillars of this institution come tumbling down? Did the traditional character of the Senate disappear? Did the right of extended debate no longer characterize our proceedings? Did all these terrible things envisioned by the distinguished Senator from Arkansas and the Senator from South Carolina take place? I suggest the history of the past 12 years constitutes a pretty effective rebuttal to such arguments as these.

No, Mr. President; I support this prudent modification of the rule, already endorsed by 51 Members of this body, a constitutional majority, who have affixed their names to this resolution. I support it because I believe certain unfavorable consequences presently flow from Senate rule XXII as now written. The unfavorable consequences, in my judgment, are three in number:

First. The impairment of the legislative process within the Senate itself.

Second. The frequency with which legislation, vital to the well-being of the American people, is made hostage to the cloture rule.

Third. The consequential loss of esteem which the Senate has suffered.

This situation has bedeviled the Senate for many years. But, I suggest, this is an explanation of a condition—not an excuse for its continuation.

We as Senators have many tasks and responsibilities. But essentially we are elected to legislate. The right to debate a question broadly, of course, has been recognized by the Senate from the first meeting of this body 182 years ago. But when the rules of the Senate, intended to provide a deliberative method for legislating, are used—or misused—to raise an all but impassable barrier to the enactment of legislation, then these rules should be corrected.

We shall be remiss, in my judgment, if we fail to seize upon this opportunity to modify—in a prudent way—the cloture rule. The harmful effects of rule XXII, as presently written, is not a well-kept secret known only to Senators. It is public knowledge. The headlines of the daily newspapers proclaim it; the televised evening news informs the American people about our flawed condition. My constituents write me about it; citizens of other States write me about it; visiting members of national assemblies in other lands discuss it perplexedly with me. And the conclusion of all of these diverse observers is essentially this:

The Senate has suffered a loss of reputation because of the legislative casualties caused by the application of the filibuster, as fortified by rule XXII or by the threat of the filibuster.

Both the rules and traditions of the Senate grant its Members the right of extended, virtually unfettered debate. We all agree that thorough, detailed, and reasoned discussion is a distinguishing virtue of this body. I also appreciate the view of one Founding Father, George Washington, I believe, that the Senate was to be the saucer in which is cooled the hasty actions of the "people's assembly," the U.S. House of Representatives. But the Senate can fulfill its role as a forum for unhurried and reasoned discussion without reducing itself to a state of paralysis and immobility.

Every good practice can be rendered a vice when carried to extremes. For many years, debate in the Senate was unlimited. This indulgence led to a popular upheaval against the Senate when a handful of Senators refused to permit a vote upon President Wilson's request for legislation to arm our merchant fleet, even then under attack by German submarines. The country, believing Senators had abused their privilege, demanded that a restraint of some sort be established upon unlimited debate.

As a consequence, in March 1917, the Senate voted by the overwhelming margin of 76 to 3 to establish the existing rule XXII. The world of the Senate did not fall apart when this was done, nor will it fall apart if we further modify the rule, as I hope we will do in this Congress.

The need is obvious. Forty-nine times, the Congressional Research Service informs us, cloture has been sought during the 54 years that the present two-thirds rule has been in effect. Only eight attempts have been successful. If the three-fifths formula, which we seek to adopt, had been in effect instead, there would have been a doubling of the number of successful cloture attempts. Even so, a three-fifths vote requirement would still have denied cloture two out of every three times.

But as it stands now, an attempt to stem the tide of unlimited debate by resort to rule XXII in its present form, is about like trying to stop a rising elevator by holding back the floor indicator.

The need to extricate ourselves from this situation is compelling. And I hope it is done before the demands for change from the outside become so pressing that we are forced to change too drastic.

I worry, Mr. President, at the continued refusal of those who defend rule XXII to let us come to a vote. If we are not going to be permitted to vote, even when 51 Senators have put their names to this resolution, and others besides have indicated they are willing to vote for it, the frustration in this Chamber is going to grow to where we shall find a way to break out of the straitjacket, by parliamentary means, one way or another. Then, in effect, you will have majority cloture, the very thing you most want to avoid, and you will have brought it on yourselves.

My concern for this body is such that I would hope this will not happen. That is why I plead for so temperate a change in the rule as the one now pending. But most of all, I ask that we have a chance to vote. I just do not agree with those who, in their praise of this institution, would follow the old adage, "to admire the plumage and ignore the dying bird."

The Senate resolution now pending, as I have said earlier, would make one simple but useful change in rule XXII. It would reduce the number of Senators reqired to limit debate from two-thirds to three-fifths of those present and voting.

The resolution thus envisions no radical change. It is a moderate proposal. It is in no way a rash alteration. It would not undermine the essential character of the Senate as a deliberative body. It would not jeopardize the opportunity for extended debate.

Indeed, I would make the converse argument against the cloture rule as it now exists. I suggest it is a harsh rule—a rash rule. It erects a barrier so high as to be virtually insurmountable and verges on the arbitrary.

Modifying the cloture formula to three-fifths will temper the unduly harsh effects of the present filibuster rule. Even then, the filibuster—unknown in any other parliament that I am aware of—will be crown prince, but no longer king of the Senate. Far from diminishing the stature of the Senate, such a change would raise the Senate in esteem by making it better able to proceed, after full and fair debate, with the proper disposition of the Nation's legislative business.

I am not unmindful of the importance we must attach to safeguarding the privilege of extended debate. This is a deliberative body—it should remain so.

Tom Wicker of the New York Times is correct when he wrote last December:

> Actually, there is a strong rationale for a certain kind of unlimited debate in a deliberative body that represents the major subdivisions of a continental democracy. It affords some protection, on great sectional and constitutional issues, against narrow or vindictive majorities, and it is occasionally useful in slowing or halting precipitate action until sober second thoughts can prevail.

Thorough and lengthy debate on public issues of major importance, extending over a period of weeks, can help to inform the people and, on occasion, can even influence the ultimate vote. Therefore, the educational function of debate, within and without the Senate, is not inconsequential. It is because of this strongly held feeling of mine, that I oppose those who would amend the cloture rule to permit the limitation of debate by a mere majority vote. I believe it would not serve the national interest to permit a simple majority of Senators to shut off debate on a bill that affronts a large segment of the country. A three-fifths rule, in my judgment, strikes a proper balance. It would reduce the hazard of legislative paralysis, on the one hand, and the pitfall of precipitate action, on the other.

It is often argued that rule XXII somehow protects the rights of small States as against the large States.

But it is the Senate as an institution which protects the small States, not any particular rule regulating the Senate's business.

In terms of representation in the Senate, unlike the situation in the House, there are no large or small States. Each State is represented by two Senators. In fact, the number of Senators from small States is greater than the number from large States, so that no rational argument can be made that small States stand in need of some special protection under the rules of this body.

Moreover, the history of the filibuster speaks quite clearly against the assertion that rule XXII somehow operates to protect the less populated States. On those occasions, when cloture under rule XXII has been attempted, the issues at stake have had little or no bearing on the States by virtue of their size. The first cloture attempt under rule XXII related to ratification of the Versailles Treaty. The last cloture sought in this Chamber came in December 1970, last month, and related to the supersonic transport. On such questions, a State's size or population is not even relevant.

Recognition that the times call for modification of our rules reaches to the highest levels. President Nixon, himself a former Senator, shares that view. On January 5 of this year, he said:

> Further, the Congress may wish to consider revision of the "turn-of-the-century" work schedules and procedures that now obtain on Capitol Hill. While there are many excuses for Congressional inaction—there are no good reasons.

In my judgment, it would be a serious error to leave rule XXII unchanged. As now written, it renders the Senate vulnerable to legislative paralysis at some future time of national crisis. If such a crisis occurs and we are unable to act with reasonable dispatch, or indeed rendered unable to act at all, the Senate could again become the victim of public anger so unrestrained as to force a radical revision of the Senate rules, and the loss of its customary role in our political life.

Mr. President, the rules of the Senate are not sceptered sovereigns reigning over us. We are not Gullivers to our rules. We should free ourselves from that fixation. Those who do not learn from the past, someone has said, are condemned to repeat it. The lesson of our times informs us that shortsighted rigidity in the face of legitimate need for change is a foe, not a friend, of our system of government.

Mr. President, I ask that there be printed at this point in my remarks in the RECORD eight articles relating to the filibuster—five editorials from the Washingon Post, a column by Roscoe Drummond in the Christian Science Monitor, and one by Tom Wicker in the New York Times, to which I previously referred, along with an editorial from the Baltimore Sun.

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

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

THE FILIBUSTER SENATE

For some years this newspaper has contended that the Senate is not a modern legislative body because of its toleration of unlimited debate. During the last few weeks the Senate itself appears to have proved the point beyond the shadow of a doubt.

The filibusters in the lame-duck session have been of the mini variety, but their result has been to throw the legislative program into a state of deep confusion and frustration. The Senate has been literally unable to cope with several of the great issues of the day because a few of its members insist on thwarting the majority will. There was a time when the word "filibuster" conjured up images of long-winded Southerners talking a civil rights measure to death. Now it is the commonest tactic of liberals and conservatives alike and of tiny factions as well as large minorities.

Despite the great pressure on the Senate to clear its congested calendar in the few days that remain, Senators Fulbright and Gravel held up the foreign aid bill for two days in a futile effort to convince their colleagues that the proposed $255 million in aid for Cambodia would lead to a commitment to the present regime in that country even though the legislation itself would prohibit the President from sending in any ground troops or military advisers. Fortunately a vote was finally permitted. The Senate has been further plagued by threats of extended debate on the trade bill and on the conference report involving the controversial SST project. This newspaper has opposed both the trade bill and the SST, but we do not condone stringing out the debate so as to prevent a vote.

The basic trouble is, of course, that the Senate has dawdled along through most of its 1970 session. Several long filibusters when the pressure was less intense left it with an unmanageable burden as the end of the session approached. Undoubtedly many of its debates were highly educational, to use the euphemism customarily employed by the filibusterers themselves. The seven weeks of discussion of the Cooper-Church amendment to limit the war in Cambodia, for example, was of truly national significance. Yet the fact remains that a legislative body confronted by a mountain of vital issues can no longer afford the luxury of unlimited debate on anything.

Nor is there any real hope in the cloture rule which can be invoked only on a two-thirds vote. It is rather an invitation to the obstructionists to keep on talking. One of the most constructive proposals to come before Congress in recent years—the proposed constitutional amendment for direct election of the President—failed a few months ago because the Senate majority in favor of it could not muster a two-third vote to end a filibuster. In our view, the Senate's first order of business in 1971 should be reform of its cloture rule.

[From the Washington Post, Dec. 20, 1970]

THE SHAME OF THE CONGRESS

One watches the end-of-the-session performance each year, and each year the performance gets worse. It was—all last week—as if there had been some gigantic shipwreck and spotlights were searching the waters for survivors. The welfare bill? The SST? Food stamps? Cambodian aid? The trade bill? The emergency school aid act? For days at a time no one could describe, even approximately, the status and/or prospects of any of these measures. The parliamentary situation—to use a phrase too dignified for the fun and games that went on—was such that veteran legislators professed themselves at a loss to understand it. And meanwhile, holiday and farewell parties—yes, *parties*—went their merry and irrelevant way, irrelevant, that is, except when they contributed to some unfortunate result on the floor or some equally unfortunate lack of one. Senator Mansfield told his colleagues in midweek that they were in danger of "looking foolish," but he understated the case terrifically. For something far more important and substantive than "looking" was involved, and something well beyond folly was at stake. Irresponsibility and degradation of government are among the alternative terms that come to mind.

We offer, as a crystallization of the week's events, a quotation of two paragraphs from one of our news accounts, which—taken in sequence—tell their own story:

"Liberals offered amendments. Conservatives, who had amendments to offer, demanded quorum calls. Many members were in the Longworth House Office Building at a party for McCormack, who is retiring. Those remaining finally gave up and adjourned.

"The bill would authorize the first federal aid of any size to help local school districts ward off or reduce racial isolation, and is the one major new form of federal aid to education that Mr. Nixon has proposed."

That was Thursday; by Friday, the Emergency School Aid Act of 1970 was thought to be salvageable only by some act of divine intervention. The bill itself, a dead serious effort to deal with a dead serious issue, was disposed of in a last minute access of congressional attention—mostly horseplay. It had been before the Congress, however, since last spring.

That is a fair description of much of the other legislation that has got caught up in the undignified and thoughtless hi-jinks of the past week. There are measures involved of which we approve and others of which we do not, but there seems no point commenting on the substance of such legislation just now when its fate is confused and when the *manner* of its disposition by Congress has itself become an issue. Much more than reform of the cloture procedure is indicated for the next Congress. Whether or not the last-minute extraordinary measures taken over the weekend in the Senate avail any order or output, we are all entitled to depend on something more stable than eleventh hour caucuses inspired by a fear of looking foolish for our results. These are grown men—and well-paid men, at that; this is a crucial part of the United States government. You would not know it to watch.

[From the Washington Post, Jan. 7, 1971]

THE TIME FOR CONGRESSIONAL REFORM IS NOW

As members of Congress take a much-needed rest between the turbulent end of the 91st and the uncertain beginning of the 92nd on Jan. 21, demands for reform are filling the air. The seven filibusters in the Senate during the last days of the 1970 session were too much for even a long-suffering public to swallow. The country is painfully conscious also of the fact that much of the most vital legislation considered last year failed because of antiquated rules and customs in both houses. The pile of unfinished business that will have to start afresh in the 1971 session includes the Social Security and welfare bills, aid for desegration, revenue sharing, draft reform and the proposed constitutional amendment for direct election of the President.

In the face of widespread demands for action, Congress played games and tied itself into ridiculous tangles. As Senator Mathias has pointed out: "The Senate floor, like Alice's Wonderland, was a topsy-turvy place where you had to run faster and faster to stay where you were and where the unexpected was to be expected at any moment."

The outcome was such a blow to public confidence that both houses are faced with the necessity of mending their rules in the new session as a means of restoring public confidence.

The chaotic happenings of the last month were no accident; nor can the blame be heaped upon any individual leader or committee. Rather, they represent an institutional failure. Congress allowed the makings of a legislative crunch to build up throughout the session and had absolutely no means of controlling the situation when the final showdown came after the Christmas recess. The leaders of the Senate could not bring order out of bedlam because that body has steadfastly refused to give them the tools of responsible leadership.

In our view the new Congress ought to meet this critical problem head-on. There is no reason to believe that the performance of 1971 will be any better than that of 1970 unless the conditions under which Congress operates are improved. The time has come for Congress to put its own house in order. The country cannot afford to risk further surrender of power to the executive because the legislative branch insists on following outworn practices devised in a less complex century for a small agricultural country.

Probably the most pervasive deficiency afflicting both houses is the seniority system. Both houses allow their committee chairmen to dominate the legislative process, and these key men are chosen by the blind operation of seniority. If an incompetent in a backwoods district can get himself elected over a long period, he is certain to become the chief keeper of the legislative gate in a vital area of policy-making. And he may well occupy that powerful position after age has sapped his awareness of what the country at large is thinking and doing.

Some inadequate proposals have been made in both the Democratic and Republican Parties in the House for changes in the House for changes in the seniority system. We shall examine these in more detail in later editorials. But it is evident to every student of the problem that they fall short of what is desirable. It is our hope that leaders on both sides of the Capitol will see that basic reforms and not mere poultices are needed.

Another critical problem that came into sharp focus in the closing days of the 91st session is unrepresentative conferees. This defect is closely related to seniority because the almost invariable practice is to name the oldest committee members in point of service as conferees. Frequently they are not representative of the Senate or of the House, as the case may be. The furor over the SST was complicated by the fact that a majority of the Senate conferees, who favored building the supersonic transport plane, simply ignored the position the Senate had taken in opposition to it. Opponents of the SST then felt compelled to filibuster to counteract this abuse of seniority, thus deepening the quagmire resulting from antiquated rules.

In many respects the filibuster is the most intolerable carryover from an easy-going and uncomplicated past. As it now operates, it not only prevents Congress from getting its work done. Again and again it results in minority decisions because a few senators can kill vital measures by long-windedness. Unlimited debate has become only another name for frustration and defeat of the will of the majority. It is an undemocratic practice which threatens to drag our entire system into disrepute.

In our view the time has come to take this choke off the neck of representative government regardless of any filibuster that may be launched to save the filibuster. Senator Mansfield is ready to demand a new cloture rule when the Senate meets, and he ought to have a tidal wave of support from the country. We think the outlook would be far more promising, however, if he would go all the way and ask for a rule that would let a majority of the Senate decide when time-wasting debate should end.

The new Congress has the best opportunity in many years to put aside its outworn gimmicks and to transform itself into the responsive legislature that it ought to be.

[From the Washington Post, Jan. 21, 1971]

THE SENATE CONFRONTS THE FILIBUSTER

The first big issue before the Senate, as it begins a new session today, is modification of its rule permitting unlimited debate. The experience of the 1970 session should be sufficient to convince the Senate that a change is imperative. After 12 months of almost continuous work the Senate failed to pass a number of momentous bills; it had to bow to one filibuster after another for the simple reason that it has no effective means of cutting off debate when the votes ought to be taken.

The issue arises now because of the growing conviction that the Senate has a constitutional right to adopt new rules at the beginning of a new session. President Nixon indicated, when he presided over the Senate as Vice President, that he would so rule, and former Vice President Humphrey did so rule in 1969. Nothing came of it, however, because the Senate failed by a vote of 53 to 45 to sustain Mr. Humphrey. One reason for that vote was a feeling that a heated controversy over the filibuster ought to be avoided at the beginning of a new administration.

There are powerful reasons for Vice President Agnew to follow the Nixon-Humphrey view when the right of the Senate to control its own procedures comes to him for a ruling. It is no longer a question of disrupting the Nixon honeymoon, which ended long ago. Now it is a question of modifying a rule that prevented several segments of the Nixon program from coming to a vote. Beyond this is the basic right of the Senate to control its own operations. We think the Constitution gives it that right and that it cannot in perpetuity relegate its authority in this matter to a minority of one-third.

A favorable Agnew ruling would be only a beginning, as was the Humphrey ruling two years ago. The Senate has a right to accept or reject that ruling, and it is feared that once a debate on this issue gets under way there will be no way of stopping it short of cloture by a two-thirds vote, which is not attainable. Some senators believe that a challenge to the Vice President's ruling should not be debatable, but this view has never gained majority acceptance because of the importance of the issue. Surely there ought to be some means of bringing this question of the Senate's rule-making power to a vote after reasonable discussion, without permitting a filibuster to thwart the Senate's constitutional right to end filibusters.

If the Senate has a constitutional right at the beginning of a session to adopt rules by majority vote, it seems to follow logically that it has a right to cut off debate by majority action so that a vote on that issue can be taken. Why should not the Majority and Minority leaders press for action on this basis? Both favor at least some measure of reform against the filibuster. Could they not get agreement among a majority of their colleagues to end debate by majority vote on the procedural questions, after allowing ample time for discussion?

As for the new cloture rule to be adopted, if the Senate can ever get around to the substantive issue, the best that can be hoped for at this time is the application of cloture in the future by a three-fifths vote of those present. The leaders of both parties have endorsed this modest reform. Although it stops short of giving a majority the means of working its will, it would be a substantial improvement over the present requirement of a two-thirds vote to end debate.

The Senate could, of course, insure itself against any possibility of an arbitrary cutoff of discussion by allowing cloture with a two-thirds vote after, let's say, one week of debate, cloture by three-fifths vote after perhaps two weeks or by a simple majority after, say, three weeks. But the less complex three-fifths rule seems to have the right-of-way. The Senate will take a long step forward if it can establish its right to adopt new rules by majority action at the beginning of a session and then demonstrate that right by lowering the requirement for cloture to a three-fifths vote.

[From the Washington Post, Jan. 29, 1971]

FILIBUSTER TO SAVE THE FILIBUSTER

The enlistment of 51 senators behind a new cloture rule in the Senate is a major achievement. For the first time a majority of the Senate appears to be firmly committed to ending a filibuster whenever three-fifths of those present think the debate has gone on long enough. If these men are willing to stand together, they can at least in some measure relieve the Senate of its most troublesome handicap.

The only remaining impediment to this essential reform is the filibuster that is now under way. The minority that for many years has thwarted majority rule in the Senate and often paralyzed the legislative branch in the face of urgent national requirements is again trying to perpetuate its power. But the tide of public opinion is running strongly against it, and the Senate can ill afford to bow to mere windbaggery at a time when its image is already seriously tarnished.

There is some disappointment that Vice President Agnew decided not to rule that the Senate is entitled to make new rules by majority vote at the beginning of a session. As a practical matter, however, Mr. Agnew's decision to leave this issue to the Senate itself is of little significance. In 1969 Vice President Humphrey's ruling designed to let the Senate deal with the matter by majority vote was rejected on the floor. A similar Agnew ruling would be rejected now. It would not even be supported by Senate Majority Leader Mansfield, who is one of the chief sponsors of the cloture-by-three-fifths reform. In these circumstances there are some advantages in not having the issue raised on a technicality which might close other more promising avenues to the needed reform.

The Vice President has indicated that, instead of getting personally into the fight, he will leave to the Senate the question of whether it can cut off a filibuster by majority vote when the question is the adoption of new rules at the start of a session. This leaves the door open to unlimited debate, unless the existing Rule 22 can be invoked. Fortunately, there seems to be considerable hope that the filibuster can be broken by this means. In any event, it is worth a determined try. The country is fed up with filibustering, and we doubt that a filibuster to preserve the filibuster can succeed if the majority plays its cards skillfully.

Incidentally, a head-count in the Senate indicates that two-thirds of the Democrats now favor cloture by a three-fifths vote, compared to only one-half of the Republicans. If this essential reform should fail, therefore, the blame would fall chiefly on the GOP at a time when the filibuster is a formidable weapon against the President's program. Repeated talk-fests in the Senate at the end of the congressional session last December were a major cause of the legislative failures that the President has been complaining about. Do half of the Republican senators want to leave the filibuster untouched so that it can continue to be used against legislation the President has asked for?

The key man in the outcome may therefore be Sen. Hugh Scott, the Republican leader, who is a sponsor of the proposed reform. As the debate warms up, will he be able to induce six members of his "team" to line up for a more expeditious procedure? If Senator Pearson's estimate is correct that about 60 senators would support cloture for a change in the rules, at least six more votes will be necessary for a two-thirds majority. The Republicans in the Senate who do not wish to be labeled as saboteurs of their own party's program will need to do a good deal of soul searching in the crucial struggle ahead.

[From the Christian Science Monitor, Jan. 9, 1971]

CAN THE SENATE REFORM?

(By Roscoe Drummond)

WASHINGTON.—At the end of the last session of the 91st Congress Senators Mike Mansfield and Hugh Scott, the Democratic and Republican leaders, stood disheveled and dismayed, shaking their heads at the mess which the Senate had made of itself and the harm it had done to the nation.

It must not happen again—and the Senate leaders know it.

PAINFUL YEAR

What happened is that for months on end the Senate failed to transact the public business.

And that's its duty, its sole duty.

It isn't that the Senate did things wrong. It just didn't do its job. Most of the time it just talked—at cross-purposes, to partisan ends, and while the Senate talked, any actions which crucially needed to be taken faltered and foundered.

Unable to govern itself, the Senate showed for a painful year at least that it wasn't doing its part to help govern the country.

Clearly something adequate needs to be done to enable the Senate to transact the public business responsively and responsibly, efficiently and effectively.

It can be done and when the 92nd Congress convenes Jan. 21, there will be a propitious opportunity to press changes in rules and procedures which have been long needed and long repulsed.

These changes are desirable: make it easier to end a filibuster; reduce the dictatorial powers of committee chairmen; modify the seniority system which forces able, new senators to wait years before getting responsibility equal to their talents.

TRIALS OF TODAY

Such reforms are needed, but I suggest that the primary need is not to reform the Senate but to reform the senators.

And that isn't impossible if the many, able, dedicated senators, Democrats and Republicans alike, will take the lead in self-reform. If they do, their influence can be powerful.

The reason is that the time for self-reform in the Senate as well as the time for rules reform is at hand.

What is needed is a clear and present awareness that the United States is in the midst of one of the most difficult and critical challenges to democratic government in its whole history. The trials of Lincoln were relatively easy compared with the trials of today.

Lincoln's challenge was to make the American dream possible.

Our challenge is to make the American dream come true:

By wiping the stain of minority discrimination from the face of the nation.

By using the resources of affluence to meet the too long neglected needs of our society.

By the President's and Congress's joining to create a climate of cooperation and constructive legislative compromises.

By demonstrating that American democratic government can govern capably and compassionately.

THE MOOD

We can't do any of these things if the Senate repeats the empty performance it put on last year.

We can do all of these things if the majority of senators begins to act on the crucial truth that politics-as-usual is unacceptable, intolerable, and unequal to the crisis through which America is now going.

Far more important than changes in the

Senate rules is the achievement of a state of mind in the Senate where the will to do the job, the goodwill to do the job well and an awareness that anything less will be profoundly harmful to the nation—this achievement will transcend all others.

If this can be the mood of the new Congress, if this is to be the mood of President Nixon, then all things needed will be attainable.

And in 1972 the voters will have the opportunity to reward those who have done it best.

[From the New York Times, Dec. 24, 1970]

A PLAGUE ON BOTH, ET CETERA

(By Tom Wicker)

WASHINGTON, December 23.—"When I was a Congressman I never realized how important Congress was," President Kennedy told the Economic Club of New York in 1962, "but now I do." As he gazes with the rest of us on the bald failure of Congress to get its work done, President Nixon must feel much the same, for if Congress is impotent, what of the nation itself?

In the brief Christmas recess, we are at least being spared for a while the dreary sight of so much ineptitude, indifference, frustration, selfish interest and lack of order in the name of order. But this momentary relief will not stop many an American from saying, with real feeling, "A plague on both your houses!"

There is little else to be said of a Congressional performance that includes but unfortunately is not limited to—

The sloth, delay and partisan infighting that left so complex and important a matter as welfare reform to be settled—but in fact frustrated—in the final week of a Congress that has been considering the matter for a year and a half

The kind of personal autocracy that allowed Chairman Long of the Finance Committee to construct at his leisure a legislative monstrosity that lumps together welfare reform, Social Security benefits, trade legislation and medical insurance.

The supine showing of Senate conferees who allowed House conferees with weaker mandates but stronger spines virtually to reverse Senate decisions on the SST and food stamps.

Prevention by the Rules Committee of the House's right to vote on important consumer legislation and on strengthening laws against racial discrimination in employment.

There may be those who think that, at least, what they consider bad measures—import quotas, SST development funds, welfare reform—are not being passed. But even if their judgment of these items is accepted, the tie-up of the Senate (which incapacitates the House, too) still cannot be defended.

Perhaps never before has unlimited debate been seen more nakedly for what it has become in the Senate—a device to prevent action on anything against which a minority of one-third plus one can be rounded up. And that is made no more defensible when the frustrated action is seen as undesirable.

Actually, there is a strong rationale for a certain kind of unlimited debate in a deliberative body that represents the major subdivisions of a continental democracy. It affords some protection on great sectional and constitutional issues, against narrow or vindictive majorities, and it is occasionally useful in slowing or halting precipitate action until sober second thoughts can prevail.

In recent years, on major civil rights questions, it also was shown that a filibuster could not long be sustained against an aroused public opinion; given that imperative, unlimited debate might therefore be accepted as useful, not pernicious, in rare cases of grave national importance. But that is an intellectual concept that requires the tacit agreement and political restraint of those to whom the filibuster is available.

That concept has been so severely abused in the Senate as to mock the pretensions of those who argue the case. Filibusters are staged on almost any subject, on almost any occasion and without a shred of justification except the views and interests of those who prevent action. This year, a filibuster was mounted against a constitutional amendment to change the Electoral College—a parliamentary absurdity, since the amending process is itself the lengthiest, most difficult and most safeguarded of all American political procedures.

When Congress slunk off the public scene for Christmas, a filibuster was going against the SST conference report and against welfare reform. Another was threatened against trade legislation. Still another may be mounted against the food stamp conference report.

An ultimate of sorts may be reached next week if a $1.5-billion authorization to speed school integration is filibustered by liberals who think it soft on the South and by Southerners who consider it soft on the North—a strange sectional issue, indeed.

In every case, the filibusterers may have worthwhile causes, and the criticism is not so much of them as it is of a Congressional system—in which unlimited debate is only one part—designed primarily to prevent action rather than to take action. If Congress wonders why it has lost so much power to the executive, there is a major reason. And in a nation already racked with mistrust of its Government, the Congressional mess itself may be more than the fate of any or all the bills caught in it.

[From the Baltimore Sun, Jan. 28, 1971]

RULE XXII

The problem in the United States Senate is that it seems to take a two-thirds majority to decide that a three-fifths majority should be enough to limit debate; that is, to force an end to a filibuster. The Senate has been wrestling with this problem for years. It deals with modification of No. 22 of the Senate's rules of procedure, and it has become customary to debate the matter at the opening of a new Congress, before the rules are adopted.

Senators who are now arguing for a modification of Rule 22 are urging merely that a three-fifths majority, rather than two-thirds as at present, be required to shut off debate. A three-fifths majority of course is easier to obtain than two-thirds, and to that extent the authority to filibuster would be weakened. This is a modest, sensible change in our view, and we believe the Senate should approve it. The principle of unlimited debate, which can be restricted only by something more than a simple majority, would be continued, as it should be. But a filibuster would become a bit more difficult to sustain, and this, in our view, would help the Senate to do its work better.

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

Mr. HOLLINGS. Mr. President, under the previous unanimous-consent agreement, I still have the floor.

Mr. CHURCH. Mr. President, the Senator from South Carolina has the floor. With his permission, I would like to yield to the Senator from Michigan.

Mr. HOLLINGS. I yield for that purpose.

Mr. HART. I thank the Senator.

Mr. President, I rise to express appreciation to the Senator from Idaho for a balanced and persuasive explanation of the reasons for which a number of us—51 in all—have been moved as cosponsors of this resolution.

Over the years I may have, by my association with legislation which itself was filibustered, lost any claim to being an objective witness on this subject, and I am almost hesitant to commend the Senator from Idaho lest it weaken the resolve of some of those who have more recently joined us in the effort to change rule XXII.

Indeed, I have heard from some of those who in earlier years were associated with me in the effort to achieve constitutional majority cloture that they now entertain very serious doubts that cloture by a constitutional majority would be desirable. The Senator from Idaho, over the years, has always taken the position that he opposes and would strongly oppose a constitutional majority permitting the closing of debate.

The reasons that disturb some of those who in earlier years supported majority cloture is that, as the Senator from Idaho has noted, legislation dealing with the problem of civil rights is largely behind us, and occasionally there are signs that suggest that a mood might develop across the country that would put pressure upon this body to act on legislation that might be described as anti-civil-liberties legislation. Given the law-and-order theme of last fall, if domestic turbulence struck this land, they fear, and it is altogether possible, that we would be under very strong pressure to legislate away the first 10 amendments; and then those of us who feel that the Bill of Rights means what it says, and support the Supreme Court in the interpretation of it, ourselves would be compelled to turn to a filibuster to prevent that ugly mood from sweeping this body.

None can deny that that day might come. But certainly the modification that is proposed by the Senator from Idaho and others, cutting the required majority from two-thirds to three-fifths, does threaten the right of any large minority in this body to maintain the floor and continue to present its case. Although acknowledging the possibility of an ugly mood that might put pressure on us, I continue to feel that all that any Member can claim by way of right is the assurance that he has the opportunity fully to present his case, and then the other right intervenes: the right of the majority to make its decision.

History is clear that the majority on occasion is wrong. But to hang tight on the existing rule XXII is to resolve the dilemma in favor of the minority always being right, and this just does not add up. It is for that reason, Mr. President, that I hope that this body will act favorably on this opportunity to modify rule XXII down to three-fifths.

The country is outraged just at the sight of the results of the failure to protect that second right; namely, the right of the majority to act. This Nation will not long continue tolerant of a Senate that falls into the disarray that was the scene here in November and December of last year. The danger is very great that, absent the modification as proposed by the Church-Pearson resolution, we shall see repetition after repetition of that scene of November and December.

As the Senator from Idaho has stated, given the repetition of that scene, the mood of this country could parallel that which in 1917 turned this body around, and, by a vote of 73 to 3, enacted the clo-

ture rule. If the mood reaches that peak, I think the Senator from Idaho is correct: the danger is great that the action will not be to adopt a three-fifths cloture rule, but a constitutional majority rule. At very least, a parliamentary means then will be found whereby a majority can bring rule change to a vote.

I think the Senator from Idaho, in his presentation this afternoon, has compressed all of the arguments, and, in a style which all of us here and many throughout the country recognize as uniquely his, has done it in language, in words which ring bells.

Why are not 51 Members of the Senate permitted to have the Senate take up the consideration of this rule change? Procedurally, that is what we are hung up on now. Let us be permitted to take it up. If there is more explanation of why it is imprudent or unwise, let us hear it, and then permit the Senate to act. I shall be here to permit the minority to have its say, if there is anything that is yet unsaid, but then let them join the Senate in the Senate's decision.

I thank the Senator from Idaho.

Mr. CHURCH. I thank the Senator from Michigan very much for his generous comments.

It seems to me that there are two probable ways majority cloture might come to this body. One way is by a repetition of the kind of crisis that occurred in 1917, when the Senate was immobilized at a time when the people felt vehemently that it should act. In the stormy aftermath, a radical change in the rules was forced upon us, as those who so stoutly had upheld the traditional view retreated in the face of public pressure. Look at the vote, 76 to 34.

That is one way majority cloture could come. The other way is more subtle, but perhaps more likely: If a substantial majority in this body, time after time, are denied the right to vote on so prudent a modification of this rule, blocked by the continued refusal of a majority of Senators to let us vote on it, then I am certain that a parliementary way will be found, in due course, to permit the vote to take place on the basis of a majority decision. Once that happens, the majority precedent is established. From that point on, in effect, we have majority cloture.

So I again appeal to those who believe strongly not only in the right of extended debate, but also in the need to protect a minority against decision being made by a mere majority. I appeal to them to reconsider their inflexible stand on rule XXII as presently constituted. I appeal to them to allow the Senate to come to a judgment, once this question has been thoroughly debated. I think this, in the long pull, would surely serve their cause the best.

Mr. President, I have no further remarks at this time. I want to thank the distinguished Senator from South Carolina for yielding me the floor. His unfailing courtesy is well known to this body. However, we may differ on this subject. I assure him of my affection and regard.

Mr. HOLLINGS. I appreciate that very much.

Mr. President, the distinguished Senator from Idaho has raised many matters that should be clarified. The Pastore rule has expired, and two Senators would like to make presentations at this time, brief as they are.

However, I want to join issue for a moment, before the distinguished Senator leaves the floor, on the idea that the country is wrathful, the people are in wrath, and if you do not give this salami slice of six votes, then, look out, because you are going to pull down, as Samson did, the temple walls, and ruin us all. Nonsense, absolute nonsense.

Let us go back to the fact. Let us go to the fact of last year's experience that allegedly got the people wrathful. Extended debate was employed three times, not necessarily rule XXII. On the Carswell appointment it was slightly less than 7 weeks. It was an Executive appointment. For all intents and purposes, they had 51 votes before they sent it over here, and it took 7 weeks to bring some colleagues around to a change of mind.

We had approximately 7 weeks on the amendment of the distinguished Senator from Idaho, the Cooper-Church amendment, and only 3½ weeks at the close of the session on the SST and the logjam with family asistance, trade, social security, along with everything else. The logjam at the end, which made us look powerless and indecisive, is an accessory after the fact. We had worked our way into that position for varied reasons. We do need streamlining. We do need computerization. We do need changes in the procedures. But rule XXII is not the culprit. These other things are. The Senator is about to convict the accessory after the fact, I would submit, and let the culprit go free.

Let us go back specifically to the 7 weeks of education under this rush and lack of deliberation, under the present-day circumstances. When the invasion into Cambodia occurred, the distinguished Senator showed us what it really constituted and what we are debating today—another Vietnam in Southeast Asia, which none of us wanted, hawk or dove. At that time, we had the pressures from the executive department, with the officers of the American Legion, and the VFW calling us all Communists, with the leadership on the other side—now national chairman of his party—going down to my State, saying that the actual introduction of such an amendment was not only an affront to him as a veteran but was also an affront to him as an American. And 7 weeks later he voted for it. But that is history.

What really occurred in that 7 weeks? Many people think we wasted 7 weeks. I am of the opinion that we brought stability to the country in that 7-week period. If we had voted, we would have had 51 Senators, after the week of May 8—whether or not to support the Commander in Chief, whether or not to get another Gulf of Tonkin, and we would have had another Gulf of Tonkin. We would have supported the Commander in Chief, as I was prepared to do. I listened. I was one of that group of Senators who changed in judgment, hawk that I am, to realize the issue involved.

The Senator would not have received a majority vote. But this was extended debate, exercising the deliberative nature of this body and the facets under rule XXII, to bring the truth to the American people, to bring the American people to their senses, and to reinstill confidence in representative government.

If there is one reason why we do not have as many riots, as many burnings, and as many campus disorders today as we have had during the past 10 years, it is that 7-week period when the young leadership of this Nation could come to Washington, could talk to their Senators, could be heard, and realized that we were not pellmell for hell and just going down the road with whatever the Executive wished. I think it is very salutary, and that is what we are pleading for.

The Senator is talking about a logjam, with all kinds of legislation and issues coming up in the last 3 weeks. But that is not what really has caused the loss of respect for the Senate. Getting on with the business? What does the distinguished Senator from Idaho mean when he says that? Does he mean hurry up and get a vote?

The distinguished Senator from Michigan said, "Why cannot we consider it?" We are, We are considering it now. He knows that. We are not blocking anything from being considered. We are discussing the merits of this thing. But we are fearful, due to the rulings of the Chair, with a 51 vote and already a majority. He and I know that, and the Senator from Idaho knows that, and it is begging the question.

We are not blocking consideration. It is not undemocratic. We are really trying to protect the Senate as an institution, its integrity as a legislative body—different, if you please, from the House of Representatives; different, if you please, from any other form of government. While the youngest of governments, we are the oldest of democracies. And why? Because of rule XXII and the unique nature of the U.S. Senate. Therein, I think, is the issue—whether or not we are going to have any individual rights, and minority views.

We have not blocked them. Look at history. One time, 7 weeks was used to try to hurry a vote at first and then to hold up a vote in the end, and they completely flipped over because they could not get a majority. The other time, 7 weeks was used, first to hold up the vote at the beginning, and then, at the end, under the deliberate nature of this body, so that we could consider all the elements, used it to try to thwart the will of the people of this country. Finally, it surfaced on a vote on June 30, with a July 1 cutoff of the employment thereafter of troops in Cambodia without the approval of Congress.

So when the Senator from Idaho says the people are wrathful, I think they are not wrathful about that. They are not even concerned with partisan politics. They are concerned with all this dancing around the fire about form and the fault of substance.

The fault is not in the number of departments in Government and that they must be renamed and reorganized. The President of the United States knows

that that is not going to happen in the next 10 years. He knows that and he is kidding the people, to make that suggestion. Any of us in politics can sit down, and I can give various forms and various departments in reorganizing government. That is not leadership. That is not the trouble today. The trouble has been consensus government of, No. 1, getting 51 percent and laying it before you and not even having any debate.

Why are not our colleagues here? Because they have made up their minds. They are ready to vote, because the TV fellow says, "Are you for the southern filibuster?" What does the Senator from Idaho think the answer is going to be? "No, I am not for the southern filibuster." But I am for the U.S. Senate as an institution.

I wonder what the Senator from Idaho really means when he says, "Get on with the business."

Was that obstructionism under the Cooper-Church amendment, for that 7 weeks?

Mr. CHURCH. Mr. President, if I may respond——

Mr. HOLLINGS. Yes.

Mr. CHURCH. The Senator from South Carolina, in what I would regard as a brilliant display of forensic pyrotechnics, would have us believe that the Senator from Idaho has the fair maiden of the Senate by the neck and is determined to strangle her. He would have us believe that I would gag the Senate, prohibiting extended discussion and debate in this body. He would have us believe that anyone who does not oppose the resolution I have introduced sets himself against the traditional role of the Senate in our public life. None of that is true. None of it follows from anything I have said.

The distinguished Senator points to the logjam at the conclusion of the past session, suggesting it was on this basis that I have tried to make my case. But it is not so.

The illustration I used was 1917, in a national crisis, and the incapacity of the Senate to act——

Mr. HOLLINGS. If the Senator from Idaho will yield at that point.

Mr. CHURCH. If I may finish——

Mr. HOLLINGS. The Senator discussed the people being wrathful in 1917.

Mr. CHURCH. The Senator misunderstood the point I made. The people may be perplexed—even disappointed—but I do not believe the people are wrathful at the Senate today.

Mr. HOLLINGS. Then I misunderstood. I thought the Senator said that if we did not do this, that the other is going to happen that we were going to majority rule.

Mr. CHURCH. I was talking of the historical situation that occurred in 1917, one that could occur again. If history teaches us anything, we should take its lantern of the past to peer into the future. I am going back to 1917 and picking up the lantern and using it to peer into the future. In 1917, there was no limitation on debate. The Senate prided itself on having no limitation whatever, but when that condition paralyzed the Senate, in a moment of national crisis, the public uproar against the Senate was so great that the very men who had pledged themselves to preserve the right to unlimited debate went scurrying for cover and adopted the first limitation on the debate in the form of rule XXII.

Now, having looked back into the past, having picked up the lantern, and peering now into the future, I say to the Senator from South Carolina, that the same thing could happen to us again.

I say to the Senator that the present barrier to limiting debate is so high that only 8 times in 54 years have we invoked it. I think such a barrier is too high. It does not follow that I want to substitute a barrier that is too low. I am not arguing for majority cloture. Most Senators will not even entertain the notion of majority cloture unless, as in 1917, a situation develops which will force them to it.

I plead the case for preserving the traditional role of the Senate with as much fervor and conviction as the distinguished Senator from South Carolina. I differ with him on how best to safeguard the role of the Senate. I think history gives me some evidence for my side of the argument.

Now, Mr. President, suppose we were to adopt the three-fifths rule; is the fair maiden of the Senate then strangled? If we take that rule and apply it, as if it had been in effect over the past 54 years, we would have invoked cloture 15 times instead of eight times in 49 attempts. Two out of every three times we could not have secured three-fifths of the Senate to agree to a limitation on debate. So the maiden would remain in good health even if, should the Senator from South Carolina give us the chance to pass judgment, the pending resolution were adopted. Yes, she will remain in good health—in radiant health. She will go on talking at length, as before.

Mr. HOLLINGS. One last summary point. If we allow this fair maiden of the Senate to be seduced by six Senate votes, I daresay she will not be virtuous any longer. Rather, she will have become impregnated. How long it will take to deliver 10 or more, I do not know. But, we will be back with the 51 to 49 rule.

Mr. PELL. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

Mr. PELL. I just have one comment on one point the Senator from South Carolina made in his dialog with the Senator from Idaho, where he referred to this country as having the youngest of governments but the oldest of democracies.

I think, in fact, we are about the oldest unchanged government as well as the oldest among democracies. So it is a question of academic interpretation here.

Mr. HOLLINGS. I thank the Senator from Rhode Island.

Now, Mr. President, under the unanimous-consent agreement, I am now delighted to yield to my distinguished colleague from Massachusetts (Mr. KENNEDY), notwithstanding the requirement of the Pastore rule of germaneness.

S. 483—INTRODUCTION OF SELECTIVE SERVICE ACT OF 1971

Mr. KENNEDY. Mr. President, in June of this year, the Selective Service Act expires and Congress must confront the complex of controversial issues surrounding the future of the draft. For many, the basic question to be decided is whether to continue the draft or to establish a volunteer army. For my part I continue to believe that a volunteer army is not now in the best interests of the United States.

This is not an easy conclusion. Historically, the draft was rejected by succeeding Congresses and Presidents and only in 1940, when the German Army occupied France, did the Congress vote to establish the first peacetime draft. The draft remains unpopular with the public and it would be much more comfortable today to advocate a volunteer army.

As I have stated before, I would support a volunteer army in peacetime. But when, as now, we are engaged in a major war effort, I do not believe a volunteer army is either wise or equitable.

First, it is inequitable to permit the risks of battle to fall only on those less affluent Americans who are induced to join the Army by the attraction of higher military pay. Second, it is unwise to insulate from the horrors of war, middle and upper class Americans who might lead the protest against senseless foreign adventures. I frankly would question, for example, whether the current pressure for deescalation of the Indochina war would be as great if young men from every social background were not threatened with service in that war. Third, when, as now, we have pressing budgetary problems and domestic needs, I think a volunteer army may be too costly.

I recognize that, because of present deferment policies, the present draft system contains many of the inequities of a voluntary system. But the draft can be made more equitable as the bill I shall introduce today demonstrates. A wartime volunteer army is inherently inequitable.

There are some who argue that we never would have become involved in a large-scale war in Indochina, if there had been no draft. This is sheer speculation. The one certain fact is that we are in Indochina now, and the process for determining who shall serve there must be fair.

Some suggest that if the draft were ended, American involvement in Indochina would have come to a grinding halt. This too is speculation. In any event if the Congress wishes to end the war, it can do so by legislation directly aimed at that goal—such as last year's McGovern-Hatfield amendment.

I wish to emphasize that the cost of moving to a volunteer army is at least $3.2 billion in the first year. When the Nation must resolve the despair of the ghetto, and clean the filth from its air and its rivers, I sharply question whether a volunteer army, even if desirable, should rank so high on our list of national priorities. The $3.2 billion additional cost would be greater than the

total Federal support for elementary and secondary education in fiscal 1971. It is three times greater than the total Federal expenditures for law enforcement and the fight against crime. It is six times greater than the Federal expenditures for control of air and water pollution. When we are no longer spending billions of dollars in the madness of the Indochina war, we will be better able to afford a volunteer army.

However, there is one advantage to the concept of the volunteer Army as proposed by Senators HATFIELD and GOLDWATER which appears to me immediately desirable. It provides greater congressional control over military adventures by the Executive since it would deprive the President of the power to call up unlimited manpower through the draft. Instead, it would require the President to come to the Congress to reinstate a draft.

I believe, however, that the same benefit of congressional control can also be assured under a draft system. In my bill, I would restrict the number of inductees to 150,000 men for each of the 2 years of the proposed draft extension. This would be slightly higher than the Defense Department budget estimate of 125,000 as their upper limit on the number of men that would have to be drafted during the next fiscal year to meet its manpower needs. By setting a specific ceiling on inductees, which can only be raised by joint congressional resolution, we would reinstate an important aspect of congressional control.

The draftee ceiling would not hamper the President's ability to conduct foreign policy since he has immediate control over all those already in the armed services and the Reserves. Also, since the timelag between induction and combat readiness is 5 to 6 months, the necessity of coming back to the Congress for action would not directly affect the President's ability to respond to an immediate crisis. More important, this action would reinstate the intent of the Founders of this Republic when they specified in article I, section 8 of the Constitution: "The Congress shall have the power—to raise and support armies." They believed that the responsibility lay with the Congress rather than the President, and I believe that much of our difficulty during the recent involvement of the United States in Indochina has resulted from our permitting a distortion in the balance between executive and congressional responsibilities in this area.

The primary purpose of the bill I am introducing today is draft reform. Such reform is necessary for as long as we continue the draft. It is necessary if we move to a voluntary army: Because even then, a standby draft will be required.

Over the past 30 years, the movement for draft reform rarely has achieved organized public support. But the various elements in Congress and in the larger society coalesced and began to gather momentum as the monthly draft calls increased during the Vietnam war. It became clear to many Members of Congress and to much of the Nation that our draft system had basic and glaring defects.

It permitted many registrants, in general the more educated and the more affluent, to escape service altogether through a variety of student and occupational deferments.

Local draft boards had such enormous discretion in making classification decisions that there was a complete lack of national uniformity. A busdriver in San Francisco might be deferred but one in Boston would not. A teacher in Peoria might be deferred while one in Chicago would face the draft.

It relied on a selective service organization which did not always have the expertise or manpower to deal with its broadened responsibilities.

It denied registrants basic procedural safeguards.

These were just a few of the defects that caused me to join with Senators and others to call for reform when the Universal Military Training and Service Act, the successor to the 1940's Selective Training and Service Act, was due to expire on June 30, 1967. Then the Congress was called upon to make either a simple extension or an extension and revision before that date. Preliminary hearings were held by the House Armed Services Committee in June 1966, at which I and others urged a comprehensive reform of the law, to include a random selection system, uniform standards and restricted deferments.

In July 1966, President Johnson appointed a National Advisory Commission on Selective Service, chaired by former U.S. Assistant Attorney General Burke Marshall, to make a thorough public study of draft reform. The chairman of the House Armed Services Committee, Mendel Rivers, appointed a civilian advisory panel on military manpower procurement, chaired by retired Army Gen. Mark Clark, for a similar purpose.

Following these two reports, the President on March 6, 1967, sent to the Congress his message on selective service. This message recommended adoption, either legislatively or by Executive action, of most of the major reforms proposed by the Marshall commission. Earlier I had introduced in the Senate a concurrent resolution—on February 23, 1967—which would have declared it to be the sense of the Congress that these reforms were necessary and that the President should institute them by Executive action.

During March, April, and May 1967, three congressional committees held hearings on draft reform: the Senate Subcommittee on Employment, Manpower, and Poverty; the Senate Armed Services Committee; and the House Armed Services Committee. The hearing in the Subcommittee on Employment, Manpower, and Poverty, which it was my privilege to chair, concerned themselves with the manpower implications of selective service; the other hearings were concerned more directly with the military implications.

On May 4, 1967, the Senate Armed Services Committee reported out an extension and revision of the draft law. This bill would have left wide discretionary authority with the President to institute the reforms recommended both by the Marshall commission and the President himself, and it explicitly endorsed many of them. The Senate passed this bill on May 11, 1967.

Unfortunately the House Armed Services Committee greatly changed the Senate-passed bill, adding many punitive and restrictive provisions. The House adopted its committee's bill with little change, on May 25, 1967. Virtually all of these provisions were adopted in the Senate-House conference, and this conference bill was accepted by the Senate on June 14 by a vote of 72 to 23. I was strongly opposed to accepting the conference bill. In light of the suggestion by some individuals that it would be unpatriotic to vote against any draft bills, while fighting was going on in Vietnam, I think it was some measure of Senate feeling that 23 Senators voted against the conference report. The House accepted the conference bill on June 20, 1967, and it was signed by the President in this form on June 30, 1967, the day it was due to expire.

But precisely because this bill did not make any of the badly needed reforms, and, in fact, made the draft law more restrictive and punitive, there have been subsequent efforts to change it. In February 1968, I introduced a bill which would have completely revised the draft law, instituting a random selection system, drafting the youngest first, and accepting the other basic reforms recommended by the Marshall commission. Also, in February 1968, the Senate Subcommittee on Administrative Practices and Procedures held hearings on a bill to afford draft registrants the right to be present at proceedings affecting them, and to have counsel present. Neither my bill nor the right to counsel bill was enacted.

In February 1969, I again introduced a bill to institute a random selection system and adopt the other reforms recommended by the Marshall commission. The need for reforms was substantiated by extensive hearings held by the Senate Subcommittee on Administrative Procedures, of which I am chairman, in the fall of 1969.

Seven days of testimony by expert witnesses as well as the responses from 4,000 questions sent to the local boards and State directors showed once again the inequities of deferment policies which favored the more affluent Americans. In early 1970, the subcommittee issued a study of the Selective Service System which in addition to recommending structural reforms and changes in deferment policy called for new procedural safeguards for registrants.

As a result of these pressures for reform, some significant changes in the Selective Service System have been made. In 1968, graduate student deferments were abolished by Executive order. In 1969, Congress authorized and the President implemented a random selection system. In 1970, occupational deferments were eliminated by Executive order. It is with great pride and sense of accomplishment, that those of us who have labored long for an end to the most blatant inequities of the Selective Service System, witnessed these changes. I welcome the recent recommendations of

the President concerning a national call and an end to undergraduate deferments. However, even with these additions the task of reform is still not complete. That is why today I am introducing a comprehensive new selective service reform.

Let me summarize its major provisions:

First, my bill would make the random selection system by which the youngest are drafted first as a legislative rather than merely as an administrative requirement.

Second, it alters the existing lottery by requiring that calls for induction be made on a national basis.

Third, it would eliminate all new student deferments beyond high school, although it would not affect undergraduates who now hold deferments.

Fourth, it would abolish all occupational deferments as a statutory requirement.

Fifth, it broadens the definition of conscientious objectors to conform to the recent Supreme Court decision of *Welsh* v. *U.S.*, 398, U.S. 333.

Sixth, it restores the role of the Justice Department in reviewing conscientious objector cases.

Seventh, it affords new legal rights to registrants including the right to counsel and the right to present witnesses at all selective service proceedings.

Eighth, it legislatively prohibits use of the draft as a punishment for protest activities by limiting the definition of draft delinquency.

Ninth, it eliminates previous statutory restrictions on judicial review of questions of law regarding classification proceedings.

Tenth, it reorganizes the Selective Service System along the lines recommended by the Marshall Commission.

Eleventh, it requires that all selective service officials be civilians, as recommended by the Marshall Commission.

Twelfth, it prohibits discrimination of any kind in the makeup of any selective service panels which determine an individual's draft status.

Thirteenth, it calls for a thorough public study of a national service corps, in which individuals seeking nonmilitary service might fulfill their obligation of service to the Nation.

Fourteenth, it calls for a thorough public study of military youth opportunity schools, which would offer special educational and physical assistance to those falling below induction standards who desired to volunteer for military duty.

Fifteenth, it calls for a thorough public study of the ramifications of granting amnesty to those young men who were convicted for refusing induction or who fled the country rather than face the draft.

Sixteenth, it calls for a thorough public study of all aspects of the issue of selective conscientious objectors.

The changes I have summarized are the major reforms in my bill and because certain of them are particularly far-reaching, I would like to discuss them in detail.

DRAFT LOTTERY

As a longtime supporter of random selection, I applauded the President's speedy initiation of a draft lottery following Congress' action in removing the previous restriction in November 1969. However, I believe the lottery can be improved.

The call of inductees should be on a national basis so that everyone with the same lottery number would be called at the same time. Under the present local quota system, a young man with a number of 195 may be drafted in Worcester, Mass. But if he lived in a neighboring town with a different draft board he might never be called. Last year, the range of numbers went from 166 in some towns to a high of 195.

DEFERMENTS

This bill abolishes the undergraduate deferment although permitting a student now receiving an undergraduate deferment to retain it until he completes his undergraduate studies. I have argued that student deferments are grossly inequitable. Seventy-six percent of college students come from families whose income is above the median. In wartime, it is patently unfair that these wealthier registrants should be permitted to stand on the sidelines while their less affluent contemporaries face death on the battlefield.

But even in peacetime, I can see no reason why college students alone should be permitted to pursue their life plans without any interruption while all other young men must have their personal lives and their careers interrupted by military service.

Our experiences in World War II and Korea demonstrate that the problems created by an interruption of college education can be overcome, particularly if Congress provides GI education benefits. Thus, there is no overriding national interest in permitting college deferments, whether in peacetime or in wartime.

CONSCIENTIOUS OBJECTORS

In *Welsh* v. *The United States*, 398 U.S. 333, the Supreme Court interpreted our present conscientious objector laws to mean that any registrant shall be exempted from combatant training and service in the Armed Forces of the United States. If by reason of religious beliefs or by reason of moral or ethical beliefs which are held with the strength of traditional religious convictions, he is conscientiously opposed to participation in war in any form. I believe the Supreme Court's interpretation was constitutionally required and I believe that the statute should now be rewritten to conform to the Court's interpretation. This will permit selective service officials to properly assess an individual registrant's claim that he is a conscientious objector.

Treatment of conscientious objectors has been unequal throughout the country as testimony before the Subcommittee on Administrative Practices and the Marshall Commission demonstrated. Some State systems simply do not agree with the congressional position on conscientious objectors and refuse to confer that status on qualified registrants. My bill would help establish greater uniformity by requiring the Justice Department to play a key role in cases where conscientious objector status has been denied.

PROCEDURAL SAFEGUARDS

Under the current Selective Service System, registrants have neither the the right to counsel nor the right to present witnesses in classification proceedings. Yet, a lawyer and witnesses often are required to present the legal and factual basis for a registrant's claim to conscientious objector status or a hardship deferment.

Under my bill, registrants are accorded the right of a personal appearance, the right to present witnesses and the right to a lawyer at every stage of the classification process.

It has been argued that extending these rights to registrants would greatly complicate the task of the Selective Service System and cause lengthy delays. However, with the establishment of a lottery system from a pool of 19-year-olds and the elimination of most deferments, the Selective Service System will have more time to concentrate on protecting due process in the fewer classification decisions which remain. When the nation threatens a citizen with the possibility of loss of life or liberty, then surely all of the due process guarantees of the Constitution must be afforded him.

DRAFT AS PUNISHMENT

I am opposed to using the draft as punishment for those who engage in activities protesting either the Vietnam war or the draft itself. If a protestor has in fact taken part in illegal activity, then he should be prosecuted under the law's criminal provisions. If found guilty, he should be punished accordingly. But under no circumstances, do I see any justification for local draft boards to reclassify protestors and subject them to immediate induction for their protest. The Supreme Court adopted this position in *Gutknecht* v. *U.S.* 396 U.S. 295. My bill would conform the statute to the Supreme Court decision by prohibiting the use of the draft as punishment.

JUDICIAL REVIEW

My bill would permit judicial review of classification proceedings as to questions of law by eliminating section 10(b)(3) of the 1967 law. This section foreclosed judicial review of classification decisions except as a defense in a criminal proceeding or except in a habeas corpus proceeding after induction. Permitting an expanded judicial review would not unduly hamper the work of the Selective Service System, particularly since the number of deferments has been sharply reduced.

DRAFT SYSTEM REORGANIZATION

My bill incorporates the recommendations of the Marshall Commission regarding reorganization of the Selective Service System, as follows:

A national office, similar to that now existing;

A series of regional offices, perhaps eight in number, corresponding for national security reasons to the eight regions of the Office of Emergency Planning;

A series of area offices, numbering 300 to 500, corresponding to the 231 standard metropolitan statistical areas, the 149 cities over 25,000 outside these SMSA's, with at least one area office in every State;

Appeals boards operating contiguous to these three types of offices.

Under this plan, registration and classification would be handled at the area offices. Local boards would be retained, but their function would be changed. The local boards would become the registrant's court of first appeal, and they would have the authority to sustain or overturn classifications made in the area offices. This insures that the great strength of the local boards—a group of citizens divorced from the Federal system—would be applied where it is most critical.

This new structure will increase the likelihood that the draft law will be administered not by rules of discretion, but by rules of law.

LOCAL BOARD DISCRIMINATION

Before the current draft law was enacted in 1967, local board members were all men. The present law prohibits discrimination on the basis of sex; but it says nothing about discrimination on racial grounds.

Consequently, it is not surprising to see that 97 percent of all local board members in 1966 were white, while only 3 percent of the 16,632 board members were Negro, Spanish, Puerto Rican, oriental, or Indian. However, the following year, some 16 percent of all inductees were from these ethnic minorities.

Although since 1966, some progress has been made, 1969 figures still showed black representation on the local boards at 6 percent while their representation in the total population was 12 percent.

My bill requires the membership of all local boards to represent all elements of the public it serves. My bill also prohibits discrimination based on sex, race, creed, or color.

I believe that the question of a national service alternative to military service when world tensions lessen might be a desirable national policy. However, there is a need to explore questions of length of service, wage levels, and other factors relating to equity if we are to permit a national service such as the Peace Corps or Teacher Corps to be an alternative to the military. For these reasons, I believe we should have a public study of this also. My bill would require it, and the President would have to submit his report to the Congress in 1 year.

MILITARY YOUTH OPPORTUNITY SCHOOLS

Consistent with the legitimate desire to increase the incidence of voluntarism, I believe we must look more closely as ways to achieve the best use of all of the Nation's manpower resources. Although some 2 million men reach draft age each year, our military manpower needs now call for only about 150,000 as draftees. However, another 600,000 men are found to be unqualified for service because of their inability to meet minimum physical and mental standards for active duty. It is estimated that there are more than 5 million men between the ages of 18 and 34 who are unfit for military service.

The Marshall Commission studied the implications of these truly "alarming statistics" and concluded that they reflect weaknesses within our society and directly affect the national security. The Department of Defense responded to this situation in 1966 by instituting Project One Hundred Thousand.

By accepting men who otherwise would have been disqualified because of mental qualifications or easily correctable physical defects and providing them extra tutorial and training assistance, a substantial number have successfully completed basic training. A total of 275,000 men have been accepted into the program through December 1969 who otherwise would have been disqualified. In the first 2 years of the program, some 162,600 men were accepted and 96 percent successfully completed basic training. More than 60 percent went on to receive training in technical specialities which will permit them to return to civilian life after military service with useful and marketable skills.

Unfortunately, thousands of young men still are rejected each year and remain in civilian life unable to compete effectively and prey to the frustrations of all those who are isolated from the mainstream of a society.

My bill would require the Secretary of Defense, in consultation with the Secretaries of Labor and Health, Education, and Welfare, to study and investigate the feasibility of establishing military youth opportunity schools. These schools could build on the successful experience of Project one hundred thousand adding to the number of men who would be eligible for military service, but just as important, adding to the pool of talented and capable men within the Nation.

AMNESTY STUDY

One of the most difficult public policy issues facing the Congress today involves the thousands of young Americans who fled the country or accepted conviction rather than face the draft. Students place this issue on the same high level of moral concern that determines their views about Vietnam, about civil rights, about the draft, and about the quality of American life.

The number of our young men now living outside this country is uncertain. They face criminal prosecution with a sentence up to 5 years and a fine up to $10,000 should they ever return home. Some 4,000 have decided to stand trial, as did Thoreau, and accept the consequences of their opposition to the war. Many are serving Federal prison sentences. In the past, this Nation has been magnanimous enough to grant amnesty following a war. President Andrew Johnson decreed amnesty in 1868 to the southerners and President George Washington did the same in the 18th century to those involved in the Whisky Rebellion.

We must ask whether following the conclusion of the Indochina war, we shall have a permanent band of exiles who cannot return to the United States because they would have to face criminal prosecution for acts long past. We also must consider the equity of permitting amnesty during the war when thousands of young men who did not leave the country or avoid the draft have fought and died in Vietnam.

These are complex issues that cannot be simply answered. It would be extremely helpful to the Congress if we received the thoughts of a special commission on this subject. My bill would require the President to establish the study and to report its conclusions to the Congress within 6 months.

SELECTIVE CONSCIENTIOUS OBJECTORS

A substantial proportion of those Americans who have chosen exile or prison in the face of induction are not opposed to all wars. But they would accept those consequences rather than fight in a war which they regard as immoral. Although there are serious philosophical and administrative problems if we were to consider granting an exemption to persons who oppose a particular war, I believe that Congress and the President should at least consider the question.

I would emphasize that selective conscientious objector's would not need to be exempted from all military service, but only from direct participation in the war they oppose. However, even this limited exemption might severely impair the effectiveness and the morale of the Armed Forces. Furthermore unless every registrant's claim was taken at face value, selective conscientious objector exemptions might present insuperable burdens for the Selective Service System. These are the issues which a study would consider. My bill would require such a study by the President and a report to Congress within 6 months.

CONCLUSION

In conclusion, I believe that my bill completes the work of draft reform begun by the initiation of random selection and the abolition of occupational deferments. It creates a draft system which as far as practicable is equitable, uniform and procedurally fair. I believe this draft system must remain in effect for at least the next 2 years and that it should provide the guideposts for any standby draft we establish in the future.

My bill also increases congressional control over the conduct of foreign affairs by placing a ceiling on the number of persons the President can induct without further congressional action. This provision should receive the support of congressional proponents of the volunteer army legislation.

Mr. President, I ask unanimous consent that the bill I am introducing today be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. COOK). The bill will be received and appropriately referred; and without objection, the bill will be printed in the RECORD, as requested by the Senator from Massachusetts.

The bill (S. 483) to amend the Military Selective Service Act of 1967 to provide for a fair and random system of selecting persons for induction into military service, to provide for the uniform application of Selective Service policies, to raise the incidence of volunteers in military service, and for other purposes,

introduced by Mr. KENNEDY, 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. 483

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 "Selective Service Act of 1971."

TITLE I—PURPOSE AND DEFINTIONS

Sec. 101. Short Title
Sec. 102. Findings and Declaration of Purpose
Sec. 103. Definitions
Sec. 104. Saving Provision
Sec. 105. Effective Date

TITLE II—SELECTIVE SERVICE SYSTEM

Sec. 201. Organization
Sec. 202. Emergency Medical Care
Sec. 203. Penalties
Sec. 204. Nonapplicability of Certain Laws
Sec. 205. Selection
Sec. 206. Authority to order Reserve Components to Active Federal Service

TITLE III—THE INDIVIDUAL AND THE SELECTIVE SERVICE SYSTEM

Sec. 301. Registration
Sec. 302. Classification, Training, and Service
Sec. 303. Procedural Rights
Sec. 304. Induction; Limitations
Sec. 305. Length of Service
Sec. 306. Enlistment
Sec. 307. Pay and Allowances
Sec. 308. Decrease in Period of Service
Sec. 309. Medical and Dental Officers
Sec. 310. Exemptions from Registration, Training, and Service
Sec. 311. Veterans' Exemptions
Sec. 312. Reserve Components Exemptions
Sec. 313. Officers' Training; Officials; Ministers of Religion
Sec. 314. Student and Apprentice Deferments
Sec. 315. Conscientious Objectors
Sec. 316. Duration of Exemptions or Deferment
Sec. 317. Minority Discharges
Sec. 318. Moral Standards
Sec. 319. Sole Suriving Son
Sec. 320. Bounties; Substitutes; Purchases of Release
Sec. 321. Reemployment
Sec. 322. Right To Vote
Sec. 323. Civil Relief
Sec. 324. Notice of Title, Voluntary Enlistments
Sec. 325. Repeal of Conflicting Laws; Appropriations
Sec. 326. Aliens

TITLE IV—MISCELLANEOUS

Sec. 401. Military Youth Opportunity Schools
Sec. 402. National Service Corps Study
Sec. 403. Amnesty Study
Sec. 404. Selective Conscientious Objector Study

SHORT TITLE

SEC. 101. This Act may be cited as the "Selective Service Act."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 102. (a) The Congress finds that the maintenance of an adequate armed force is essential to the security of the United States.

(b) The Congress further finds that so long as all eligible persons are not required to serve in the Armed Forces, those who are required to serve should be selected under a system which is fair, just, and adequate to meet the needs of the national defense and at the same time consistent with the enhancement of an effective national economy.

(c) The Congress further finds that the military manpower needs of the Nation should be met to as high a degree as practicable by reliance upon voluntary accessions to military duty.

(d) The Congress further finds that civilian personnel shall be used wherever practical in noncombat positions within the military establishment, and that women should be encouraged to serve both in the Armed Forces and in civilian positions in support of such forces.

(e) It is, therefore, the purpose of this Act to establish procedures for the fair and equitable selection of qualified young men to meet the continuing military manpower needs of the Nation.

DEFINITIONS

SEC. 103. When used in this title—

(a) The term "between the ages of eighteen and twenty-six" shall refer to men who have attained the eighteenth anniversary of the day of their birth and who have not attained the twenty-sixth anniversary of the day of their birth; and other terms designating different age groups shall be construed in a similar manner.

(b) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(c) The term "Armed Forces" includes the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard.

(d) The term "district court of the United States" includes the courts of the United States for the territories and possessions of the United States.

(e) The term "Director" means the Director of the Selective Service System.

(f) (1) The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect, or organization, but who does not regularly, as a vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed of principles of his church, sect, or organization.

(g) The term "organized unit", when used with respect to a reserve component, means a unit in which the members thereof are required satisfactorily to participate in scheduled drills and training periods as prescribed by the Secretary of Defense.

(h) The term "reserve component of the Armed Forces" includes, unless the context otherwise requires, the federally recognized National Guard of the United States, the federally recognized Air National Guard of the United States, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, and the Coast Guard Reserve, and shall include, in addition to the foregoing, the Public Health Service Reserve when serving with the Armed Forces.

SAVINGS PROVISION

SEC. 104. Nothing in this title shall be deemed to amend any provision of the National Security Act of 1947 (61 Stat. 495).

EFFECTIVE DATE

SEC. 105. This title shall become effective immediately.

TITLE II—SELECTIVE SERVICE SYSTEM

ORGANIZATION

SEC. 201. (a) (1) There is hereby established in the executive branch of the Government an agency to be known as the Selective Service System, and a Director of Selective Service who shall be the head thereof.

(2) The Selective Service System shall be composed of (A) the National Selective Service System Office, to be located in Washington, District of Columbia; (B) eight regional headquarters distributed throughout the United States; and (C) such area offices, appeal boards, and other agencies as are hereafter provided.

(3) The Director shall be appointed by the President for a term of six years, with the advice and consent of the Senate, and shall not be eligible for more than two terms.

(4) The Director and all other officers and employees of the Selective Service System shall be civilians.

(5) The Selective Service System shall, to the maximum extent practicable, utilize automatic data processing equipment in carrying out the provisions of this title.

(6) The functions of the Office of Selective Service Records (established by the Act of March 31, 1947) and of the Director of the Office of Selective Service Records are hereby transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are hereby transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking of effect of the provisions of this title: *Provided,* That, effective upon the termination of this title and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is hereby reestablished on the same basis and with the same functions as obtained prior to the effective date of this title, (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.

(b) The President is authorized—

(1) to prescribe the necessary rules and regulations to carry out the provisions of this title;

(2) to appoint a regional director for the Selective Service System for each regional headquarters, who shall be in immediate charge of the regional headquarters; to employ such number of officials as may be necessary for the administration of the national and of the several regional headquarters and area offices of the Selective Service System;

(3) to create and establish one or more area offices in each State with an area of jurisdiction to be established by the Director of the Selective Service on a population basis. Each area office shall consist of an area director, assisted by appropriate staff.

Each area director shall have the power within the respective jurisdiction of such an area office to hear and determine, in strict conformity with the rules and regulations prescribed by the President, and subject to a right of appeal to the local board and from the local board to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or examination or deferment from training and service under this title, of all individuals within the jurisdiction of such area offices, together with such other duties as may be assigned under this title; and

(4) to create and establish within the Selective Service System local boards as well as such other agencies of appeal, as may be necessary to carry out its functions. Each local board shall function in conjunction with an area office as provided in section 24(b)(3) of this title and shall consist of three or more members. The local board shall, under rules and regulations prescribed by the President, and under appropriate precedents have the power within the jurisdiction of such area office to hear and determine appeals from the decisions of an area director subject to the right of further appeal to the appeal boards herein authorized and all other questions relating to inclusion for, or exemption or deferment from, training and service arising under this title. There shall be not less than one appeal board, together with such additional separate panels thereof as may be prescribed by the President, located within the area of each regional headquarters of the Selective Service System. The decision of such appeal boards shall be final in cases before them on appeal unless modified or changed by the President.

(c) No citizen shall be denied membership in any component of the Selective Service System established pursuant to this section on account of race, color, creed, or sex. Composition of the membership on local and appeal boards shall represent, as far as practicable, all elements of the public which the board serves. No citizen shall serve on any such component for more than twenty-five years, or after he has attained the age of sixty-five years.

(d) No person who is an officer, member, agent, or employee of the Office of Selective Service Records, or the Selective Service System, or of any local board or appeal board or other agency of such Office or System, shall be excepted from registration or deferred or exempted from training and service, as provided for in this title, by reason of his status as such officer, member, agent, or employee.

(e) The President is authorized—

(1) to appoint pursuant to the provisions of title 5, United States Code, and to classify and pay pursuant to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such officers, agents, and employees as he may deem necessary to carry out the provisions of this title: *Provided*, That their compensation may be fixed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(2) to utilize the services of any or all departments and any and all officers or agents of the United States, and to accept the services of all officers and agents of the several States, territories, and possessions, and subdivisions thereof, and the District of Columbia, and of private welfare organizations, in the execution of this title;

(3) to purchase such printing, binding, and blankbook work from public, commercial, or private printing establishments or binderies upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended, and to obtain by purchase, loan, or gift such equipment and supplies for the Selective Service System, as he may deem necessary to carry out the provisions of this title, with or without advertising or formal contract;

(4) to prescribe eligibility, rules, and regulations governing the parole for service in the Armed Forces, or for any other special service established pursuant to this title, or any person convicted of a violation of any of the provisions of this title;

(5) subject to the availability of funds appropriated for such purpose, to procure such space as he may deem necessary to carry out the provisions of this title and Public Law 26, Eightieth Congress, approved March 31, 1947, by lease pursuant to existing statutes, except that the provisions of the Act of June 30, 1932 (47 Stat. 412), as amended by section 15 of the Act of March 3, 1933 (47 Stat. 1517; 40 U.S.C. 278a), shall not apply to any lease entered into under the authority of this title;

(6) subject to the availability of funds appropriated for such purposes, to determine the location of such additional temporary installations as he may deem essential; to utilize and enlarge such existing installations; to construct, install, and equip, and to complete the construction, installation, and equipment of such buildings, structures, utilities, and appurtenances (including the necessary grading and removal, repair or remodeling of existing structures and installations), as may be necessary to carry out the provisions of this title; and, in order to accomplish the purpose of this title, to acquire lands, and rights pertaining thereto, or other interests therein, for temporary use thereof, by donation or lease, and to prosecute construction thereon prior to the approval of the title by the Attorney General as required by section 355, Revised Statutes, as amended;

(7) to delegate any authority vested in him under this title, and to provide for the subdelegation of any such authority.

(f) In the adminstration of this title, gifts of supplies, equipment, and voluntary services may be accepted.

(g) The Chief of Finance, United States Army, is authorized to act as the fiscal, disbursing, and accounting agent of the Director in carrying out the provisions of this title.

(h) The Director is authorized to make final settlement of individual claims, for amounts not exceeding $50, for travel and other expenses of uncompensated personnel of the Office of Selective Service Records, or the Selective Service System, incurred while in the performance of official duties, without regard to other provisions of law governing the travel of civilian employees of the Federal Government.

(i) The Director of Selective Service shall submit to the Congress semiannually a written report covering the operation of the Selective Service System and such report shall include, by States, information as to the number of persons registered under this Act; the number of persons inducted into the military service under this Act; the number of deferments granted under this Act and the basis for such deferments; and such other specific kinds of information as the Congress may from time to time request.

EMERGENCY MEDICAL CARE

SEC. 202. Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation, and burial, of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title, but such burial expenses shall not exceed an amount to be determined by the President.

PENALTIES

SEC. 203. (a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said title, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title, or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the Armed Forces or any of the requirements of this title, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the Armed Forces or any of the requirements of this title, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title, or rules, regulations, or directions made pursuant to this title, or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than $10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title unless such person has been actually inducted for the training and service prescribed under this title or unless he is subject to trial by court martial under laws in force prior to the enactment of this title. Precedence shall be given by courts to the trial of cases arising under this title, and such cases shall, upon request of the Attorney General, be advanced on the docket for hearing at the earliest practicable date.

(b) Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title, or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, knowingly destroys, knowingly mutilates, or in any manner changes any such certificate or any notation duly and validly inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this title, or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any

of the provisions of this title or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed $10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.

NONAPPLICABILITY OF CERTAIN LAWS

SEC. 204. (a) Nothing in section 203, 205, or 207 of title 18 of the United States Code, or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled "An Act to prevent pernicious political activities", as amended, shall be deemed to apply to any person because of his appointment under authority of this title or the regulations made pursuant thereto as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections, or as a member of the National Selective Service Appeal Board.

(b) All functions performed under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 of such Act.

SELECTION

SEC. 205. (a) The selection of persons for training and service will be made in a fair and impartial manner from the persons who are liable for such training and service and who at the time of selection are registered and classified, but not deferred or exempted.

(b) The order of induction of registrants found qualified for induction shall be determined as follows:

(1) Selection of persons for induction to meet the military manpower needs shall be made from persons in the prime selection group, after the selection of delinquents and volunteers.

(2) The term "prime selection groups" means persons who are liable for training and service under this title, and who at the time of selection are registered and classified and are nineteen years of age and not deferred or exempted;

(3) A person shall remain in the prime selection group for a period of twelve months, unless inducted into the Armed Forces during such period. Any person in a deferred status upon reaching the age of nineteen shall, upon the termination of such deferred status, and if qualified, be liable for twelve months for induction as a registrant within the prime selection group irrespective of his actual age, unless he is otherwise deferred. Any person removed from the prime selection group because of a deferment shall again be placed in the prime selection group, if he otherwise qualifies, whenever such deferment is terminated. But no person shall remain in the prime selection group for any period or periods totaling more than twelve months.

(4) The order of call for induction from among those persons in the prime selection group shall be determined as follows:

Under such rules and regulations as the President shall prescribe—

(A) the Selective Service System shall publish a list of days randomly arranged, corresponding to the days in the year;

(B) those persons first called from the prime selection group for the particular year will be those whose day of birth is the same as the first day on the list; those next called will be those whose day of birth is the second day on the list; and this procedure shall be followed until the particular year's quota is met;

(C) the Selective Service System shall also from time to time publish a list of the letters of the alphabet randomly arranged. In the event that the procedure described in clause (B) just above does not serve to distinguish clearly an order of call as between two or more persons, then reference shall be made to the list of letters and the first letter of the last names of such persons to determine such an order of call; and

(D) the determination of order of call shall be made upon a national basis.

(b) The President shall have the power to provide, through appropriate rules and regulations, for the orderly transition to the random selection system enacted herein from any such system already in existence on the effective date of this Act.

(c) Nothing herein shall be construed to prohibit the President, under such rules and regulations as he may prescribe, from establishing a separate and distinct selection system for persons found by him to have special skills essential to the national defense.

(d) There shall be no discrimination against any person on account of race, color, or creed in the selection of persons for training and service under this title or in the interpretation and execution of any provision of this title.

(e) No order for induction shall be issued under this title to any person who has not attained the age of nineteen years unless the President finds that such action is in the national interest.

(f) Notwithstanding any other provision of law, except section 314 of the Immigration and Nationality Act (8 U.S.C. 1425), no person who is qualified in a needed medical, dental, or allied specialist category, and who is liable for induction under section 4 of this title, shall be held to be ineligible for appointment as a commissioned officer of an armed force of the United States on the sole ground that he is not a citizen of the United States or has not made a declaration of intent to become a citizen thereof, and any such person who is not a citiezn of the United States and who is appointed as a commissioned officer may, in lieu of the oath prescribed by section 1331 of title 5, United States Code, take such oath of service and obedience as the Secretary of Defense may prescribe.

(g) For the purposes of regulations issued under this Act, a delinquent is a person who is required to be registered under this Act and who fails to perform or who violates any duty, with respect to his own status, required of him under the provisions of this Act and the regulations issued thereunder.

AUTHORITY TO ORDER RESERVE COMPONENTS TO ACTIVE FEDERAL SERVICE

SEC. 206. Until July 1, 1953, and subject to the limitations imposed by section 2 of the Selective Service Act of 1948, as amended, the President shall be authorized to order into the active military or naval service of the United States for a period of not to exceed twenty-four consecutive months, with or without their consent, any or all members and units of any or all Reserve components of the Armed Forces of the United States and retired personnel of the Regular Armed Forces. Unless he is sooner released under regulations prescribed by the Secretary of the military department concerned, any member of the Inactive or Volunteer Reserve who served on active duty for a period of twelve months or more in any branch of the Armed Forces between the period December 7, 1941, and September 2, 1945, inclusive, who is now or may hereafter be ordered to active duty pursuant to this section, shall upon completion of seventeen or more months of active duty since June 25, 1950, if he makes application therefor to the Secretary of the branch of service in which he is serving, be released from active duty and shall not thereafter be ordered to active duty for periods in excess of thirty days without his consent except in time of war or national emergency hereafter declared by the Congress: *Provided*, That the foregoing shall not apply to any member of the Inactive or Volunteer Reserve ordered to active duty whose rating or specialty is found by the Secretary of the military department concerned to be critical and whose release to inactive duty prior to the period for which he was ordered to active duty would impair the efficiency of the military department concerned.

The President may retain the unit organizations and the equipment thereof, exclusive of the individual members thereof, in the active Federal service for a total period of five consecutive years, and upon being relieved by the appropriate Secretary from active Federal service, National Guard, or Air National Guard units, shall, insofar as practicable, be returned to their National Guard or Air National Guard status in their respective States, territories, the District of Columbia, and Puerto Rico, with pertinent records, colors, histories, trophies, and other historical impedimenta.

TITLE III—THE INDIVIDUAL AND THE SELECTIVE SERVICE SYSTEM

REGISTRATION

SEC. 301. (a) It shall be the duty of every male citizen of the United States, and of every male alien in the United States in the status of an alien admitted for permanent residence, upon attaining the eighteenth anniversary of his date of birth to register with the Selective Service System in accordance with such rules and regulations as may be prescribed by the President. Any male alien in the United States in the status of an alien admitted for permanent residence who has not heretofore registered with the Selective Service System shall be required to do so within six months after the date of enactment of the Selective Service Act of 1969.

(b) It shall be the duty of every registrant to keep the Selective Service System informed as to his current address and changes in status according to the terms of such rules and regulations as the President may prescribe.

CLASSIFICATION, TRAINING, AND SERVICE

SEC. 302. (a) Except as otherwise provided in this title, every person registered under the provisions of section 3 of this title who is between the ages of eighteen years and six months and twenty-six years shall be liable for training and service in the Armed Forces of the United States.

(b) Each registrant shall be liable immediately for classification and examination, and shall, as soon as practicable following his registration, be examined physically and mentally in order to determine his suitability for induction for training and service in the Armed Forces. Each registrant shall be classified on the basis of such examination to indicate his availability for induction for training service in the Armed Forces.

(c) Notwithstanding any other provision of law, any registrant who has failed or refused to report for a physical and mental examination in order to determine his suitability for induction in the Armed Forces, shall continue to remain liable for such examination and induction until relieved of this liability under such conditions as the President shall prescribe.

(d) Any alien admittted for permanent residence shall not be liable for training and service until he has resided in the United States for a total period of one year: *Provided*, That any alien relieved from liability for training and service under an existing treaty shall be permanently ineligible to become a citizen of the United States: *Provided further*, That any alien shall be re-

lieved from liability for training and service under this title if, prior to his induction, his status is adjusted to that of a nonimmigrant, but any alien who obtains such an adjustment pursuant to section 247(c) of the Immigration and Nationality Act, as amended, shall be permanently ineligible to become a citizen of the United States: *And provided further,* That any alien who has been in the United States as a nonimmigrant and whose status is adjusted to that of a permanent resident, or who is readmitted to the United States as a permanent resident within one year of his departure shall have his liability for training and service extended as if he had been deferred and his liability had been extended under the provisions of this title.

(d) Nothing in this section shall be construed as superseding the provisions of any existing treaties of the United States.

PROCEDURAL RIGHTS

SEC. 303. Each registrant shall be afforded the opportunity to appear in person before the area office, regional office, local board, or other agency of the Selective Service System to present testimony or other evidence regarding his status. He shall also have the right to present witnesses on his behalf, under such rules and regulations as the President may prescribe. Each registrant shall further have the right to be represented before such office, board or other agency by private counsel. If any registrant is financially unable to provide his own counsel, upon his request such counsel shall be made available without charge, under such rules and regulations as the President may prescribe.

A quorum of the office, board or other agency shall be present during the registrant's personal appearance. Every decision by such office, board or other agency shall be accompanied by a written opinion setting forth the reasons for the decision.

INDUCTION; LIMITATIONS

SEC. 304(a) The President is authorized to induct for training and service in the Armed Forces 150,000 persons each year unless authorized to induct a greater number by a joint resolution of the Congress. This authorization shall obtain whether or not a state of war exists and shall be exercised in the manner provided in this title.

(b) Persons inducted into the Armed Forces for training and service under this title shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title shall be deemed to be members of the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title shall be deemed to be members of the United States Navy or the United States Marine Corps or the United States Coast Guard, as appropriate; and persons inducted into the air forces of the United States pursuant to this title shall be deemed to be members of the Air Force of the United States.

(c) Every person inducted into the Armed Forces pursuant to the authority of this section shall, following his induction, be given full and adequate military training for a period of not less than four months, and no such person shall, during this four months period, be assigned for duty at any installation located on land outside the United States, its territories and possessions (including the Canal Zone).

(d) No person in the medical, dental, and allied specialist categories shall be inducted under the provisions of this section if he applies or has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and is or has been rejected for such appointment on the sole ground of a physical disqualification.

(e) No person, without his consent, shall be inducted for training and service in the Armed Forces, except as otherwise provided in this title, after he has attained the twenty-sixth anniversary of the day of his birth.

(f) No person shall be inducted into the Armed Forces for training and service under this title until his acceptability in all respects, including his physical and mental fitness, has been satisfactorily determined under standards prescribed by the Secretary of Defense. The physical and mental standards which a person must meet in order to qualify for induction shall be no lower than those prescribed for persons who voluntarily enlist for service in the Army of the United States.

(g) No person shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical care, and hospital accommodations for such persons as may be determined by the Secretary of Defense (or the Secretary of Transportation with respect to the United States Coast Guard) to be essential to public and personal health.

(h) Notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction until relieved of this liability under such conditions as the President shall prescribe.

LENGTH OF SERVICE

SEC. 305. (a) Each person inducted into the Armed Forces under the provisions of this title shall serve on active training and service for a period of twenty-four consecutive months, unless sooner released, transferred, or discharged in accordance with procedures prescribed by the Secretary of Defense (or the Secretary of Transportation with respect to the United States Coast Guard) or as otherwise prescribed by this title. The Secretaries of the Army, Navy, and Air Force, with the approval of the Secretary of Defense (and the Secretary of Transportation with respect to the United States Coast Guard), may provide, by regulations which shall be as nearly uniform as practicable, for the release from training and service in the Armed Forces prior to serving the periods required by this section of individuals who have volunteered for and are accepted into organized units of the Army National Guard, the Air National Guard, and other reserve components of the Armed Forces.

(b) Each person who hereafter and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act is inducted, enlisted, or appointed and serves for a period of less than three years in one of the Armed Forces and meets the qualifications for enlistment or appointment in a reserve component of the armed force in which he serves, shall be transferred to a reserve component of such armed force, and until the expiration of a period of five years after such transfer, or until he is discharged from such reserve component, whichever occurs first, shall be deemed to be a member of such reserve component and shall be subject to such additional training and service as may now or hereafter be prescribed by law for such reserve component: *Provided,* That any such person who completes at least twenty-one months of service in the Armed Forces and who thereafter serves satisfactorily (1) on active duty in the Armed Forces under a voluntary extension for a period of at least one year, which extension is hereby authorized, or (2) in an organized unit of any reserve component of any of the Armed Forces for a period of at least thirty-six consecutive months, shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the Armed Forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces.

ENLISTMENT

SEC. 306. (a) Any person between the ages of eighteen years and six months and twenty-six years shall be offered an opportunity to enlist in the Regular Army for a period of service equal to that prescribed in this title: *Provided,* That, notwithstanding the provisions of this or any other Act, any person so enlisting shall not have his enlistment extended without his consent until after a declaration of war or national emergency by the Congress after the date of enactment of the Selective Service Act of 1971.

(b) Any enlisted member of any reserve component of the Armed Forces may, during the effective period of this title, apply for a period of service equal to that prescribed in section 6 of this title, and his application shall be accepted if his services can be effectively utilized and his physical and mental fitness for such service meet the standards prescribed by the head of the department concerned. Active service performed pursuant to this section shall not prejudice the status of any such as a member of a reserve component. Any person who was a member of a reserve component on June 25, 1950, and who thereafter continued to serve satisfactorily in such reserve component, shall, if his application for active duty made pursuant to this paragraph is denied, be deferred from induction under this title until such time as he is ordered to active duty or ceases to serve satisfactorily in such reserve component.

(c) Any person between the ages of eighteen years and six months and twenty-six years shall be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in section 5, but any person who so volunteers shall be inducted for such training and service, so long as he is deferred after classification, only as prescribed by the President.

(d) Any person after attaining the age of seventeen shall, with the written consent of his parents or guardian, be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in section 5.

PAY AND ALLOWANCES

SEC. 307. (a) With respect to the persons inducted for training and service under this title, there shall be paid, allowed, and extended the same pay, allowances, pensions, disability and death compensation, and other benefits as are provided by law in the case of other enlisted men of like grades and length of service of that component of the Armed Forces to which they are assigned. Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), is hereby amended by deleting therefrom the following: "Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended". The Act of March 7, 1942 (56 Stat. 143–148), as amended, as hereby made applicable to persons inducted into the Armed Forces pursuant to this title.

(b) Notwithstanding any other provision of law, any person who is inducted into the Armed Forces under this Act and who before being inducted, was receiving compensation from any person may, while serving under that induction, receive compensation from that person.

DECREASE IN PERIOD OF SERVICE

SEC. 308. (a) Upon a finding by him that such action is justified by the strength of the Armed Forces in the light of national and international conditions, the President, upon recommendations of the Secretary of Defense, is authorized by Executive order, which shall be uniform in its application to

all persons inducted under this title but which may vary as to age groups, to provide for (1) decreasing periods of service under this title but in no case to a lesser period of time than can be economically utilized, or (2) eliminating periods of service required under this title.

MEDICAL AND DENTAL OFFICERS

SEC. 309. (a) The President may order to active duty (other than for training), as defined in section 101(22) of title 10, United States Code, for a period of not more than twenty-four consecutive months, with or without his consent, any member of a reserve component of the Armed Forces of the United States who is in a medical, dental, or allied specialist category, who has not attained the thirty-fifth anniversary of the date of his birth, and has not performed at least one year of active duty (other than for training). This subsection does not affect or limit the authority to order members of the reserve components to active duty contained in section 672 of title 10, United States Code.

(b) For the purposes of computation of the periods of active duty (other than for training) referred to in subsection (1), credit shall be given to all periods of one day or more performed under component orders, except that no credit shall be allowed for periods spent in student programs prior to receipt of the appropriate professional degree or in intern training.

(c) Any person who is called or ordered to active duty (other than for training) from a reserve component of the Armed Forces of the United States after September 5, 1950, and thereafter serves on active duty (other than for training) as a medical, dental, or allied specialist for a period of twelve months or more shall, upon release from active duty or within six months thereafter, be afforded an opportunity to resign his commission from the reserve component of which he is a member unless he is otherwise obligated to serve on active military training and service in the Armed Forces or in training in a reserve component by law or contract.

(d) Any physician or dentist who meets the qualifications for a Reserve commission in the respective military department shall, so long as there is a need for the services of such a physician or dentist, be afforded an opportunity to volunteer for a period of active duty (other than for training) of not less than twenty-four months. Any physician or dentist who so volunteers his service, and meets the qualifications for a Reserve commission shall be ordered to active duty (other than for training) for not less than twenty-four months, notwithstanding the grade or rank to which such physician or dentist is entitled.

(e) Notwithstanding any other provision of law, any qualified person who—

(1) is liable for induction; or

(2) as a member of a reserve component is ordered to active duty,

as a physician, or dentist, or in an allied specialist category in the Armed Forces of the United States, shall, under regulations prescribed by the President, be appointed, reappointed, or promoted to such grade or rank as may be commensurate with his professional education, experience, or ability: *Provided*, That any person in a needed medical, dental, or allied specialist category who fails to qualify for, or who does not accept, a commission, or whose commission has been terminated, may be used in his professional capacity in an enlisted grade.

EXEMPTIONS FROM REGISTRATION, TRAINING, AND SERVICE

SEC. 310. (a) Foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States, and members of their families, shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4.

(b) Any person who subsequent to June 24, 1948, serves on active duty for a period of not less than twevle months in the armed forces of a nation with which the United States is associated in mutual defense activities as defined by the President, may be exempted from training and service, but not from registration, in accordance with regulations prescribed by the President, except that no such exemption shall be granted to any person who is a national of a country which does not grant reciprocal privileges to citizens of the United States: *Provided*, That any active duty performed prior to June 24, 1948, by a person in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities, shall be credited in the computation of such twelve-month period: *Provided further*, That any person who is in a medical, dental, or allied specialist category not otherwise deferred or exempted under this subsection shall be liable for registration and training and service until the thirty-fifth anniversary of the date of his birth.

(c) Commissioned officers of the Public Health Service and members of the reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to any endeavor which the President determines is necessary to the maintenance of the national health, safety, or interest shall be exempted from training and service, but not from registration.

VETERANS' EXEMPTIONS

SEC. 311. (a) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of twelve months or more, or between December 7, 1941, and September 2, 1945, for a period in excess of ninety days, in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(b) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of ninety days or more but less than twelve months in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title, if—

(1) the local board determines that he is regularly enlisted or commissioned in any organized unit of a reserve component of the armed force in which he served, provided such unit is reasonably accessible to such person without unduly interrupting his normal pursuits and activities (including attendance at a college or university in which he is regularly enrolled), or in a reserve component (other than in an organized unit) of such armed force in any case in which enlistment or commission in an organized unit of a reserve component of such armed force is not available to him; or

(2) the local board determines that enlistment or commission in a reserve component of such armed force is not available to him or that he has voluntarily enlisted or accepted appointment in an organized unit of a reserve component of an armed force other than the Armed Force in which he served.

Nothing in this paragraph shall be deemed to be applicable to any person to whom subsection (a) of this section is applicable.

(c) Notwithstanding any other provision of this Act, no person who (1) has served honorably on active duty after September 16, 1940, for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (2) subsequent to September 16, 1940, was discharged for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (3) has served for a period of not less than twenty-four months (A) as a commissioned officer in the Public Health Service or (B) as a commissioned officer in the Environmental Science Services Administration (previously the Coast and Geodetic Survey), shall be liable for induction for training and service under this Act, except after a declaration of war, or national emergency made by the Congress subsequent to the date of enactment of this Act.

(d) No person who is honorably discharged upon the completion of an enlistment pursuant to section 7 shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this Act.

(e) For the purposes of computation of the periods of active duty referred to in paragraph (a), (b), or (c) of this subsection, no credit shall be allowed for—

(1) periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes;

(2) periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(3) periods of active duty as a cadet at the United States Military Academy or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies;

(4) periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institution referred to in paragraph (2) or (3); or

(5) periods of active duty performed by medical, dental, or allied specialists in student programs prior to receipt of the appropriate professional degree or in intern training.

RESERVE COMPONENT'S EXEMPTIONS

SEC. 312. (a) Persons who, on February 1, 1951, were members of organized units of the federally recognized National Guard, the federally recognized Air National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, or the Public Health Service Reserve, shall, so long as they continue to be such members and satisfactorily participate in scheduled drills and training periods as prescribed by the Secretary of Defense, be exempt from training and service by induction under the provisions of this title, but shall not be exempt from registration.

(b) (1) Any person, other than a person

referred to in subsection (d) of this section, who—

(A) prior to the issuance of orders for him to report for induction; or

(B) prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any organized unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction under this title; or

(C) prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction, under this title;

enlists or accepts appointment, berfore attaining the age of twenty-six years in the Ready Reserve of any reserve component of the Armed Forces, the Army National Guard, or the Air National Guard, shall be deferred from training and service under this title so long as he serves satisfactorily as a member of an organized unit of such Reserve or National Guard in accordance with section 270 of title 10 or section 502 of title 32, United States Code, as the case may be, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense. Notwithstanding the provisions of section 16, no person deferred under this paragraph who has completed six years of such satisfactory service as a member of the Ready Reserve or National Guard, and who during such service has performed active duty for training with an armed force for not less than four consecutive months, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress after August 9, 1955. In no event shall the number of enlistments or appointments made under authority of this paragraph in any fiscal year in any reserve component of the Armed Forces or in the Army National Guard or the Air National Guard cause the personnel strength of such reserve component or the Army National Guard or the Air National Guard, as the case may be, to exceed the personnel strength for which funds have been made available by the Congress for such fiscal year.

(2) A person who, under the provision of law, is exempt or deferred from training and service under this Act by reason of membership in a reserve component, the Army National Guard, or the Air National Guard, as the case may be, shall, if he becomes a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, continue to be exempt or deferred to the same extent as if he had not become a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, so long as he continues to serve satisfactorily.

(3) Except as provided in section 13 and the provisions of this section, no person who becomes a member of a reserve component after February 1, 1951, shall thereby be exempt from registration or training and service by induction under the provisions of this Act.

(4) Notwithstanding any other provision of this Act, the President, under such rules and regulations as he may prescribe, may provide that any person enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 511 (b) of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining the age of twenty-six years, or any person enlisted or appointed in the Army National Guard or the Air National Guard or enlisted in the Ready Reserve of any reserve component prior to attaining the age of eighteen years and six months and deferred under the prior provisions of this paragraph as amended by the Act of October 4, 1961, Public Law 87-378 (75 Stat. 807), or under section 262 of the Armed Forces Reserve Act of 1952, as amended, who mails to serve satisfactorily during his obligated period of service as a member of such a Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member, may be selected for train ing and service and inducted into the armed force of which such reserve component is a part, prior to the selection and induction of other persons liable therefor.

OFFICERS' TRAINING; OFFICIALS; MINISTERS OF RELIGION

SEC. 313. (a) (1) Within such numbers as may be prescribed by the Secretary of Defense, any person who (A) has been or may hereafter be selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corp, or the Naval Reserve Officers' Training Corps, or the naval and Marine Corps officer candidate training program established by the Act of August 13, 1946 (60 Stat. 1057), as amended, or the Reserve officers' candidate program of the Navy, or the platoon leaders' class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or appointed as ensign, United States Naval Reserve, while undergoing professional training; (B) agrees, in writing, to accept a commission, if tendered, and to serve, subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the United States Coast Guard), not less than two years on active duty after receipt of a commission; and (C) agrees to remain a member of a regular or reserve component until the eighth anniversary of the receipt of a commission in accordance with his obligation under the first sentence of section 4(d)(3) of this Act, or until the sixth anniversary of the receipt of a commission in accordance with his obligation under the second sentence of section 4(d)(3) of this Act, shall be deferred from induction under this title until after completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration. Such persons, except those persons who have previously completed an initial period of military training or an equivalent period of active military training and service, shall be required while enrolled in such program to complete a period of training equal (as determined under regulations approved by the Secretary of Defense or the Secretary of Transportation with respect to the United States Coast Guard) in duration and type of training to an initial period of military training. There shall be added to the obligated active commissioned service of any person who has agreed to perform such obligatory service in return for financial assistance while attending a civilian college under any such training program a period of not to exceed one year. Except as provided in paragraph (5), upon the successful completion by any person of the required course of instruction under any program listed in clause (A) of the first sentence of this paragraph, such person shall be tendered a commission in the appropriate reserve component of the Armed Forces if he is otherwise qualified for such appointment. If, at the time of, or subsequent to, such appointment, the armed force in which such person is commissioned does not require his service on active duty in fulfillment of the obligation undertaken by him in compliance with clause (B) of the first sentence of this paragraph, such person shall be ordered to active duty for training with such armed force in the grade in which he was commissioned for a period of active duty for training of not less than three months or more than six months (not including duty performed under section 270(a) of title 10, United States Code), as determined by the Secretary of the military department concerned to be necessary to qualify such person for a mobilization assignment. Upon being commissioned and assigned to a reserve component, such person shall be required to serve therein, or in a reserve component of any other armed force in which he is later appointed, until the eighth anniversary of the receipt of such commission pursuant to the provisions of this section. So long as such person performs satisfactory service, as determined under regulations prescribed by the Secretary of Defense, he shall be deferred from training and service under the provisions of this Act. If such person fails to perform satisfactory service, and such failure is not excused under regulations prescribed by the Secretary of Defense, his commission may be revoked by the Secretary of the military department concerned.

(2 In addition to the training programs enumerated in paragraph (1) of this subsection, and under such regulations as the Secretary of Defense (or the Secretary of Transportation with respect to the United States Coast Guard) may approve, the Secretaries of the military departments and the Secretary of Transpotration are authorized to establish officer candidate programs leading to the commissioning of persons on active duty. Any person heretofore or hereafter enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve who thereafter has been or may be commissioned therein upon graduation from an officers' candidate school of such armed forces shall, if not ordered to active duty as a commissioned officer, be deferred from training and service under the provisions of this Act so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned. If such person fails to perform satisfactory service in such unit, and such failure is not excused under such regulations, his commission may be revoked by such Secretary.

(3) Notwithstanding paragraph (1), upon the successful completion by any person of the required course of instruction under any Reserve Officers' Training Corps program listed in clause (A) of the first sentence of paragraph (1) and subject to the approval of the Secretary of the military department having jurisdiction over him, such person may, without being relieved of his obligation under that sentence, be tendered, and accept, a commission in the Environmental Science Services Administration instead of a commission in the appropriate reserve component of the Armed Forces. If he does not serve on active duty as a commissioned officer of the Environmental Science Services Administration for at least six years, he shall, upon discharge therefrom, be tendered a commission in the appropriate reserve component of the Armed Forces, if he is otherwise qualified for such appointment, and, in fulfillment of his obligation under the first sentence of paragraph (1), remain a member of a reserve component until the sixth anniversary of the receipt of his commission in the Environmental Science Services Administration. While a member of a reserve component he may, in addition to as otherwise provided by law, be ordered to active duty

for such period that, when added to the period he served on active duty as a commissioned officer of the Environmental Science Services Administration, equals two years.

(4) Fully qualified and accepted aviation cadet applicants of the Army, Navy, or Air Air Force who have signed an agreement of service shall, in such numbers as may be designated by the Secretary of Defense, be deferred, during the period covered by the agreement but not to exceed four months from induction for training and service under this title but shall not be exempt from registration.

(c) The Vice President of the United States; the Governors of the several States, territories, and possessions, and all other officials chosen by the voters of the entire State, territory, or possession; members of the legislative bodies of the United States and of the several States, territories, and possessions; judges of the courts of record of the United States and of the several States, territories, possessions, and the District of Columbia shall, while holding such offices, be deferred from training and service under this title in the Armed Forces of the United States.

(d) Regular or duly ordained ministers of religion, as defined in this title, shall be exempt from training and service (but not from registration) under this title.

DEFERMENTS

SEC. 314. (a)—

(1) Any person who is satisfactorily pursuing a course of instruction at a high school or similar institution of learning shall be deferred (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

(2) As of the effective date of this act, no person shall be deferred because he is a student at a post-secondary school except for those persons already deferred on the ground that they are satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution: *Provided*, that any person who while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution is ordered to report for induction under this title, shall be deferred (A) until the end of such academic year, or (B) until he ceases satisfactorily to pursue such course of instruction, whichever is the earlier, unless the President, through appropriate rules and regulations, orders otherwise.

(b) The President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces (1) of any or all categories of persons in a status with respect to persons (other than wives alone, except in cases of extreme hardship) dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those persons found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of any person is advisable because of his status with respect to persons dependent upon him for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the Armed Forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the ground for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents. Except as otherwise provided in this subsection, the President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons who have children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service in the Armed Forces shall be made in the case of any individual except upon the basis of the status of such individual. There shall be posted in a conspicuous place in each area office a list setting forth the names and classifications of those persons who have been classified by such area office. Notwithstanding any other provision of this title the President shall establish national standards and criteria for the classification and deferment of persons registered under this title. Such standards and criteria shall be administered uniformly and impartially throughout all levels of the Selective Service System.

CONSCIENTIOUS OBJECTORS

SEC. 314. (a) Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the Armed Forces of the United States who, by reason of religious beliefs or by reason of moral or ethical beliefs which are held with the strength of traditional religious convictions, is conscientiously opposed to participation in war in any form.

(b) Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the Selective Service System shall, if he is inducted into the Armed Forces under this title be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be ordered by the Selective Service System, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 305 of such civilian work contributing to the maintenance of the national health, safety, or interest as the Selective Service System pursuant to Presidential regulations may deem appropriate. Any such person who knowingly fails or neglects to obey any such order from the Selective Service System shall be deemed, for the purposes of section 203 of this title, to have knowingly failed or neglected to perform a duty required of him under this title.

(c) Any person claiming exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the area office or local board, be entitled to an appeal to the regional appeal board. Upon the filing of such appeal, the appeal board shall refer any such claim to the Department of Justice for inquiry and hearings. The Department of Justice, after appropriate inquiry, shall hold a hearing with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. If after such hearings the Department of Justice finds—

(1) that the objections are sustained, it shall make recommendations to the appeal board in accordance with the procedures of subsection (b) of this section; or

(2) that the objections are not sustained, it shall so recommend to the appeal board. The appeal board shall, in making its decision, give consideration to but not be bound to follow the recommendation of the Department of Justice, together with the record on appeal from the local board.

DURATION OF EXEMPTION OF DEFERMENT

SEC. 316. No exception from registration, or exemption or deferment from training and service, under this title, shall continue after the cause therefor ceases to exist.

MINORITY DISCHARGES

SEC. 317. Notwithstanding any other provisions of law, no person between the ages of eighteen and twenty-one shall be discharged from service in the Armed Forces of the United States while this title is in effect because such person entered such service without the consent of his parent or guardian.

MORAL STANDARDS

SEC. 318. No person shall be relieved from training and service under this title by reason of conviction of a criminal offense, except where the offence of which he has been convicted may be punishable by death, or by imprisonment for a term exceeding one year.

SOLE SURVIVING SON

SEC. 319. If the father or one or more sons or daughters of a family were killed in action or died in the line of duty while serving in the Armed Forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service, the sole surviving son of such family shall not be inducted for service under the terms of this title unless he volunteers for induction.

BOUNTIES; SUBSTITUTES; PURCHASES OF RELEASE

SEC. 320. No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this Act may furnish a substitute for that training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

REEMPLOYMENT

SEC. 321. (a) Any person inducted into the Armed Forces under this title for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 6 shall be entitled to a certificate to that effect upon the completion of such period of training and service. Such certificate shall include a record of any special proficiency or merit attained. Upon the completion of each such person's period of training and service under this title, each such person shall be given another physical examination and, upon his written request, shall be given a statement of physical condition by the Secretary concerned: *Provided*, That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains: *Provided further*, That, if upon completion of training and service under this title, such person continues on active duty without an interruption of more than seventy-two hours as a member of the Armed Forces of the United States, a physical examination upon completion of such training and service shall not be required unless it is requested by such person, or the medical authorities of the armed force concerned determine that the physical examination is warranted.

(b) In the case of any such person who, in order to perform such training and service, has left or leaves a position (other than a temporary position) in the employ of any employer and who (1) receives such certificate, and (2) makes application for reemployment within ninety days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

(B) if such position was in the employ of a private employer, such person shall—

(i) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case,

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so;

(C) if such position was in the employ of any State or political subdivision thereof, it is hereby declared to be the sense of the Congress that such person should—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(c)(1) Any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) shall be considered as having been on furlough or leave of absence during his period of training and service in the Armed Forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) should be so restored in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the Armed Forces until the time of his restoration to such employment.

(d) In case any private employer fails or refuses to comply with the provisions of subsection (b), subsection (c)(1) or subsection (g) the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action: *Provided*, That any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions: *Provided*, That no fees or court costs shall be taxed against any person who may apply for such benefits: *Provided further*, That only the employer shall be deemed a necessary party respondent to any such action.

(e)(1) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Government or by any territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored by such agency or the successor to its functions, or by such territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed immediately before entering the Armed Forces by any agency in the executive branch of the Government or by the District of Columbia, the United States Civil Service Commission finds that—

(A) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(B) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia,

the Commission shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the government of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be restored to such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Commission is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be restored under the last sentence of paragraph (2) of this subsection. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules and regulations and orders issued by the Commission pursuant to this subsection. The Commission is authorized and directed whenever it finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by him through other employment, unemployment compensation, or readjustment allowances: *Provided*, That any such compensation ordered to be paid by the Commission shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this paragraph, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government.

(2) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b), and who was employed, immediately before entering the Armed Forces, in the legislative branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the Armed Forces. In any case in which it is not possible for any such person to be restored to a position in the legislative branch of the Government and he is otherwise eligible to acquire a status for transfer to a position in the classified (competitive) civil service in accordance with section 2(b) of the Act of November 26, 1940 (54 Stat. 1212), the United States Civil Service Commission shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which he is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be restored to such position by the agency in which such position exists.

(3) Any person who is entitled to be restored to a position in accordance with the provisions of pargaraph (A) of subsection (b) and who was employed, immediately before entering the Armed Forces, in the judicial branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the Armed Forces.

(f) In any case which two or more persons who are entitled to be restored to a position under the provisions of this section or any other law relating to similar reemployment benefits left the same position in order to enter the Armed Forces, the person who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(g)(1) Any person who after entering the employment to which he claims restoration, enlists in the Armed Forces of the United States (other than a reserve component) shall be entitled upon release from service under honorable conditions to all the reemployment rights and other benefits provided for by this section in the case of persons inducted under the provisions of this title, if the total of his service performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any service, additional or otherwise, performed by him after August 1, 1961, does not exceed four years (plus in each case any period of additional service imposed pursuant to law).

(2) Any person who, after entering the employment to which he claims restoration, enters upon active duty (other than for the purpose of determining his physical fitness and other than for training), whether or not voluntarily, in the Armed Forces of the United States or the Public Health Service in response to an order or call to active duty shall, upon his relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided by this section in the case of persons inducted under the provisions of this title, if the total of such active duty performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any such active duty, additional or otherwise, performed after August 1, 1961, does not exceed four years (plus in each case any additional period in which he was unable to obtain orders relieving him from active duty).

(3) Any member of a reserve component of the Armed Forces of the United States who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within thirty-one days after (A) his release from that active duty for training after satisfactory service, or (B) his discharge from hospitalization incident to that active duty for training, or one year after his scheduled release from that training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this section for persons inducted under the provisions of this title, except that (A) any person restored to a position in accordance with the provisions of this paragraph shall not be discharged from such position without cause within six months after that restoration, and (B) no reemployment rights granted by this paragraph shall entitle any person to retention, preference, or displacement rights over any veteran with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

(4) Any employee not covered by paragraph (3) of this subsection who holds a position described in paragraph (A) or (B) of subsection (b) of this section shall upon request be granted a leave of absence by his employer for the period required to perform active duty for training or inactive duty training in the Armed Forces of the United States. Upon his release from a period of such active duty for training or inactive duty training, or upon his discharge from hospitalization incident to that training, such employee shall be permitted to return to his position with such seniority, status, pay, and vacation as he would have had if he had not been absent for such purposes. He shall report for work at the beginning of his next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following his release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at such next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If that employee is hospitalized incident to active duty for training or inactive duty training, he shall be required to report for work at the beginning of his next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or within one year after his release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this paragraph is not qualified to perform the duties of his position by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or his successor in interest, he shall be restored by that employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(5) Any employee not covered by paragraph (3) of this subsection who holds a position described in paragraph (A) or (B) of subsection (b) of this section shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination his physical fitness to enter the Armed Forces of the United States. Upon his rejection, upon completion of his preinduction or other examination, or upon his discharge from hospitalization incident to that rejection or examination, such employee shall be permitted to return to his position in accordance with the provisions of paragraph (4) of this subsection.

(6) For the purposes of paragraphs (3) and (4), full-time training or other full-time duty performed by a member of the National Guard under sections 316, 503, 504, or 505 of title 32, United States Code, is considered active duty for training; and for the purpose of paragraph (4), inactive duty training performed by that member under section 502 of title 32, or sections 206(a) (b), and (d), 301(f), 309(c), 402(f), and 1002(a)–(d) of title 37, United States Code, is considered inactive duty training.

(h) The Secretary of Labor, through the Bureau of Veterans' Reemployment Rights, shall render aid in the replacement in their former position of persons who have satisfactorily completed any period of active duty in the Armed Forces of the United States or the Public Health Service. In rendering such aid, the Secretary shall use the then existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

(i) The Secretaries of Army, Navy, Air Force or Treasury shall furnish to the Selective Service System hereafter established a report of separation for each person separated from active duty.

RIGHT TO VOTE

SEC. 322. Any person inducted into the Armed Forces for training and service under this title shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in the State of which he is a resident, whether he is within or outside such State at the time of such election, if under the laws of such State he is otherwise entitled to vote in such election; but nothing in this subsection shall be construed to require granting to any such person a leave of absence or furlough for longer than one day in order to permit him to vote in person in any such election.

CIVIL RELIEF

SEC. 323. Notwithstanding the provisions of section 604 of the Act of October 17, 1940 (54 Stat. 1191), and the provisions of section 4 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), all of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, including specifically article IV thereof, shall be applicable to all persons in the Armed Forces of the United States, including all persons inducted into the Armed Forces pursuant to this title or the Public Health Service, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is repealed or otherwise terminated by subsequent Act of the Congress: *Provided*, That, with respect to persons inducted into the Armed Forces while this title is in effect, wherever under any section or provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed while such Act is in force, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.

NOTICE OF TITLE; VOLUNTARY ENLISTMENTS

SEC. 324. (a) Every person shall be deemed to have notice of the requirements of this title upon publication by the President of a proclamation or other public notice fixing a time for any registration under section 3.

(b) If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(c) Except as provided in this Act, nothing contained in this title shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the Armed Forces of the United States, including the reserve components thereof, except that no person shall be accepted for enlistment after he has received orders to report for induction and except that, whenever the Congerss or the President has declared that the national interest is imperiled, voluntary enlistment or reenlistment in such forces, and their reserve components, may be suspended by the President to such extent as he may deem necessary in the interest of national defense.

(d) It shall be the duty of the Director to inform every registrant of all rights and procedures available to him under this title regarding classification, deferment, and exemption. Such information shall be in writing and shall be given to every person who registers under this title at the time of his registration, and shall in addition be available subsequently upon request of such registrant.

REPEAL OF CONFLICTING LAWS; APPROPRIATIONS

SEC. 325. (a) Except as provided in this title all laws or any parts of laws in conflict with the provisions of this title are hereby repealed to the extent of such conflict.

(b) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title.

ALIENS

SEC. 326. (a) Section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)), is amended by changing the period at the end thereof to a semicolon and adding thereafter the following:

"(K) an alien who has requested and received an adjustment of status under section 247(c) and who is not a nonimmigrant within any of the classes (A) through (J) thereof: *Provided*, That any alien whose status has been adjusted to this class (K) shall depart from the United States within one year from such adjustment: *And provided further*, That any alien who is in this class (K) shall not be eligible for any further adjustment of status whatsoever."

(b) The Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), is amended by adding at the end of section 247 thereof the following new subsection:

"(e) The status of an alien lawfully admitted for permanent residence may be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant in class (K) under section 101(a)(15) of this Act, or in any other class under section 101(a)(15) for which he may

be eligible, if such alien requests an adjustment of status in order to be exempted from the requirements of the Universal Military Training and Service Act, as amended."

(c) Section 248 of the Immigration and Nationality Act, as amended (8 U.S.C. 1258), is amended by inserting immediately after the words "paragraph (15) (D)" the words "or paragraph (15) (K)".

(d) Subsection (a) of section 315 of the Immigration and Nationality Act, as amended (8 U.S.C. 1426), is amended to read as follows:

"(a) Notwithstanding the provisions of section 405(b), any alien who is granted exemption under an existing treaty or any alien who requests and obtains an adjustment of status under section 247(c) or who applies or has applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such basis, shall be permanently ineligible to become a citizen of the United States."

TITLE IV—MISCELLANEOUS

MILITARY YOUTH OPPORTUNITY SCHOOLS

SEC. 401. (a) The Secretary of Defense, with the cooperation and assistance of the Secretary of Labor and the Secretary of Health, Education, and Welfare, and other appropriate Federal agencies, shall conduct a comprehensive study and investigation to determine the feasibility and desirability of establishing and operating military youth opportunity schools which would provide special educational and physical training, for a period not exceeding one year, to volunteers who fail to meet the minimum physical and mental requirements for military service in order to enable such volunteers to qualify for service in the Armed Forces.

(b) The Secretary of Defense shall submit a written report to the Congress of the results of such study and investigation, together with such recommendations as he deems appropriate, not later than one year after the date of enactment of this section. The Secretary of Defense shall include in such report, findings with respect to—

(1) the average annual number of volunteers for military service who fail to meet the educational and physical standards for such service, but who, with a maximum of one year's training in opportunity schools of the kind referred to in subsection (a) of this section, could qualify for military service;

(2) an estimate of the costs and benefits to the Department of Defense of establishing and operating such opportunity schools;

(3) the administrative capacity of the Department of Defense to carry out such a program;

(4) an estimate of the reenlistment rate which could be expected from volunteers trained in such opportunity schools;

(5) the advisability of requiring longer enlistment periods for volunteers receiving training in such opportunity schools; and

(6) the most effective means and measures for implementing a program of the kind described in subsection (a) of this section.

NATIONAL SERVICE CORPS STUDY

SEC. 402. (a) The President shall conduct a study and investigation to determine the feasibility and desirability of establishing a national service corps in which citizens of the United States who are mentally and physically able and who desire to perform nonmilitary services designed to combat disease, ignorance, and poverty at home and abroad may serve.

(b) The President shall submit a written report to the Congress of the results of such study and investigation, together with such recommendations as he deems appropriate, not later than one year after the date of enactment of this section. The President shall include in such report such information as he deems appropriate, and in the event it is determined that the establishment of a national service corps as described in subsection (a) of this section is feasible and desirable, he shall specifically include in such report—

(1) a review of existing voluntary Federal service programs (nonmilitary) in which hardships are endured by the participants or extraordinary service is required of the participants, such as the Peace Corps and the Volunteers in Service to America, in order to determine the feasibility of establishing an expanded national service program with the broadest possible participation;

(2) a consideration of what the nature and scope of a national service program should be;

(3) the number of service opportunities which would be generated by such a program;

(4) the relationship of such a service system with the Selective Service System and the feasibility of authorizing service in such a national service corps program as an alternative to peacetime military service;

(5) the most effective means by which such a service program might be coordinated with appropriate private, local, and State programs of a public service nature;

(6) the impact of such a service program upon the labor force and the economy of the United States;

(7) the effect of such a service program upon secondary education and higher education;

(8) the role of women in such a service program;

(9) the cost of establishing and operating such a service program; and

(10) the mental and physical standards for participation, if any, and the duration of service in such a service program.

AMNESTY STUDY

SEC. 403. The President shall conduct a study to determine the appropriateness of granting amnesty in the near future to those registrants convicted for refusing induction and those presently outside the United States who are liable for prosecution under section 203 of this title. In conducting this study, the President shall consider the number of such registrants, the implications for the morale of the Armed Forces granting such amnesty would raise, the historical precedent for granting such amnesty, and such other factors as he deems appropriate. The President shall report the results of this study to the Congress, together with appropriate recommendations, within six months of the enactment of this section.

SELECTIVE CONSCIENTIOUS OBJECTOR STUDY

SEC. 404. The President shall conduct a study to determine the desirability and feasibility of permitting registrants to object to participation in a particular war because of religious, ethical or moral beliefs. In conducting this study, the President shall consider the possibility of requiring selective conscientious objectors to serve in the Armed Forces but in areas other than the war zone; the implications for the effectiveness and morale of the Armed Forces of granting such an exemption; the burden on the Selective Service System of determining who qualifies as a selective conscientious objector; and such other factors as he deems appropriate. The President shall report the results of this study to the Congress, together with appropriate recommendations within six months of enactment of this section.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may yield to the Senator from Idaho without losing my right to the floor and without my subsequent remarks being counted as a second speech.

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

EXTENSION OF TIME FOR SPECIAL COMMITTEE ON AGING TO FILE REPORT

Mr. CHURCH. Mr. President, I ask that the time for filing of the report of the Special Committee on Aging be extended to March 10, 1971.

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

ORDER OF BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may yield to the Senator from Rhode Island (Mr. PELL) without losing my right to the floor and without my subsequent remarks being counted as a second speech.

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

S. 482—INTRODUCTION OF A BILL TO ESTABLISH A COMMISSION TO STUDY THE USAGE, CUSTOMS, AND LAWS RELATING TO THE FLAG OF THE UNITED STATES

Mr. PELL. Mr. President, for decades—indeed, throughout the history of our Nation—there has been some degree of confusion and disagreement over the proper procedures for display and usage of the flag of our country.

In recent years, it is true, these disagreements have been sharply accentuated by deep divisions among the American people on vital issues of both foreign and domestic policy. Questions of custom and protocol regarding the display of the flag have become accentuated through efforts by various groups to utilize our flag as a symbol of support or opposition to policies.

I think it is important to recognize, however, that the recent disputes over the flag only underscore a long-standing problem: We do not have a standard, comprehensive code prescribing accepted procedures for display of our national emblem.

We have an ambivalent flag code, and confusion is compounded by conflicting formal and informal regulations, procedures, and interpretations promulgated by individual Government agencies and private organizations.

I believe a single, comprehensive uniform code for display and usage of the flag of the United States would be welcomed by all Americans.

To provide for such a code I am introducing today, on behalf of myself and the senior Senator from Texas (Mr. TOWER) a bill providing for establishment of a commission to study and make recommendations regarding the usage, customs, and laws relating to the flag of the United States. Actually, the Senator from Texas and I have introduced legislation on this subject in the previous three Congresses.

The bill being introduced today, Mr. President, is identical to legislation introduced in the last Congress by the senior Senator from Texas and myself. It proposes that a commission be created comprising 10 members appointed by the President: Two from the Senate, two from the House, one from the Department of Defense, and five from private life.

Mr. President, our flag is a symbol of a dynamic nation unprecedented in its accomplishments, yet also beset by certain faults. As a symbol of our Nation, it represents a people constantly striving to rectify such problems. The flag we display today is thus an emblem of a nation which has endeavored to preserve what is good while also attempting to correct what is imperfect. It represents a people who look to the future but do not forget their past. In essence, the flag is therefore a symbol of our national life, a symbol of cumulative contributions of sacrifice, of courage, of love, and of labor that have shaped and will continue to shape and form our national life.

It is with this respect for the flag that I introduce with Mr. TOWER for appropriate reference this bill.

Mr. President, the senior Senator from Texas has long advocated a comprehensive review of the customs, laws, and regulations relating to the flag. I ask unanimous consent that a statement by Senator TOWER, as cosponsor of this bill, be printed at this point in the RECORD.

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

STATEMENT OF SENATOR TOWER

I join again today in the sponsorship of a bill to establish the United States Flag Commission. Over the years, there has been much confusion in this country over just what is the proper method for displaying the Flag of the United States. As an example of this confusion, all branches of the Armed Services have their own codes, which differ considerably from each other. Some say that the Flag must not be flown at night; others say that it is all right to do so. Some codes say that the Flag must not be flown in inclement weather; others contend that this is all right as long as an all-weather flag is used. Also, it is not completely settled where the proper place of honor is for the Flag of the United States. Some authorities say that it should be in the middle, while others say that it should always be to the right of all other standards. I could go on and on with examples, but I believe that this will give Senators a good idea of the current situation.

For the past few years, the Senator from Rhode Island, (Mr. Pell), and I have been sponsoring legislation that would correct this situation. Stated very simply, it would provide for the establishment of a commission called the United States Flag Commission made up of representatives of the Congress, the Executive Branch and certain lay members who have particular expertise in this matter, to be appointed by the President. This commission would be empowered to review the entire matter of a United States Flag Code and to present to the Congress its report which would recommend specific legislation to correct this confusing situation. The Congress could then determine, with the help of the commission's report, a Flag Code for the United States.

With the fast approaching date for the Bicentennial of the United States, I believe that it is becoming critical that the commission begin its work at the earliest possible moment. I ask that the Judiciary Committee give this matter expeditious consideration, if at all possible, so that the full Senate may consider the measure. The time has come to clear up this confusion and establish a viable Flag Code for the United States.

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

The bill (S. 482) to establish a commission to study the usage, customs, and laws relating to the flag of the United States, introduced by Mr. PELL (for himself and Mr. TOWER), was received, read twice by its title and referred to the Committee on the Judiciary.

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. HOLLINGS. Mr. President, resuming my comments and still responding to my distinguished colleague from Idaho (Mr. CHURCH), I am not sure that the country is up in arms and entirely disenchanted with the Senate as a body. I think sometimes we lose perspective and become exercised about the actual terms entailed in coming to grips with certain issues and we downgrade the accomplishments of the last Congress. It was stormy and it did take a long time. Two things that took the longest time; namely, the Carswell nomination and the Cooper-Church amendment, were not involved with what some Senators are involved with here in trying to change rule XXII.

In the January 24, 1970, issue of the Charlotte Observer, there was published a lengthy editorial. I will not read it all but I do wish to relate the editorial to the Senate because it outlines the accomplishments of the 91st Congress.

I submit we did accomplish much and that the country is not up in arms. They are looking to us to get on with the job and not dance around the fire each year in these spurious efforts to change the rules that have not caused our trouble, but rather to look at things that have made this a unique body.

The editorial from the Charlotte Observer of January 24, 1971, reads as follows:

THE 91ST CONGRESS WAS STORMY BUT IT ACCOMPLISHED MUCH

Sen. Hugh Scott of Pennsylvania spoke "the two most beautiful words" in the legislative language Saturday, and the 91st Congress adjourned, "sine die," after one of the longest, stormiest sessions in years.

Yet, despite its long sessions and the quarrelsome character it wore throughout, the 91st Congress left behind an impressive record of solid achievement—and some unfinished business.

As a Democratic legislature working under a Republican executive, the 91st Congress seemed more contentious than most, and perhaps it really was. It might be characterized as "the hard-nosed Congress."

In foreign affairs especially, and to an encouraging degree in domestic affairs, the 91st challenged the administration and the nation to make good on their claims and promises and reasserted the legislative branch's co-equal right to oversee the nation's business.

As the first President in this century to take office against an opposing Congress, Richard Nixon had to bear the brunt of these challenges. In the process he lost some of the battles he wanted most to win—his Supreme Court nominees from the South, his plan to reform the welfare system, his political promise to ease import pressure on the Southern textile industry.

He had other goals compromised by the Congress. His options in the Indochina war were limited, his deployment of Safeguard antiballistic missiles was scaled down, his pace in winding down the Vietnam war was seriously questioned as Congress asserted itself in foreign affairs.

The Congress also zeroed in on the Pentagon and the industrial community. Defense spending was cut $2.1 billion, the C–5A transport plan was revealed as an expensive error, and the fate of the supersonic transport (SST) was left hanging in serious doubt.

But this was not a negative Congress. It was busy in the fields of housing, education, health and welfare, writing a $2.5-billion housing program, appropriating $24.6 billion in aid to education over the next three years, renewing the Hill-Burton hospitals program for three more years and writing a $9.5 billion manpower training bill, all of which Nixon vetoed. His veto was overridden on hospitals and aid to schools.

Also, the Congress extended and broadened the food-stamp program, wrote a $285 million family planning program, doubled the school lunch program, brought 4.4 million more workers under the unemployment insurance laws and increased Social Security benefits by 15 percent.

In the area of reform, it wrote the first major revision of the U.S. tax code since 1913, imposed a strong set of regulations against air pollution, passed a comprehensive coal mine health and safety act and the nation's first occupational safety act. It also reformed some of its own procedures and left the door open for further changes in the next Congress.

In addition, it extended voting rights to 18-year-olds, refused to junk the Electoral College and said the issue of women's rights needed more definitive legislation than what was offered.

These and other accomplishments, including aid to mass transportation, a reorganized railway system and the creation of a public-private postal corporation, redound to the congressional credit, though they are perhaps obscured by the arguments and filibusters that marked the "lame duck" session.

That is exactly what caused the trouble. The lameduck session caused confusion by inserting all kinds of legislation, and major pieces of legislation, such as family assistance, foreign trade, social security, the SST, all into one omnibus bill, which, before Christmas, rule XXII did hold up a vote on.

It is not because of rule XXII that the people are up in arms. I think that the editorialists should heed the admonition of the distinguished Senator from Arkansas that it is not the matter of hours, but the matter of the Senate as an institution itself which is in issue. We would come to grips then with moving on to the people's business and realize what Senator Dirksen, former minority leader of this body, said so often in debate on this matter: Point out one good piece of legislation that was completely thwarted and completely defeated, on account of rule XXII. Sometimes held up,

yes, for refinement, for better phraseology, for better content, but ultimately never completely thwarted by rule XXII. On the contrary, rule XXII has saved the land from many, many bad pieces of proposed legislation.

Many, many of our predecessors in this body, as I have pointed out, have vigorously opposed cloture. I have cited the great names of Borah of Idaho, Mayfield of Texas, Townsend of Michigan, Smoot of Utah, Phelan of California, Brandegee of Connecticut, Reed of Missouri, and on down the list.

Having quoted several of them I would now like to go to President Woodrow Wilson, whose name can be added to the voices of those who have spoken in behalf of the principle of free debate in the Senate, when he wrote—and I would hope that the news media and those who write editorials would take time to see that this is not a southern filibusterer I am quoting. Civil rights legislation is over and gone; the issue is the Senate itself. President Wilson had this to say:

It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and the will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the dispositions of the administrative agencies of the government, the country must be helpless to learn how it is being served and unless Congress both scrutinize these things and sift them by every form of discussion the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct.

The informing function of Congress should be preferred even to its legislative function. The argument is not only that discussed and interrogated administration is the only pure and efficient administration, but more than that, the only really self-governing people is that people which discusses and interrogates its administration.

Mr. President, it was extended debate on Cooper-Church which brought stability to the Republic at the time of the crisis of last year. It was in the debate on the Cooper-Church amendment when, rather than all of us being labeled "Communists", by questioning the Commander in Chief, we brought the whole thing from out of kilter and into the perspective of what we all were fearing, and that was another Vietnam in Cambodia.

There is the informing nature of the Senate. How else can you get the information to the people except through extended debate? What the Senator from Idaho said the week after May 8, after the invasion of Cambodia, was no different from what he said the last week of June, just prior to the passage by a substantial majority of this body of that amendment; but what he said the last week of June, by the informing process, was listened to, finally understood and appreciated and, as I said, brought stability to all of us and brought respect for representative government.

And of course no recitation of the history of the protection of minority rights would be complete without mention of the great John C. Calhoun. In his learned and still much-quoted "A Disquisition on Government," the famed South Carolina statesman wrote:

There are two different modes in which the sense of the community may be taken: one, simply by the right of suffrage, unaided; the other, by the right through a proper organism. Each collects the sense of the majority. But one regards numbers only, and considers the whole community as a unit, having but one common interest throughout; and collects the sense of the greater number of the whole. as that of the community. The other, on the contrary, regards interests as well as numbers;—considering the community as made up of different and conflicting interests, as far as the action of the government is concerned; and takes the sense of each, through its majority or appropriate organ, and the united sense of all, as the sense of the entire community. The former of these I shall call the numerical, or absolute majority; and the latter, the concurrent, or constitutional majority.

As there can be no constitution without the negative power, and no negative power without the concurrent majority—it follows, necessarily, that where the numerical majority has the sole control of the government, there can be no constitution; as constitution implies limitation or restriction,—and, of course, is inconsistent with the idea of sole or exclusive power. And hence, the numerical, unmixed with the concurrent majority, necessarily forms, in all cases, absolute government.

Recently, Mr. President, another giant has walked in our midst. He was the foremost legislator of the century. As I remarked on the occasion of his death last week, one would have to harken all the way back to the days of Clay, Calhoun, and Webster to find his peer. I speak, of course, of Richard Brevard Russell. How many times I sought his counsel, which was always given with wisdom and generosity. Richard Russell addressed himself to the very problem we are discussing today, and he did so with his usual insight. I deem it a service to bring his cogent remarks made on January 12, 1967, to your attention today, and I deem it an honor to be able to do so. On that day, the Senator from Georgia said:

This proposal goes much deeper, Mr. President, than the right of an individual Senator or a group of Senators to engage in a prolonged discussion that might be labeled a filibuster. The real issue, the real nub of the question before the Senate, is whether we are to alter the role and the position of this body in our great scheme of government.

Mr. President, it was said on the floor of the Senate yesterday that the Senate is the only parliamentary body in the United States where a Senator could not rise to his feet and make a motion that could be carried by a transient majority of one, to gag the other Members of that body and prevent them from speaking. It was said that rule existed in all other parliamentary bodies on earth, including the House of Commons of the British Parliament, by which a motion carried by one vote would gag the remainder of the body. And that statement is true.

It is true, Mr. President, because the Senate has individuality. It has qualities that are different from those of any other parliamentary body ever created by the mind and ingenuity of man.

Mr. President, the greatest difficulty confronted by the Constitutional Convention that wrote our basic charter—a charter which receives rather short shrift these days, not only in the courts but here in the Congress and at the hands of the executive departments, and, indeed, at the hands of some of the teachers of political science—the greatest difficulty they encountered in reaching agreement and accord on the basic charter of our liberties and the bulwark of our rights, the Constitution of the United States, was on the question of the composition of the parliament of this country, or, as they designated it, the Congress of the United States. The little States would not go along with the proposition that it should be based purely on population, and it took a long time to work out a compromise.

The compromise they eventually reached places on this body an indelible stamp that differentiates it from any other parliamentary body on earth; because under that agreement, the smallest State has the same representation in this body as the largest and most populous.

That is true today. Not only did they make that provision, but they provided the only limitation in the Constitution that is not subject to amendment without the consent of the States, because they went further and said in article V:

"And that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

So when Senators speak lightly of invoking a gag rule in the forum of the States of this Union, on the ground that it is different from other parliamentary bodies, I say Mr. President that there is the strongest reason for not tampering with these rules, and for not shutting off or stifling the voice of any representative of any state, be it great or be it small, until he has had an opportunity to discharge his responsibilities here.

Why do men wish to be U.S. Senators? Why, Mr. President, do Members of the other body, which is a coordinate branch of this Congress with the Senate, so often desire to offer for the Senate of the United States? Why do men desire to come from Governors' chairs to the Senate of the United States? I submit that it is because of the very differences that distinguish this body from every other legislative body on earth.

Yet we are told that because the Senate is different, we have got to change it and make it like all the others, even though to do so would be a serious invasion of the whole theory of our republican form of government as contemplated by the Founding Fathers. Now we are being asked to whittle away and destroy the powers and the rights of those who serve here. In the old days they were referred to as ambassadors of their respective states. Now we are told we should make the Senate just another parliamentary body, exactly like any other. Now we are told that because in the Senate of the state of Georgia a member can rise, move the previous question, and shut off debate when Senators have not had an opportunity to express themselves, the same rule should apply in the Senate of the United States.

Mr. President, I have never heard a more fallacious argument. Yet Senators absorb it. You see them drink it in.

Here we are. Members of the greatest deliberative body on earth, bearing an honor in the parliamentary field that is greater than any that has ever existed except in the earlier days of the Roman Senate; yet some Senators are pressing us into destroying this body, into eroding their own powers, into disfranchising their own states, and preventing their States from being represented properly here.

It was done first, Mr. President, in the name of civil rights. They came forward and said, "We have got to make these changes because we can't pass any civil rights bills." Well, a number of sweeping civil rights bills have been passed in the last few years. The last one proposed, the open housing bill, did not pass. I do not know whether or not it would have been enacted if we had had the majority gag cloture rule that is being urged

on the Senate. But we passed bills that dealt with every other subject. We voted on, I think, some 70 amendments in 1964, dealing with every facet of the relationships between the races, and between the races and the government, and we did it under the present rules of the Senate.

Mr. President, I have waited a long time for a Senator to come forward with a list of bills vital to the security and progress of the United States that have been killed because of the right of free speech in the Senate of the United States. I have never seen one example brought out here. But I have sat in the Senate for the past 34 years and have seen the exercise of that right prevent the passage of many bad bills, bills that would have been injurious to the people of the United States.

Make no mistake about it. If we go ahead and pass this majority gag cloture, we will soon be met with a change in the rules that will deny or limit or restrict the right of amendment in this body. Mark that prediction. We will have a situation in the Senate in which a mere majority, a bare majority, a temporary majority, of one will get some kind of rule, such as they have in the other body, that will keep a Senator from offering an amendment to a bill. It will make a U.S. Senator run around and beg to get the chance to speak for 3 minutes on a bill.

That is where the proponents are trying to take us with this type of change in the rules. It will destroy the prestige of the Senate. The Senate has had prestige in this country despite the efforts of many Senators to shatter or destroy that prestige.

This would destroy or impair the greatest element of checks and balances among the three divisions in our government, the judicial, the legislative and the executive.

The Senate is the foundation of that division of powers. It is the balance wheel on which the division of powers in the system of checks and balances revolves.

It is because of the fact that it is different from all other parliamentary bodies that it has been able to make its contribution in war and in peace under rules permitting more freedom of debate than the present rules would permit, without impairing the welfare of the Nation, but contributing mightily to the building of the greatest society that has ever existed under the canopy of Heaven.

It has contributed to the making of the American way of life that is the envy of mankind everywhere. It has been done under these rules, and yet they say "we come in here now with a form of gag to deny the right of meaningful debate in the Senate. And do it in the name of democracy."

Mr. President, when they talk about amending the rule because it is necessary to pass civil rights bills, that is sheer hypocrisy. It has been demonstrated that they can pass such bills under the present rules. Not only that but a determined majority in the Senate has passed every bill they desired to pass when in the hearts and minds of the majority of the Senators they wanted the bill, since I became a member of this body.

Where are we going to have our debate? How are we going to take the question to the people of this country? Make no mistake about it, we are not living in the simple days, of the early life of this Republic and I admit that but I say that that is all the more reason to have the right of free speech in the Senate.

It is hard to get through to the people of this country what is involved in the very complex and complicated issues that pass through here in the way of legislation. However, if the proponents can just get a gag rule through, they can then go forward and destroy or limit the right of amendment in the Senate of the United States. They can then pass the economic and social legislation they want, legislation that will revolutionize this country and will destroy this system that has afforded men the opportunity to make progress and to go forward and to succeed in accordance with their abilities, in accordance with their talent and their energies, the opportunity that has made this great country of ours.

Mr. President, Senators talk about a majority of the Senate having the right to vote at any time. There are a number of things that have been put beyond the limit of the majority. The right of private property in this country was supposed to be protected in the Constitution of the United States. The Founding Fathers did not leave it to the mercy of a simple majority in the House of Representatives or in the Senate of the United States. They put it in the Constitution, where it would require not only a vote of two-thirds of all the Senators, but also the approval of three-fourths of all the States.

They did the same thing with respect to the right of religious liberty and the right to worship God according to one's own wishes and ideas, or the right not to worship any god if one saw fit.

They said that that could not be changed by any mere statute, but must be changed by a two-thirds vote.

Even the Founding Fathers, with all their brilliance, could not look down the lane 190 years and anticipate what would happen. Even with all their brilliance, they could not possibly have predicted or envisioned what we have done in this country and the developments of the 20th century that have within the period of 60 years changed the manner of living and habits and thinking of mankind to a greater extent than in any other period of a thousand years in human history.

So please, I beg, Senators, even those who in a moment of weakness have made some commitment with respect to this matter, to go over it in your minds and think over again what the effect would be.

I know about the frustrations of long debate here. I suppose I have been involved in my share of it on both sides of the fence.

It is human nature that if you have a bill up and have a majority of one in the Senate, you are ready to vote then, and any debate against that bill is something that is irritating and frustrating, because you cannot bring the bill to a vote immediately with that majority of one.

Mr. President, the majority is not always right. Down through the years there are great monuments, tragic monuments, to the failure of the majority to be right, the errors of a temporary majority such as it is proposed to subject the Senate to, a proposal to turn loose all the fires of partisanship to a mere majority, to close off debate and silence the opponents before they have had a full and fair chance to make their case before the American people.

It is sometimes hard to let it seep through. Sometimes when you are defending what you believe in, but which may be unpopular for the moment, you do not have the great media of communications to support you. They have a way of getting together sometimes, and they will exalt statements in favor of the issues they support and will minimize statements in opposition to those issues.

It is more difficult today than ever before to get both sides of the case before the American people. But I can assure, Senators, on the basis of almost 35 years of service in this body, that there are two sides to every question.

Maybe most of us think, "There is my side and there is the wrong side," but often the side you are for and the side I am for is the wrong side—it happens time and again.

Mr. President, the Senate was created to give a full chance to expose here the errors of the other branches of the Government. One of its main purposes was to permit a complete revision or canvass of the acts of the other body, to have full sway to offer amendments, and to make speeches to point out those mistakes.

Over the years, when you balance it up, the right of free speech in this body has been vastly more beneficial in the preservation of our system of Government, in maintaining our system of checks and balances, in trying to maintain the division of powers between the three separate branches of the Government, than the action of any army. The Senate is the last bulwark of the minority in this land.

Mr. President, I shall not delay the Senate much longer.

I have sat in this Chamber with men who were real liberals. They did not have to get a big badge and write on it, "I am a liberal," and run around saying, "I am a liberal. Look at it. Here is my badge." I mean men like Bill Borah, George Norris and Hiram Johnson. I did not serve with the elder LaFollette, but I served with his distinguished son, who was completely indoctrinated with his father's political philosophy. Every one of them defended the right of free speech in this body as the last defense of a minority that might be oppressed.

Now, the majority will work its will. It may have a little trouble. It may have delays. The members of the majority may get tired of sitting around listening to debate that men of good faith are making; to speeches made in the Senate, with which I thoroughly disagree, but upon which Senators had spent hours of labor. They rendered a public service, because they helped to open up before the American people both sides of the question.

This is not a partisan matter. This is a matter that goes to the heart of our system. The Senate of the United States is a unique body. It has been the most useful instrumentality of government down through the years. It has served this Nation well as a continuing body, with two-thirds of its Members going over from election to election, as the Founding Fathers provided, to carry with them experience and an understanding of the operations of the other branches of the Government, so that they might help to protect the people of this country from the excesses of the executive branch of the Government or to undo some excess or wrong that was worked by the decisions of the judicial branch of the Government.

The Senate has had a proud history. Oh, we have made mistakes, because we are human. We are fallible, as are all other men who are born of women, and as are women who are born of women. But, Mr. President, the Senate owes its greatness to the right of the representatives of the States of this Union to stand up and speak their pieces. This is the only place where that can be done.

I do not guarantee these figures, but I think they are correct. The last time I checked them they were correct. In the other body, the solid votes of nine States can overcome the resistance of all the Representatives of the other 41 States in affairs of legislation that would be beneficial to those large States.

In the general scheme of things, the smaller States are always disadvantaged and handicapped. That is true in the organization of our political parties. It is true in the other body. Until recent years, very few men from very small states were even appointed to the President's Cabinet. The one place where the small States had a right to be heard, where they could defend the interests of their people, was the Senate of the United States.

I never cease to be amazed when I see representatives from some of the smaller States come into the Senate and attempt to denigrate the only power of the small States which equalizes them with the larger. It is not true anywhere else. It is not true in an

election. It is not true in the other body. It is true only in the Senate of the United States.

Let those who wish to have gag rule that is more inflexible than the existing rule 22 bring a bill of particulars, and say: Here are the bills that are vital to our people, that were defeated because we did not have immediate gag rule to shut off debate in the Senate of the United States .

Let them bring a bill of particulars. Certainly in over 190 years there must have been a number of such bills. If the situation is so bad that we have to go through this procedure at the beginning of every Congress, and it is said, "The Senate is not a continuing body; therefore we have a right to shortcut the rules," even though the rules specifically provide that they shall carry over from one Congress to the other, let the proponents bring in a bill of particulars.

In spite of all that, this drive goes on and on and on. I can understand it on the part of Senators from the very large States.

Mr. President, from the standpoint of the Senate itself as a body—I have great respect for the Senate of the United States as an institution—I think the right of free speech in this body has been one of the factors that has made this Government, this system of ours, the oldest operating system of government on the earth today. Our Constitution is the oldest charter. I do not like to see Senators take lightly these proposals to so drastically change the rules.

As a matter of fact, up until 1917 there was no way on earth to prevent any Senator or group of Senators from speaking as long as they wished. During the First World War and afterwards, in connection with the so-called armed-ship bill and two or three other measures, rule 22 has been modified two or three times. Now it is proposed to strike it out almost completely, with a great statement of words. The proponents say that to do so will protect the rights of Senators. Mr. President, the only way the rights of Senators can be protected in representing the States that sent them to the Senate is to preserve the right of free speech in the Senate. When that right is limited, the power of every Senator is limited, and the rights of the State that sent him here are circumscribed.

I realize that there are those who are committed to the doctrine that the States no longer serve any useful purpose and that it would be better to have everything, from parking regulations on up to the treaties that under the present Constitution, must be submitted to the Senate, decided by some vast bureaucracy on the banks of the Potomac. But if that is true, it flies in the teeth of human experience; because the shores of history are littered with the wrecks of civilizations that have tried that, that have enticed men to surrender their rights to someone who is going to be able to be more benevolent to a person than he could be to himself—the old "something-for-nothing" theory.

That is the objective of some of those who are seeking to bring about various changes in our system. This rule has worked no great wrong on the American people. To change it and institute gag rule in the Senate will work great wrong on them.

If the Senate in a moment of weakness adopts this gag rule, I do not doubt that a time will come when the authors will have the unfortunate end of Haman, who built the gallows for Mordecai and was hanged on it himself.

Those are words of sagacity, Mr. President, and I would hope that we are wise enough to heed them today.

Of all those statesmen I have quoted today, two or three have been from the South, the remainder from other sections of the land. Deliberate debate is not a sectional issue, it is not the particular weapon of one geographical area against the other. To prove this assertion, I have only to point to the record of the recently concluded 91st Congress. During the last session, the tactic of extended debate was used by both liberals and conservatives. It was used to forestall the improvident dismantling of the electoral college, and it was used to block funds for the supersonic transport, the SST. It was used during the discussion of the family assistance plan and it was used by those seeking to limit Presidential authority to commit American troops to military action abroad. In brief, extended debate cut across party lines, ideological lines, and sectional lines. The filibuster, Mr. President, is section-blind, color-blind, and policy-blind. And its demise would be a cruel blow to the American way of government.

Some of the statements put forward by the advocates of easy cloture could lead people to believe that the Senate has unlimited debate right now. That, of course, is not true. Rule 22, for the information of those unfamiliar with the tangle of legislative affairs, provides that debate can be shut off when two-thirds of all Senators present and voting decide to end it. And under rule 22, debate has been shut off on more than one occasion. In the last 10 years alone, the rule has been invoked a dozen times. In fact, Mr. President, it has been invoked more in the past 10 years than in the preceding 50. These were, by and large, occasions during which the national consensus was against those using extended debate. Thus cloture was achieved and the debate was shut off. So those who argue that a small minority can hold up legislation in the face of an overwhelming majority to the contrary would do well to get their facts and their history straight.

Another argument proffered by advocates of limited debate is that the House of Representatives gets along without it. To those people I reply that the House and the Senate are two very different bodies.

Before any change in the present cloture rule is made, I suggest that Members consider that they, as Senators, represent the people in a somewhat different way than do Members of the House of Representatives. Seats in the House are apportioned among the States on the basis of population, and the House may be said therefore to represent the American people as such, on a national basis. The Senate also represents the people, but it represents the people of the States, and the people of each one of the States have the same number of Senators to represent them as the people in every other one of the States. The State of Delaware has as many Senators as the State of California. And this is how it should be. This is federalism, the system of government under which we have functioned since the 18th century. The Senate itself is not only a national, but a federal body. It is responsible at once to the people and to the States as States.

I would also point out that the House was purposely designed to be more responsive to the ever-changing opinion of the people. That is why Representatives are elected every 2 years—to represent the moods of public opinion. The Senate was designed to provide a check on these changes being carried too swiftly into law. The Founders knew full well that unrestrained majoritarianism would lead to chaos, with new laws appearing every day, and with Government policy becoming a never-ending series of dizzying somersaults. The Senate was their response—a Chamber wherein careful deliberation would focus the spotlight on haste and waste, a body where the rights of all, inalienable rights, could be given the protection envisioned at Philadelphia in 1787. George Washington himself embraced this concept of the Senate. He expressed his feelings to Thomas Jefferson by pointing out that occasionally the House of Representatives would act in haste and that the Senate would be needed to cool things off, to make legislation more palatable to the many interests that were represented by the Senate.

The Members of the Senate are intended to have more opportunity to immerse themselves in the intricacies of complex legislation. The Members eventually go to the ultimate court of opinion—the people—but they have, theoretically, at least somewhat more independence. They have, theoretically at least, somewhat more insulation from the pressures exerted by the executive branch. A large body like the House tends more often than not to go along with the administration in power, although there are obviously many exceptions to that. That was true last session, for example, with regard to the SST and also to electoral reform. In the Senate matters turned out otherwise, some would say for the better, others would argue for the worse. But the fact remains that although the Senate was less efficient timewise in acting on the legislation, it was more deliberative in its studies. Open debate has thus helped maintain the independence of the Senate, and the integrity of representative government.

I am concerned, Mr. President, that the Senate preserve for its Members the right to listen and the obligation to learn. These rights and obligations are particularly important for new Members with less experience. The business of Congress is to formulate legislation for the entire country. But the fact is that most new Members of Congress have more knowledge about their own people and their own area than they have about the opinions of other people in other areas. That is only natural. But my point is that free, frank, and open debate provides the opportunity to learn.

Is there any Senator possessed of such detailed and comprehensive knowledge of every section of our country that without further education of a kind—the kind of education to be derived from thorough debate—he can give full consideration to interests shared by people in States of the East and West, North and South? Is there any Senator who would presume to propose laws binding on the people of a State far distant from his own without giving careful and patient attention to Senators from that

State who have the most direct and intimate knowledge of the problems and needs and achievements of the people whom they represent?

Or should any group of Senators, because they are in the majority or because the combined numbers of people they represent are a majority of the Nation, feel justified on the basis of numbers in denying to other Senators freedom to make known to the majority the points of view and the communities of interest shared by people in their own States?

The answers to these questions are obvious, they are self-evident, if we simply pause long enough to reflect upon them. And that is what this whole debate is all about—shall we guarantee that the opportunity for that pause always exists, or shall we throw away the opportunity for reflection?

Mr. President, let me cite one example of what restrictions on free debate can bring. And although this event occurred far away under different circumstances, few in that country thought it could happen to them. I am speaking of the circumstances surrounding Adolf Hitler's climb to power. Hitler, as you will recall, was appointed Prime Minister through the orderly process of the law. Hitler had a majority in the German Parliament upon coming to power, and he soon sent up a measure called the Enabling Act. The Enabling Act gave Adolf Hitler the power to amend the Constitution by decree. It gave him the power to raise and spend money, to negotiate treaties, and much more. In the Parliament were significant numbers of representatives who opposed the Enabling Act. Unfortunately for them, there was no rule of free debate in the Reichstag and so the Enabling Act was rammed through. And when it was, Adolf Hitler became the overlord of Germany with all the fateful results that had for the rest of the world. Yes, Mr. President, the Senate is a unique legislative body with its open debate—thank God it is.

Mr. President, I am tired of being put on the defensive year after year because of my defense of freedom of deliberation for the Senate. This is not a matter for which I should apologize, it is not an attitude that causes me any discomfort. On the contrary, I hold that open and unfettered debate is a positive good, not a detriment. I believe that it is a curbstone of representative government, not a useless appendage.

I am tired of hearing those who disagree with me single out one side of the political spectrum and one section of the country for their attacks. I believe I have shown today that such assumptions are historically wrong and politically prejudiced. Indeed, it is nothing short of hyprocisy to engage in such attacks. I am proud of the privilege, the right to engage in free debate on behalf of those I represent. And I will mourn not only for this Chamber, but for the entire Nation, if ever that right is denied any Member of the Senate.

For some reason, Mr. President, those who seek to curtail the liberty of debate have come to be identified in the public mind as the apostles of good, the agents of reform, the harbingers of some brave new world. They symbolize change and movement, but unfortunately change for the sake of change is too often equated with meaningful reform. This identification is largely the creation of superliberals so impatient with things as they are that they welcome any movement as a sign of advance and progress. Certain agents of the communications media have fallen victim to this prostitution of true liberalism and, as a result, millions of Americans are daily subjected to their analyses.

Given the growing pervasiveness of this dogma, politicians find it more and more difficult to caution against undue haste, more and more difficult to stand on the principles and institutions of the past. If they so much as dare to, they are immediately dragged before the unrelenting glare of the communications spotlight and are identified as symbols of the dead past, relics of an age that supposedly has no lesson for our own enlightened era.

It is time to speak out frankly, Mr. President, if we are to get away from the tired cliches and pat ideology that too often passes for reform or progressivism. It is time to insist that the case against cloture be given the same attention as the case for cloture. Yet in preparing materials for my talk today, I noted with disappointment that the news media give significantly more heed to the advocates of limiting debate than they do those on the other side of the argument. This is just one more example of what I discussed earlier—the ability in the modern era to form ephemeral majorities who, unarmed with all the facts, insist on misguided change. It is one more argument in favor of free and open debate in the U.S. Senate.

Summing up, Mr. President, I will briefly present what I feel are the overriding arguments which favor freedom of debate in the U.S. Senate.

First. Minorities have rights which no majority should override. Government is constituted to protect minorities against majorities. A strategy of delay is justifiable as a means of preventing a majority from trampling upon minority rights until a broad political consensus has developed.

Second. A Senate majority does not necessarily represent a consensus of the people or even of the States. Frequently popular opinion upon a question has not been formulated or, if it has been, it is often not effectively expressed. Prolonged debate may prevent hasty majority action which would be out of harmony with genuine popular consensus. The confidence of the people is essential to representative government, but such confidence cannot be retained when minority rights are not fully protected.

Third. It is the special duty of the Senate, sitting in an appellate capacity, carefully to inspect proposed legislation, a duty that cannot be adequately performed without freedom of debate. In our system of government, where legislation can be gaveled through the House of Representatives at breakneck speed with only scanty debate under special rules framed by a partisan committee, it is essential that one place be left for thorough-going debate.

Fourth. Free and open debate really do not prevent needed legislation, because almost every important measure defeated by prolonged debate has been enacted later. No really meritorious measure has been permanently defeated and some vicious proposals have been killed, thanks to the deliberate nature of senatorial debate.

Fifth. It is a unique function of the Senate to act as a check upon the Executive, a responsibility it could not perform without full freedom of debate. Unrestricted debate in the Senate is the only check upon Presidential and party autocracy. It is justified by the nature of our governmental system of separated powers.

Sixth. Majority cloture in the Senate would destroy its deliberative function and make it a mere annex of the House of Representatives.

Seventh. Simple majority cloture would have brought many a decision which would have accorded ill with the sober second thought of the American people.

Eighth. The Senate, without majority cloture, actually passes a larger percentage of bills introduced in that body than does the House of Representatives, with cloture.

Ninth. Unlimited debate is essential whenever a vital, fundamental, constitutional question is presented and a majority is trying to override the organic law of the United States. Under such circumstances, Senators as ambassadors of the States in Congress have a duty to protect the rights of the States.

Tenth. People from all sections and representing all shades of political opinion have used prolonged debate in the past and the rights guaranteed us in the Constitution have been the better for it. I submit that all these groups will have occasions to utilize the safeguard we are discussing many times in future years.

It is neither prudent nor rational to overthrow processes and institutions which have served us well over the years. Why exchange the proven institutions of past and present for an ill-considered scheme which could disrupt government as we have been practicing it since our independence? Do we need this change? Obviously not, Mr. President. It is simply change for the sake of change. It is not reform at all. It is simple, unadulterated regression. And I shall have no part of it. I most sincerely hope that upon reflection, and thanks to the opportunities afforded us by free debate, my colleagues will arrive at a similar conclusion. Then we can get on with the many pressing problems which the country has summoned us to confront.

Mr. President, I yield the floor.

SENATE RESOLUTION 28—INTRODUCTION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION FOR A STUDY ON PRIVILEGES AND ELECTIONS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to submit, on behalf of the Senator from Nevada (Mr. CANNON),

a resolution authorizing additional expenditures by the Committee on Rules and Administration for a study of matters relating to privileges and elections.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be received and appropriately referred.

The resolution, which reads as follows, was referred to the Committee on Rules and Administration:

S. RES 28

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Rules and Administration, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, to expend not to exceed $113,000 to examine, investigate, and make a complete study of any and all matters pertaining to—

(1) the election of the President, Vice President, or Members of Congress;
(2) corrupt practices;
(3) contested elections;
(4) credentials and qualifications;
(5) Federal elections, generally; and
(6) presidential succession.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

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 limitation of debate.

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, what is the pending question before the Senate?

The PRESIDING OFFICER (Mr. COOK). 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. BYRD of West Virginia. I thank the distinguished Presiding Officer. 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.

RECESS UNTIL 12 NOON ON MONDAY, FEBRUARY 1, 1971

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 12 o'clock meridian on Monday next.

The motion was agreed to; and (at 4 o'clock and 46 minutes p.m.), the Senate took a recess until Monday, February 1, 1971, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

HALTING BROADCAST ABUSES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 26, 1971

Mr. ROSENTHAL. Mr. Speaker, the poor quality of radio and TV broadcasting is almost universally acknowledged. TV programing, in particular, has appropriately been called a "vast wasteland." This situation is due largely to the absence of effective monitoring by the FCC of the 7,500 broadcast stations in this country, which often leads to flagrant and continuing violations of stations' public responsibilities.

A highly imaginative petition to correct these abuses was filed with the FCC on January 8 by students of consumer spokesman, John F. Banzhaf III of the George Washington University Law Center. Adopting the acronym STATIC—Student Taskforce Against Telecommunication Information Concealment—the students' petition, if adopted, would require stations to broadcast spot announcements informing the listening public of station programing requirements and procedures governing renewal of broadcast licenses.

Armed with this knowledge the public could critically monitor the stations and make both the FCC and the individual stations aware of violations. In my view such action could lead to increased efforts by the stations to serve the public interest, and ultimately to significant improvements in radio and TV broadcasting.

The petition follows:

HALTING BROADCAST ABUSE—BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.

In re: Public Rights in the Broadcasting Media.

PETITION FOR RULEMAKING

JANUARY 8, 1971.

Pursuant to 5 USC Section 553, the statutory authority, and 47 CFR Section 1, 40(a), the Commission authority, STATIC, Student Taskforce Against Telecommunication Information Concealment, a group of students from George Washington University Law School, as members of the general public, respectfully requests that the Commission adopt as part of their Rules and Regulations requirements for licensees designed to give the public effective notice of their rights vis a vis the licensees as established by statute, administrative policies and decisions, and judiciary review decisions.

II. SUMMARY OF THE PROBLEM

The Federal Communications Act of 1934 was passed in part in recognition that the electronic mass media should serve the public. The Act empowered the Federal Communications Commission to regulate the use of the frequency spectrum. The rights of the public to complete coverage of controversial subjects and to inoffensive and factual transmission of news were included in the statutory language.[1] Correlatively, the licensee, as a condition of being granted the license to broadcast, has the duty to serve the public interest by respecting these rights.

The duties the licensee owes the public have been further delineated since 1934 through administrative policy statements and judicial review. The licensee's programming, it is now recognized, must be balanced and fair, and

Footnotes at end of article.

"THAT THE LICENSEE RESPONSIBILITY IS TO BE EXERCISED IN THE INTEREST OF, AND AS A TRUSTEE FOR THE PUBLIC AT LARGE."[2]

Furthermore, the public has standing at Commission hearings. Nonetheless, the public is not made aware of their rights, and they are unable to fully protect their interests. The duties of the licensee must include informing the public of its rights through the media. Otherwise, the statutory rights of the public serve merely to protect the licensees from competition. They will not insure that the interests of the public be served.

The Commission does not have the resources to effectively monitor and identify the licensees who violate the public trust. In the thirty-six years of existence, the Commission has expanded the personnel in its broadcast bureau three-fold, while the number of licensed stations has increased ten-fold. The Commission requires the licensee to ascertain the community needs and program accordingly. In this way the licensees satisfy their statutory requirement of public service. The Commission cannot independently evaluate each community's needs, and should not depend solely on the licensees evaluation of its own performance.

Therefore, as a mode of illucidating the public interest the Commission should invite the licensee to open direct avenues of communication with the public.

III. PROPOSED SOLUTION

In order to actualize the statutory intent and purpose it is necessary that the licensees be required to inform the public of its rights and of the duties owed by the licensees. In order to effectively administer the Act, and present Commission policy, the Commission should adopt our petition for rulemaking which would require the licensees to give effective notice to the public of its rights.

IV. THE RATIONALE OF THE PRESENT SYSTEM

The original Federal Radion Commission (1927) and the succeeding Federal Communi-