

SENATE—Friday, April 30, 1971

The Senate met at 12 o'clock noon 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:

Eternal Father, the source of our life and giver of all strength and wisdom, we open our hearts and minds for Thy divine light upon our daily duties. We pray not to take our burdens from us but for strength to carry them; not for easy answers but for courage to make the hard but righteous decision.

As the Nation struggles to find ways to peace with justice, amid the drama in the streets and the debates in legislative chambers, may we never lose sight of our sons who this very day serve the Nation in physical discomfort in faraway jungles, on ships, on planes, in terrible loneliness, and in peril of hostile forces. Make us worthy of their sacrifices, and that of their predecessors and successors, until the day comes when there is a righteous peace among men of good will. May the dividends from present difficulties be a refined and nobler people and a greater nation.

And now, O Lord, grant that when this day is over the worship of the Sabbath may bring cleansing, and renewed strength for the coming days. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 29, 1971, be dispensed with.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills in which it requested the concurrence of the Senate:

H.R. 5208. An act to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, and to authorize the annual active duty personnel strength of the Coast Guard; and

H.R. 6479. An act to provide for the licensing of personnel on certain vessels.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 689, 84th Congress, as amended, the Speaker had appointed Mr. JOHNSON, of Pennsylvania, a member of the U.S. group of the North Atlantic Assembly, to fill the existing vacancy thereon.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred to the Committee on Commerce:

H.R. 5208. An act to authorize appropriations for procurement of vessels and air-

craft and construction of shore and offshore establishments for the Coast Guard, and to authorize the annual active duty personnel strength of the Coast Guard; and

H.R. 6479. An act to provide for the licensing of personnel on certain vessels.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Commerce.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the standing order, the Senator from Pennsylvania is now recognized.

Mr. SCOTT. Mr. President, I yield back my time.

ORDER OF BUSINESS

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

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.

AMTRAK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate S. 1698 and that the bill be read the second time.

The PRESIDENT pro tempore. The bill will be read a second time by title. The assistant legislative clerk read as follows:

S. 1698. A bill to postpone for seven months the date on which the National Railroad Passenger Corporation is authorized to contract for provision of intercity rail passenger service; to postpone for seven months the date on which the Corporation is required to begin providing intercity rail passenger service, and for other purposes.

Mr. PROUTY. Mr. President, I object to further consideration of the bill at this time.

The PRESIDENT pro tempore. Objection is heard. Under rule XIV, the bill will go to the calendar.

Is there any further morning business?

THE SOUTH VIETNAMESE OCTOBER PRESIDENTIAL ELECTION

Mr. STEVENSON. Mr. President, there is a growing awareness that the South Vietnamese presidential elections scheduled for October is of great importance to the people of South Vietnam and to the people of the United States.

If we side with President Thieu by, for example, conducting political polls and disseminating pro-government propaganda for him and do nothing to offset the appearance of U.S. support for him, then the election will in all probability lead to a confirmation of the present political and military conflict between the north and the south.

If, on the other hand, we are as good as our commitment to self-determination and place our weight and our influence behind a fair election it could be a vehicle for converting a South Vietnamese desire for peace into a mandate for peace.

A fair election would fulfill our stated objective of self-determination for South Vietnam and put us in the best possible position to accomplish the swift, total, and honorable withdrawal of all U.S. forces.

There are those who say that self-determination and Vietnamization are inconsistent and that we must, therefore, support the reelection of Thieu. If Vietnamization means continued American support of a war by Mr. Thieu against the north, they are right. I would prefer to believe that we have shed our blood and spent our treasure to support the right of the people of South Vietnam to freely choose their own government. If that is our purpose we can still fulfill it and win the only possible victory. We can let the people choose their government in the forthcoming elections. Surely such a course is wiser than to go on propping up a regime, however unpopular, simply because it is willing to fight on. The preference for military juntas; the willingness to intervene in internal political disputes; the preoccupation with body counts and kill ratios are the underpinnings of escalation. I had thought and hoped them to be long since discredited, but they are now emerging in the debate over fair elections in South Vietnam.

I do not suggest that we oppose the reelection of Mr. Thieu. I do suggest that we have no business supporting or opposing Mr. Thieu or any other non-Communist candidate or group in South Vietnam. It may be that our political neutrality will encourage a war weary people to elect a president who will be committed to make peace, not war.

I ask unanimous consent to have sundry articles printed in the RECORD, as written by Chester Cooper, Robert Shaplen, Carl T. Rowan, Frank Mankiewicz, Thomas Braden and Howard Gillette, Jr., in the Ripon Forum.

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

[From the New York Times, Apr. 19 and 20, 1971]

THE ELECTORAL OPTION IN VIETNAM: I
(By Chester L. Cooper)

WASHINGTON.—For more than two decades American officials have provided a vast range of rationales for our involvement in South Vietnam. But only one consistent theme emerges: to permit the South Vietnamese freely to choose their government. President Nixon has reiterated this American objective. As recently as April 7 he reminded us that Americans are fighting in Vietnam so that the people there can "choose the kind of government they want." If the South Vietnamese are able to exercise a free choice, we will have achieved an honorable, albeit costly, victory.

Early in the Paris talks there was hope that serious propositions could eventually be advanced and explored. Thought was given to conducting elections in South Vietnam under a joint non-Communist/Communist electoral commission. The proposal was suffocated by Communist insistence that the Saigon Government should be replaced by a "caretaker" coalition and that that government should then appoint a joint electoral commission. Washington and Saigon were rightly skeptical that any caretaker government endorsed by the National Liberation Front and Hanoi would conduct a genuinely free election.

The months have ground into years, and an important date on South Vietnam's political calendar which seemed remote, even hypothetical then, now looms large: early next October the people of South Vietnam will vote for a new government. Our stake in that election is very high. If it is fair, and known to be so, we will have accomplished the one American objective consistently endorsed by every President since Eisenhower. Clearly, if the election is fraudulent, we will have lost the war, however many more Communists may be added to the body count.

A genuinely free election is a large order. But it is more palatable and more easily achieved than virtually any other objective which, at one time or another, we have set for ourselves in Vietnam. A credible demonstration of free choice will be neither inevitable nor automatic. There is much to be done and one despairs that it may be already too late. The election laws of South Vietnam should be revised to embrace all who choose to run or vote; the government should be chosen by a majority rather than a plurality of the voters; the election campaigns, the voting process and the counting of ballots must be under the cognizance of an impeccably impartial body; military forces should be confined to their bases during the election. The press must not remain the private preserve of the Government's candidate; opposition candidates and their supporters must be free from potential or actual imprisonment. These steps will require careful leverage and skillful diplomacy with the Saigon Government.

It is a bitter irony that the vital objective of free choice is within our reach, but may be beyond our grasp. It is all the more ironic that our allies in Saigon, whom many believe are American "puppets," present formidable obstacles. One wonders whether we would actually use our bargaining power in Saigon to insure a genuinely free election. An even more difficult problem will be to persuade the Communists to cooperate. The National Liberation Front has vehemently opposed any election conducted by the Saigon Government. If the Communists do decide to run candidates in October or to allow the people under their control to vote, it will not be because they wish to help Washington achieve a "victory."

But suppose the Communists agreed to run and vote? And suppose they won? If that should happen, we clearly have been bucking

the political tide in South Vietnam. Sadder but wiser for this discovery, we would have little choice but to withdraw completely and immediately.

Suppose they ran and, as is more likely, scored a modest vote? Under these circumstances, the National Liberation Front and other political parties which performed well, should be represented in Saigon. This would recognize the realities of the Vietnamese political scene.

Now suppose, as seems most likely, that the National Liberation Front boycotts the election. If Saigon had made the offer, and if the modalities of the election would pass muster among fair-minded judges, the onus for denying a choice to the people under Communist control would be on the National Liberation Front rather than on the Government. Even so, the vast majority of South Vietnamese would have participated in the political process. In the maligned 1967 election, more than 4.7 million votes were cast. Approximately 7 million South Vietnamese were of voting age in 1967 and 68 per cent of the theoretically eligible voters exercised their choice. (Only 61 per cent of Americans of voting age cast their ballots in 1968.) If, indeed, Saigon's control now extends over much more of South Vietnam than in 1967, voter turnout, even without Communist participation, should be larger than it was four years ago. The government chosen next October should be able to make a credible claim that it represented a clear preponderance of the people of South Vietnam.

THE ELECTORAL OPTION IN VIETNAM: II
(By Chester L. Cooper)

WASHINGTON.—It is difficult for an American to second-guess an election in the United States. All the more so when he tries to predict one abroad. But, based on what one can glean from the mood of the South Vietnamese in the 1967 election and what one can divine of their present mood, a consequential, non-Communist, pro-peace opponent to President Thieu might have at least an even chance.

Duong Van "Big" Minh, hero of the anti-Diem coup and first of a bewildering series of generals who took over the government after the death of Diem, was prevented from running for election in 1967, but apparently intends to campaign in 1971. A vigorous race (which may be expecting too much from that amiable and popular, but not very energetic man) and a fair election (we go back to Square once again) would increase the odds against Thieu's re-election. But, unless Thieu wins, one pillar of President Nixon's Vietnam policy may crumble.

An important factor determining the rate of American withdrawal is the demonstrated readiness and capability of the South Vietnamese to carry on the war. But this depends on variables beyond American control. Among these is the extent to which the Saigon government is committed to continue the war. The future of the Administration's Vietnam policy could ultimately be decided by a development that may not have entered into Washington's original calculations—the replacement, midway in the Vietnamization program, of the Thieu-Ky Government by one elected on a platform to end the war. While Minh, himself, is more of a hawk than a dove, a government headed by him would have a hefty peace constituency and would probably move toward ending the fighting. This may be a key to the Administration's apparent diffidence about the modalities of the election.

A highly motivated, popular, non-Communist successor to Thieu who would seek to end the fighting through bilateral negotiations or *de facto* arrangements would represent a truly "Vietnamized" solution to the war. Under these circumstances, we could withdraw our remaining forces after the October election without the haggling that

would inevitably take place with a Thieu government. One hopes that Washington planners are examining the implications and consequences of this salubrious contingency.

An American military withdrawal from Vietnam within the next twelve months would be widely regarded with relief and enthusiasm. But this reaction will, by no means, be universal; millions of Americans could easily be convinced, indeed if they are not already convinced, that President Nguyen Van Thieu (like President Chiang Kai-shek of yesteryear) was the victim of a Washington sellout; that "politicians" and soft-headed civilians in Washington conspired to dump him just when Hanoi was on the verge of defeat. "Who lost Vietnam?" The exploitation of this issue in 1972 by unscrupulous politicians is a possibility to worry responsible people of all political persuasions.

President Nixon has an urgent task ahead during the coming months—and there is, thus far at least, no evidence that it is being tackled. It is curious, for example, that the recent State of the World message ignores the forthcoming election in Vietnam. And it is unfortunate that in the President's April 7 speech there was no specific reference to the October election. The United States must be prepared to accept a political rather than a military one. Americans must be reminded, not every several months or so, but constantly, that our objectives in Vietnam, now and tomorrow, are limited. And that they were limited from the very beginning of our military involvement a decade ago.

We do not now have and we never did have the goal of destroying the Communist regime in Hanoi, killing all Communists in South Vietnam or transforming that country into a bastion of Free World democracy, economic power and military might. Our goal has always been political, not military or even economic.

An accident of timing will present President Nixon with a historic opportunity. If he firmly seizes it, the rewards for him and for all of us may be incalculable; if he makes but a diffident and half-hearted effort, he and we may have had our last chance to retrieve something of value for all our sacrifices. Given a fair election in South Vietnam next October and a bit of luck and some prudence in Laos and Cambodia, virtually all American troops could be home by this time next year. President Nixon could face his own campaign in 1972, even if the talks in Paris get nowhere, with Vietnam pretty much behind him. No small achievement in an election year. And no small comfort to Americans for whom 1971 marks a decade of our military involvement in Vietnam.

[From the New Yorker magazine,
Apr. 24, 1971]

LETTER FROM INDO-CHINA

(By Robert Shaplen)

SAIGON, April 14.—It may be six or eight months before any final assessment can be made of Operation Lam Son 719, the South Vietnamese invasion of Laos, supported by vast American air power, which lasted from February 8th until March 25th and was followed by brief commando forays until early in April. Nevertheless, even though this operation has produced more heated debate than any other Indo-Chinese battle since the French fell into the trap of Dien Bien Phu in the spring of 1954, a few conclusions can be reached now. The invasion failed to achieve anything close to its maximum aims, for, though it caused the death of a great many South and North Vietnamese, it did little—contrary to American and South Vietnamese expectations—to speed the end of the fighting, either by forcing Hanoi to negotiate or by assuring the success of the still inconclusive Vietnamization program. It may, at most, have postponed some major offensives that the Communists had planned in South Viet-

nam over the next few months. On the other hand, at least one big attack—in Kontum Province, in the Central Highlands—has been pressed during the past fortnight, and there has been a noticeable increase of terrorism throughout the country. Costly as the Laotian invasion was to Hanoi, it apparently hardened the determination of the North Vietnamese to continue fighting throughout Indo-China. Moreover, it led to a reaffirmation of Chinese and Russian pledges of assistance. Finally, the operation was a political setback for President Nguyen Van Thieu, whose reelection in October is now, for the first time, open to question.

The Americans, who are going all out to uphold Thieu and make their South Vietnamese allies feel "six feet tall" as the monthly rate of American troop withdrawals increases, have come up with the customary set of sanguinary statistics, this time claiming a nine-to-one "kill ratio" in favor of the Saigon forces. If that is believable—and even President Nixon, in his television interview of March 22nd, indicated that a five-to-one ratio might be more realistic—it could be due only to the preponderance of American bombers and artillery. There can be no doubt that if it had not been for this support the results would have been disastrous for the twenty-four thousand South Vietnamese who were fighting deep in unknown jungle territory against about thirty-five thousand North Vietnamese—a far more experienced force, which was fully determined to protect its lifeline to the South in the Ho Chi Minh Trail complex. The gruesome game of body counts has long been the bugaboo of correspondents in Vietnam, and in this case the confusion has been compounded by a flood of often contradictory statements and assessments emanating from Washington and Saigon. Indeed, never in the past ten years—not even during the chaotic months before the overthrow of the Ngo Dinh Diem regime, in 1963, or during the Communist Tet offensive at the beginning of 1968 and the May and August offensives that followed—have I witnessed such dissension as has taken place between the news media and the authorities, both American and South Vietnamese, over the invasion of Laos.

According to the latest official American figures, the losses of the South Vietnamese—who for the most part fought bravely and well but lacked a cohesive command—were about fifteen hundred dead, more than six hundred missing, and fifty-five hundred wounded; so far there have been no estimates of how many of the wounded have died or are likely to die. Unofficially, however, according to what South Vietnamese sources have told me, the number of men missing and presumed dead is actually between a thousand and fifteen hundred, and the number of wounded is at least seven thousand. Some of those listed as missing are still straggling back across the border, but the majority, it is said, either died of their wounds in Laos or surrendered or were captured by the North Vietnamese. In their flight from Laos, under extremely heavy North Vietnamese attacks, the South Vietnamese abandoned many of their wounded—something that the government is reluctant to admit—and though American rescue helicopters did remarkable work under the most hazardous conditions, they couldn't bring out all the wounded. (A hundred and five helicopters were lost in the Laotian operation, and five hundred and fifty-six were damaged; a hundred and seventy-six Americans were killed during those weeks, on both sides of the border, and forty-two are missing.) Each Vietnamese unit commander reports on his own losses, so it is difficult to come up with comprehensive figures. The dependents of known dead get full pension awards, while those of the missing get payments for only four years,

and the Minister of Veterans' Affairs, Pham Van Dong, said to me, "I won't know for months how much I have to pay to how many."

The North Vietnamese assuredly suffered heavier casualties, but whether these were as high as Allied authorities claimed can never be determined. It is admittedly difficult for troops engaged in bloody fighting or in flight to count the bodies of those killed by bombs, but if the given figure of thirteen thousand five hundred dead is correct, and if one assumes as Allied military officials do, that twice as many North Vietnamese were wounded as were killed then the total casualties come to about forty thousand, or more than the number of North Vietnamese that the same military officials say were fighting in the Laotian battle. There would seem to be more realism in the estimate that from a third to a half of the thirty-three North Vietnamese battalions engaged were rendered "combat ineffective," and that it will be no easy task for North Vietnam, which is suffering from a manpower shortage to replace these losses. About a third of the North Vietnamese losses were specialists—technicians of one sort or another who directed the flow of traffic on the Trail—and those men will be the most difficult to replace. Nevertheless, the North Vietnamese quickly sent in between four thousand and eight thousand reinforcements to repair the damage done to the Trail, mostly by our B-52 bombers, and within a fortnight after the invasion ended the movement of trucks south had been resumed at a more or less normal pace. (In comparison to the North Vietnamese battalion losses, at least five—and some say eight—of the twenty-two South Vietnamese battalions involved were hurt to the point of combat ineffectiveness, and it must be stressed that Saigon threw its best forces into Lam Son 719. It will take between six months and a year to build these units back up to strength, and then they will certainly not be as well trained and "élite" as they were before.) The North Vietnamese apparently lost between three and four thousand trucks along the Trail; again, most of these losses were the result of bombing, and only about three hundred trucks were destroyed in the actual area of the ground invasion.

The North Vietnamese also lost more than a hundred tanks. (The number of new Russian-built PT-76, T-54, and T-34 tanks that Hanoi used, sometimes right under the noses of the South Vietnamese, was one of the surprises of the campaign, and the lighter tanks of the South Vietnamese forces, many of which got bogged down, were no match for them.) In addition, Hanoi lost nearly seven thousand weapons, big and small, and nearly five hundred tons of heavy ammunition—artillery and mortar shells, and the like—but Saigon's claim of a total of a hundred and seventy-six thousand tons of North Vietnamese ammunition blown up, mostly by bombing, seems ridiculous, since the average monthly flow south in the past has been only about fourteen thousand tons. Furthermore, no major storage depots were taken—only some medium-sized way stations along the Trail. The French used to say that for every ton of ammunition captured the Communists had three more tons available nearby. No one knows how much the North Vietnamese have currently stashed away around the Bolovens Plateau, about a hundred miles below the invasion area and near the border point where Laos, Cambodia, and South Vietnam meet. However, the North Vietnamese and their Pathet Lao accomplices recently extended their control in that region, and they obviously have quite a lot of supplies cached there. Consequently, just how much time Hanoi lost and Saigon gained by the invasion can be determined only next fall, when materiel in the northern part of the Trail complex is due to arrive farther south,

some of it destined for Cambodia and the rest for the central and southern parts of South Vietnam.

For anyone attempting to evaluate the Laotian operation, what has perhaps been most significant is the fact that the Communists have struck back quickly and violently in various parts of South Vietnam and in Cambodia, clearly demonstrating that they have enough men and arms to cause a lot of trouble—at least during the present dry season, which will last another month. And most observers believe they will continue their attacks across the now expanded Indo-China fronts throughout the coming rainy season, which will last until the end of October. The attacks in South Vietnam over the past two weeks have ranged from a successful assault on an American base in Quang Nam Province, in the north, in which thirty-three Americans were killed and seventy-six were wounded, to quick strikes at district towns and headquarters and at fortified artillery fire bases that are set up to provide strong points for Allied military operations in all battle zones. By far the most serious of these attacks has been the one in Kontum, in the Central Highlands. Although the Communists have lost about twenty-five hundred men in this province as a result of American bombing, they have been making a concerted effort to capture Fire Base 6 there; if they succeed, they will presumably try to advance southward to Pleiku and Quang Duc Provinces and eastward as far as possible toward Binh Dinh and other coastal areas where there has been a recent flurry of fighting. The Communists also seem determined to pin down South Vietnamese troops and inflict heavy casualties. That being so, it is significant that the equivalent of five South Vietnamese regiments is heavily engaged in Kontum, which in itself would seem to belie Saigon's claims that its casualties have been light. In mid-February, the Communists, having apparently anticipated a move westward into the border region below the Bolovens Plateau and adjacent to the Highlands, repulsed a South Vietnamese assault there and caused heavy casualties to two battalions. (No official announcement of this defeat has so far been made here.)

It has already become apparent that the North Vietnamese are taking advantage of the American troop withdrawals to strike at the thinly spread South Vietnamese. Were it not for American air power (and nobody knows how much of that will be maintained and for how long), the Saigon forces would be in serious trouble. The Communists are already taking advantage of the situation along Route 19, which runs eastward through Pleiku Province below Kontum to the coast. It seems that after American troops left, the South Korean troops assigned to that area refused to fill that gap, complaining that they hadn't been promised enough helicopters and armored vehicles. Sections of Highway 1, which runs along the coast, are also considered risky these days, and for similar reasons. The general pattern of attacks around the country—including several attacks in Saigon in the past few days—makes it clear that the Communists are trying to create as much fear as possible and to disrupt the government's pacification program just when it is supposed to be going into high gear. One of the worst incidents occurred at the district town of Duc Duc, in Quang Nam Province: The North Vietnamese raided a camp of refugee woodcutters from the mountains and killed a hundred and nine of them and twenty-three members of the territorial forces, losing fifty-nine men themselves. This seemed to be an act of pure vengeance against the refugees, intended also to serve as a warning to others not to go over to the government side. Since January 1st, about thirty outposts have been attacked in the Delta alone, where it has been

claimed that the Communists are "dwindling on the vine." Although the Communists have been severely pressed in their major base areas in the Delta—such as the U Minh forest, where they have recently taken heavy losses and where there have been more than two thousand defectors, mostly conscripted laborers—the phrase "dwindling on the vine" seems questionable. In Vinh Binh Province, for example, the Communists were able to mount carefully coordinated strikes against two district headquarters and nearby outposts a fortnight ago. Admittedly, Vinh Binh has always been a "bad" province, and one American official sought to minimize the effect of the attack by pointing out that "one rose doesn't make a summer." On the other hand, once a security pattern is broken, word of the fact quickly spreads throughout the area. In this way, the Communists seek to destroy the people's still shaky confidence in their government and to deny Saigon's optimistic claims that virtually the whole country is now pacified.

The recent attacks in South Vietnam underline what was basically wrong with the Laotian operation from the start—its conventionality. One neutral military observer said of it, "The South Vietnamese, while fighting bravely, fought half in the old French style and half in the new American style, and they fell between two stools. They have still not learned how to fight an unconventional war against an unconventional enemy who is flexible—and is even willing, when necessary, to stand and fight conventionally, and take enormous losses if he thinks it worth the efforts, as he did in Laos." A number of South Vietnamese officers have privately been saying the same thing—some of them have been saying it for years, but lately more voices have been added—and at least one high-ranking friend of mine bemoaned the fact that "you Americans have never let us fight the kind of war we know we have to fight." The helicopter is a remarkably mobile instrument of warfare, and it has done much in past years to keep South Vietnam from falling to the Communists, but there are veteran Americans here who now wish that it had never been invented, and that Vietnamese troops had been trained from the start to fight a "people's war." Nothing could have dramatized this failure more than the sight of South Vietnamese soldiers clinging to the skids of helicopters that were being flown out of Laos.

A large number of South Vietnamese are saying that the Americans pushed them into Laos against their will, and some of the comments have been extremely bitter; one newspaper cartoon depicted a helicopter lifting Nixon in his Presidential chair out of Laos under fire. The South Vietnamese were certainly encouraged to undertake the invasion, as they have been encouraged to do many other things before, although all specific military decisions were made by the South Vietnamese themselves—most notably by President Thieu and by General Cao Van Vien, the chief of the Joint General Staff. As the campaign proceeded, it quickly became apparent that much of the strategy derived from American misconceptions about waging a conventional or semiconventional helicopter war against an unconventional enemy in the jungle. Intelligence about the swiftly moving Communist troops was bad, and on many occasions the South Vietnamese found themselves sitting on hilltops surrounded by North Vietnamese troops who had moved in during the night or in the early-morning mist. It may be, as the Americans maintain, that General Vo Nguyen Giap, the North Vietnamese commander misjudged an early halt in the South Vietnamese momentum and massed his troops for what he thought would be the kill, only to suffer his heaviest losses, mostly through bombing. But if that was so, the carnage was general.

Helicopters were used to bring replacements and ammunition to the South Vietnamese and to evacuate the wounded, but air-to-ground communications collapsed when the going got tough (language difficulties were a big part of this), and there was a notable lack of coordination among the four top South Vietnamese commanders in the field; each was operating on his own, and was not effectively responsible to a single headquarters. This caused profound morale problems, and many capable young junior officers and noncoms afterward blamed their senior commanders and the generals for not providing proper leadership. A number of battalion commanders, some of whom didn't seem to know what they were supposed to be doing, actually surrendered or died in the midst of battle.

The armored column moving out along Route 9 into Laos with protective screens of troops on both sides was bogged down almost at once by bad weather. Originally, the Trail hub of Tchepone, about twenty-five miles from the border, was supposed to be reached in four days. When the armored force got stuck and North Vietnamese ambushes began, General Creighton Abrams and his Vietnamese counterpart, General Vien, flew north to Khe Sanh to bring pressure on both Thieu and his local commanders to keep moving. Thieu demurred. He wanted the force to dig in, avoiding any heavy engagements. It was at this point that it was decided to lift troops by helicopter to several fire bases farther inside Laos, which were supposed to support each other. (The North Vietnamese quickly surrounded the bases.) Troops were also lifted as far as Tchepone, where the Saigon flag was briefly shown before the lift. Ultimately, there were differences among the South Vietnamese generals and between the generals and Thieu about what to do, and these arguments, which the Americans were unable to reconcile, plus another spell of bad weather, caused the operation to be suspended a month early. Toward the end, some of the units just pulled out pell-mell on their own, without orders, and with the North Vietnamese pursuing them right to the border. A great many South Vietnamese vehicles were left behind, including some armored vehicles that had never moved more than ten miles down Route 9. The confusion that accompanied the withdrawal intensified the bitterness of the South Vietnamese soldiers. "We do not want our leaders to minimize our casualty figures," one junior officer told a Vietnamese friend of mine, a correspondent who was wounded in Laos. "Let's give the true figures on our losses to prove we weren't on a camping trip. To mislead our families and our countrymen about our casualties will just encourage the enemy and dishonor us."

President Thieu, at his press conference on March 31st, expressed satisfaction over the Laotian offensive while admitting that some lessons had been learned for the future, and top American commanders have said much the same thing. It is a matter of opinion whether any of them are really proud of what was accomplished or are trying to hide their disappointment. Thieu, with his political future at stake, has obviously been on the defensive. He spoke of "tendentious rumors" that the attack had been a failure, and claimed it was "the biggest victory ever," telling his troops, "I am proud of your performance," and adding, "You have caused a psychological breakdown among the Communists—you have hurt their morale seriously." There is no doubt, however, that more and more South Vietnamese soldiers are coming to resent the strategy and tactics that Western-trained officers have forced them to adopt.

One experienced Western analyst—Brian Jenkins, a historian and former Special Forces officer in Vietnam, who recently worked for American Army headquarters

here on long-range-planning projects—has for several years been studying the subject of conventional vs. unconventional warfare. In July, 1969, Jenkins wrote, for an American research organization, a closely reasoned paper entitled "The Unchangeable War," in which he was highly critical of the American military establishment's hardheaded refusal to alter its traditional concepts and ways. Jenkins concluded that "the most damaging indictment of our concept of warfare is that our military superiority and successes on the battlefield do not challenge the enemy's political control of the people, which he maintains by his promises of a better society and, when that fails, by intimidation and terror." In a list of "the institutional obstacles to change," Jenkins included the following: the belief that everything we do is right per se, especially in determining strategy; the attendant belief that when something fails it was not because of any inherent error of strategy or tactics but because "not enough" troops or materiel was applied; the myth that no organizational changes are possible in the midst of war, and that even if they were possible the Vietnam war is an "aberration" anyway, "an exotic interlude between wars that really count," and therefore doesn't warrant any "radical" institutional changes; the orthodox dependence on high body counts as the basis for good efficiency reports and for promotion; the illogicality of the twelve-month tour of duty for American military men in Vietnam, since it is far too short for anyone to learn enough to be effective; and, finally, the lack of a single, over-all American command among the services in Saigon, Hawaii, and Washington.

Jenkins concluded that because of the way we have imposed our doctrine, organization, and technology on the South Vietnamese, "we may have rendered them incapable of successfully continuing the war after our withdrawal," and the Laotian operation appears to bear this conclusion out. A number of American officers here seem to consider the ideas for a "people's war" that Jenkins is now gathering from among growing numbers of disgruntled South Vietnamese as nothing short of "Communistic." Jenkins, however, has said that he derives some hopes from the South Vietnamese reactions he has encountered. For example, the mounting objections to the American way of fighting the war have led more and more South Vietnamese officers to advocate doing away with the whole concept of divisions and corps—especially since it was widely held that three of the four corps commanders have proved themselves to be either incompetent or inadequate, the only really good one in the country being Ngo Quang Truong, who commands in the Delta. The officers advocate that the large, inwardly units be replaced by smaller ARVN mobile brigades, made up of troops serving on a volunteer basis (and better paid than the regulars are now) who would operate in the forefront as a strike force. The territorial forces, of drafted youths serving a hitch of from two to five years (for less pay than the volunteers), would spend part of their service helping to build roads and working in the fields at harvesttime. Finally—what is perhaps most important—there would be a new form of the People's Self Defense Forces, which are supposed to defend local hamlets but are increasingly being incorporated into the national military bureaucracy. What Jenkins and the South Vietnamese he has spoken with envisage is a P.S.D.F. whose members would be paid subsistence wages (they get nothing now) and who not only would take their turns at defending their hamlets but would develop plots of land assigned to them; after three years one-third of these forces would become full-time farmers and would be replaced by new men. Thus, paramilitary units would become pro-

duction units, and a constant supply of full-time farmers would still be available for defense duties in times of crisis. All this is very close to the program that the North Vietnamese have successfully carried out for many years, and that fact may account for the shocked reaction of some of the American generals whom Jenkins has approached. "Why, what you're talking about, damn it, is building communes!" one of them boomed.

Statistical-minded, as always, the Americans have just come up with still another new set of standards for the so-called Hamlet Evaluation System, whereby each hamlet in the country is rated from A, or a hundred per cent secure, to E, or contested, on the basis of security and development, and V designates a hamlet still run by the Vietcong. The new system is based more on the whereabouts and safety of certain key individuals, notably hamlet chiefs and members of village councils, than on general, area-wide security. In Long Khanh Province, for example, where there has been an increase in terrorism, and where some main-force Communist units are operating from sparsely populated jungle areas they have long controlled, the H.E.S. rating has recently dropped from eighty-nine per cent to sixty-eight. The drop appears to indicate primarily the foolishness of trying to determine Communist strength by playing with numbers.

I reached this conclusion during a recent trip I took through four provinces near Saigon: Long An, just to the south, which used to be one of the worst from the standpoint of security and is now said to be much improved, and three others, to the west—Phuoc Tuy, Binh Tuy, and Long Khanh, which are still rated relatively low on the H.E.S. scale. In Long An, which has been in a shaky condition for years, farmers are still not taking sides, realizing that when the Americans leave Vietnam the government will probably have a harder time holding its own, but neither are they responding to the blandishments of the Communists as much as they were a year ago. When the local guerrillas come to a peasant's home for food, for instance, they are given a meal but are asked not to come back again. This response reflects a cautious belief on the farmers' part that the Communists are growing somewhat weaker under government pressure, even though abductions and assassinations and other forms of terrorism are continuing, but it does not necessarily reflect belief in the government or increasing support for President Thieu. Here, as elsewhere, the Communists are stepping up their process of "going legal"—that is, ordering their cadres to blend themselves into the government landscape and live openly as ordinary citizens of the villages and towns while reporting, on a "one-man-cell" basis, to unknown contacts through mail drops and waiting for new orders.

Another of the recent innovations—they never cease—is known as Dong Khol, translatable as "Start Together," whose main purpose is to produce some cohesion among small, local units directly involved in pacification. The impetus for the new program came from the chief of Quang Tin Province, in the northern part of the country—an ingenious man who, when his opposite number, the underground Communist province chief, was killed, late last year, gave him a special burial in a local pagoda, went to the funeral himself, and in general, "took him back into the fold." Leaflets describing the ceremony were subsequently distributed, and a lot of Communists were won over, or at least softened up. In any event, the Dong Khol concept, which often makes use of such imaginative tactics, has not yet inspired any noticeable improvement in the much debated Phoenix program for uprooting the Vietcong infrastructure, which includes an estimated sixty-five thousand people. The Phoenix program is still floundering, largely because it is just another streamlined American scheme

imposed upon a Vietnamese society that is not only incapable of dealing with it but is actively hostile to it. Designed to coordinate intelligence-gathering and lead to the arrest of top Vietcong leaders, the program has simply created new jealousies and increased inefficiency among the various South Vietnamese who were expected to deal with it—particularly the local military-intelligence men at the district level. The police, under the Department of the Interior, will soon take over the primary responsibility for the Phoenix program, and, whether it works any better or not, one American has said of the shift, "This is the best thing that could happen, and the sooner we get out of the whole thing and let the Vietnamese run it the better."

Though comments like this may imply nothing more than an increasing degree of resignation on the part of Americans here nowadays, Vietnamization of this sort does seem to make sense; what it really amounts to is "de-Americanization." The chief of one province, a veteran intelligence man, has devised a method of his own for dealing with Communist agents. When he detects one, and has what he considers positive proof about, say, a financial official in a hamlet who is operating legally and pretending to be a loyal assistant to the government's hamlet chief, he will invite the man in, praise him, ask him to dinner a couple of times. This treatment frequently causes the Communists to become suspicious of their agent and to kill him. It is pure entrapment, but it is also beating the Communists at their own game. Whatever form of accommodation is finally reached in Vietnam, terror and counter-terror are bound to continue for years.

In three of the four provinces I visited, it was apparent that the Communists were still a force to be reckoned with, although at that moment their level of activity was low. Their conduct was thoroughly in accord with the now famous Resolution 9 of COSVN—the Central Office for South Vietnam, which runs the war in the South under Hanoi's aegis. This directive, issued more than a year ago, sets forth the concept of "protracted warfare," and provides one reason the Paris peace talks are getting nowhere and probably won't get anywhere—at least until after the American election in 1972. In conducting their campaigns of terror and their occasional larger strikes, the Communists are generally relying on progressively smaller structures and progressively smaller units. Ordinarily (the Kontum attack is an exception), they don't move about nowadays in groups of more than fifty. They are using more and more terrorist tactics, such as sapper attacks and booby traps, which are killing Americans and South Vietnamese alike, much to the exasperation of experts like George Jacobson, the acting head of the pacification program on the American side. "If we can figure out a way to go to the moon," Jacobson exclaims, "why the hell can't we figure out a way to detect booby traps before they blow us up!" Jacobson, one of the few Americans who believe in the concept of a "people's war," spends at least one day a week roaming around the country trying to "debureaucratize" both the American and the South Vietnamese pacification effort. His success is limited. Almost invariably, inexperienced and uninvolved Americans in the districts give him the same meaningless or patently exaggerated figures about the Phoenix program. Almost always, an American provincial or district pacification adviser will say that the strength of the territorial units is up ninety per cent or more. When Jacobson hears this, he usually snaps out just one word—"Ghosts!"—meaning that the payrolls are obviously padded and that the district or province chief is pocketing the difference.

Corruption, on a widespread basis, continues to be one of the major issues in South Vietnam, and this issue is bound

to have an effect both on the elections for a new House of Representatives in August and on the Presidential election in October. Smuggling has increased on a vast scale in the past six months, partly as a result of new import taxes imposed to obtain more revenue for the government, so that it can continue fighting the war as American aid drops off. The government's anti-fraud bureau, which is run by a handful of men who are related to or are otherwise close to some of the highest officials in the country, has been slow to move against the smugglers, but a few weeks ago two members of the House of Representatives were caught smuggling heroin and gold into the country. The fact that they happened to be pro-Thieu men suggested to some that there must have been a political tipoff. The scandal prompted one of the representatives to resign immediately, and Thieu's political opponents, in the light of the dubious success of the Laos invasion, aired the corruption issue anew.

All in all, though the Americans here refuse to admit it, Thieu's popularity has sunk to a new low. Many South Vietnamese admit it readily, but their fundamental cynicism leads them to believe that it won't make any difference—that Thieu will be reelected, because the Americans want him to be, and because the vote will be rigged anyway. Thieu is fully aware of his diminishing popularity and is doing his best to improve the situation by travelling around the country more. (It is also significant that just this week General Dang Van Quang, the head of all security services, who is a close friend of Thieu's and probably the second most powerful man in the country, saw fit to take a trip to the United States. Although American officials deny it, some South Vietnamese, including members of Quang's own staff, have said that the main reason for the trip is Thieu's desire to get a sounding on American public opinion after the Laotian invasion and an appraisal of how much personal support he can expect from President Nixon.) Even before the invasion of Laos, I have learned, Thieu was severely shaken by a private poll he had ordered, which said that sixty per cent of the South Vietnamese military men questioned were against him. Earlier, a number of informal provincial samplings were conducted by the United States Information Service—an enterprise that has now led to the introduction of a bill by Senator Frank Church in the United States Congress prohibiting any government agency from engaging in any propaganda activity involving the internal affairs of another nation. Several stories in the local press to the effect that the American Embassy was supporting Thieu prompted an official statement last week from an Embassy spokesman denying that Ambassador Ellsworth Bunker or anyone else in the mission supported "any specific individual or individuals in the forthcoming election." This was issued at about the same time a resolution was co-sponsored in the Senate by Senators Adlai Stevenson III and Mike Mansfield calling for the creation of a ten-man congressional commission to make sure the United States stays out of the coming election campaigns in Vietnam. Stevenson charged that American officials were in effect supporting the reelection of Thieu and Vice-President Nguyen Cao Ky.

While many of the Americans here would still like to see Thieu and Ky run together again, the chances of this happening are increasingly remote. Ky, who told me a month and a half ago that he would run for President himself, has just informed me that he is more determined than ever to be a candidate and that he is rapidly creating a campaign team. He has obtained a growing number of pledges for political and financial support, he says. The political climate has now reached the temperature at which all the religious and political elements in the country are scurry-

ing around trying to figure out who has the best chance of winning and whom to support. It appears at the moment that there will be three principal candidates—Thieu, Ky, and retired General Duong Van Minh, the former Chief of State and the nominal leader of the 1963 coup that overthrew Diem. An agreement between Ky and Minh for concerted action against Thieu that began to be fashioned several weeks ago has become increasingly solid, and Thieu has begun to run scared—so scared, indeed, that some observers are predicting that he will withdraw from the race before October. Assuming that he doesn't withdraw, and that Ky and Minh both enter the race, the challenger whose prospects look dimmer will almost surely throw his support to the other at the last moment.

Ky told me that he is determined to defeat Thieu in an open contest, and that he has received promises of help from many people, including military men, who will in effect serve as volunteer poll watchers in an attempt to insure an honest election. Even so, both Ky and Minh will have a hard time contending with Thieu's apparatus, dominated by the province and district chiefs he has appointed, who will all do their utmost to see to it that he wins, no matter how few people vote for him. Nevertheless, given the rising public sentiment against the President, Ky or Minh conceivably could win if the election should be even reasonably fair. Just how much an American or an international commission could do in the way of preventing fraud is debatable. The official American "observers" who watched the 1967 elections here certainly saw little or nothing of what actually went on, but a more professional group of poll watchers might have greater success.

What may be more important this time is the role to be played by elements of the sort that Ky spoke of—not only Army men but local village and hamlet officials, including leaders of the Buddhists, Catholics, and the Hoa Hao and Cao Dai religious sects. An interesting curtain-raiser will be the House elections, which promise to be less of a grab-bag affair than they were in 1967. At least two solid blocs of candidates will be running for election, one dominated by the Farmer-Workers Party, which is headed by Tran Quoc Buu, a labor leader who is not running himself, and the other by former Senator Tran Van Don's National Salvation Front Party. Don is still trying without much success to make peace among Minh, Thieu, and Ky, but in a showdown he will probably support Ky. If the House elections are orderly and fair, and if there is enough of a ground swell of public opinion demanding an honest vote for the Presidency, and if social unrest over high prices, corruption, veterans' payments, and other issues does not produce uncontrollable disorder, the Presidential election just might turn out to be more honest than the cynics predict. It will be interesting to see what role the Communists take. Formally, of course, they will not participate in the voting, but I have been told that they have pledged at least half a million votes to General Minh, whom they regard as the leading peace candidate. Minh has said he is against coalition government—the same thing Thieu and Ky have said, but more outspokenly—and it is believed that if Minh should win, the Communists would simply push the peace issue without demanding a coalition government immediately, leaving themselves free to work from within to dominate or undermine his regime and thus eventually get coalition government anyway.

One high-ranking American here has attempted to justify the Laotian invasion by maintaining that it was better for Thieu and his army to fight the North Vietnamese in Laos and Cambodia than in Vietnam itself. This is not how the people in Laos and Cam-

bodia feel about it. I have just visited both countries, and found them in a state of confusion and dismay over the widening of the war. What they still want is for all Vietnamese, Northerners and Southerners, to get out.

In Vientiane, the administrative capital, I spoke with the sixty-nine-year-old Prince Souvanna Phouma, Prime Minister of Laos since 1962, who, practically alone, has kept his divided country in some semblance of unity. I saw him the morning after the South Vietnamese troops withdrew, and just after the royal capital of Luang Prabang had been hit by Communist rockets. Since he had no control over events in eastern Laos, around the Ho Chi Minh Trail area, Souvanna had mildly condemned the invasion when it began, and he expressed to me satisfaction that it was now over, although he admitted that it might have had "some good results." He was extremely angry about the attack on Luang Prabang, however, and regarded it as further proof that "the Communists are now engaged in total war as a result of the creation of their new Indo-China People's United Front last year." He had just been to Luang Prabang to see King Savang Vatthana, who, he said was equally angry and had decided to stay in his capital instead of coming to Vientiane to take part in Army Day celebrations, as he had originally planned.

"The attack will serve to strengthen the unity of the Lao people," Souvanna told me. He went on to say that it would do little to increase the chances of peace between him and the Neo Lao Hak Xat, which is the Communist political front of the Pathet Lao and is headed by his half brother Prince Souphanouvong. "Hanoi wants to continue the war," Souvanna said. "I will continue to try to negotiate and will go anywhere to talk, but not under the impossible conditions imposed by the Pathet Lao, such as their demand that we stop bombing northern Laos, which is the only way we can counterbalance their attacks against us." Many of the foreign diplomats in Vientiane, including the Americans, had been hoping that the end of the invasion would bring the Communist representative of Prince Souphanouvong back to the city to resume preliminary talks to arrange a full-fledged meeting aimed at restoring the tripartite government of left-wingers, right-wingers, and neutralists that was set up under the Geneva formula of 1962. Souvanna, though his hopes were not high, agreed that "when you have a small candle, you have to keep it burning, and not blow it out."

The Russians are said to be in favor of reestablishing the 1962 coalition, but with more Communists in the Cabinet than there were then. As for the Chinese Communists, there are signs that they are not altogether pleased about Hanoi's apparent plan to push ahead in Laos and take over the country by force. Peking wants to maintain its position in the northwestern part of the country, where in recent weeks it has increased the number of Chinese troops building a road from the Chinese border down through Laos toward the Mekong River almost to the border of Thailand. It therefore seems significant that Premier Chou En-lai, who visited Hanoi shortly after the Trail attack began, took the occasion to make public mention for the first time of a five-point formula that the Neo Lao Hak Xat had set as the basis of its negotiations with Souvanna. The Chinese realize that the Lao Communists want to break away from North Vietnamese domination (more than a hundred Pathet Lao fled from the North Vietnamese in the Bolovens Plateau a few days ago), and also that the Neo Lao Hak Xat seeks the support of the Russians in establishing a new coalition government, with stronger Communist representation. Consequently, the Chinese are going all out to please the Lao Communist leaders—even

entertaining them in China. And in order to keep a tight watch on Souvanna, Peking recently sent a new chargé d'affaires to Vientiane.

The military situation is more precarious for the Royal Lao government today than it has been at any time since 1964, and the dangers have grown especially acute in the past month. Before I left Laos, Luang Prabang was shelled for the second time and a number of planes were destroyed on its airfield. The Communists pressed to within two or three miles of the city on all sides before government reinforcements were rushed to the scene to push them back. Most observers believe that because of the patriotic importance of the King—it is to him rather than to Souvanna that the North Vietnamese and the Chinese diplomats are accredited—the Communists won't try to seize the royal capital itself. But they are obviously engaging in some strong psychological warfare, and appear determined to advance as far as they can through Laos before the dry season ends, and to maintain their new positions during the rainy season. With C.I.A. support, government troops are still holding the bases of Long Cheng and Sam Thong, along the eastern rim of the Plaine des Jarres, which is held by the North Vietnamese. (Hanoi denies that it has any troops of its own in Laos, but there are actually about fifty thousand of them.) The bases are being subjected to almost daily shelling and to some ground probes by sappers from two North Vietnamese divisions and from what was described to me by one Laotian defense official as an additional "suicide regiment." If both bases should fall, and the troops of the Meo leader General Vang Pao should be further weakened by casualties, the Communists' conquest of the north would be virtually complete; they would then control the eastern half of the country from the Pathet Lao capital of Sam Neua, in the north, all the way down to the Bolovens Plateau. Even now, the Pathet Lao and their North Vietnamese cadres dominate some pockets in the southwest as well.

Originally, it had been reported that Royal Lao government troops, aided by some Thai "volunteers," were supposed to push toward the Trail area from the west at the time of the invasion and take the towns of Muong Phalane and Muong Phine, near Tchepone, as part of a pincers movement designed to prevent the North Vietnamese from using alternate trails southward. However, this action was never seriously contemplated, despite the urging of the right-wing generals in Vientiane, because, among other reasons, the government forces were simply too weak. Instead, some guerrilla probes were conducted, but the Communists repulsed most of them. The increased military activity in the northern part of the country has dampened earlier talk that the rightwingers would make a move to topple Souvanna, who remains more or less the indispensable man among the non-Communist factions. Certain rightwingers would undoubtedly like to bring Phoumi Nosavan, the former strong man of Laos, back from exile in Thailand. There was a report of a coup a few days after I left, but it turned out to be only a struggle within the right wing, which is itself divided. Souvanna has agreed to reshuffle his Cabinet in May, and members of the right wing will surely try to persuade him to let go of some seats he is still holding for the Communists, in the event that some agreement can be worked out for their return. Souvanna told me he would refuse to do this.

The right-wingers, divided though they are, are fully aware of the Communists' new intention of grabbing not only as much land as they can in Laos this season but also of bringing more people into line—through terrorism and abductions, if necessary. They are terrorizing the refugees in government camps, undoubtedly to deter others from

fleeing Communist areas, and in their drive westward this season they have abducted villagers to work on the Trail and have even been building new villages and roads close to the Trail, colonizing these remote areas with mixed groups of Lao and North Vietnamese. The colonization program is an example of the struggle for manpower now going on in Laos, which has a population of about three million. The government is having trouble augmenting its still fairly incompetent regular army of sixty thousand; General Vang Pao has only about ten thousand men, following some severe losses in the last year. For this reason, Souvanna has somewhat reluctantly accepted Thai "volunteers" in addition to one regular Thai artillery battalion.

Recently, some young Lao who were taken north four and five years ago, at the age of fourteen, and trained in Hanoi have been returned to proselyte other Lao. Further, in what has been a remarkable job of synchronizing the radio propaganda from Peking, Hanoi, and Sam Neua, the Pathet Lao have been given all the credit for "repulsing" the South Vietnamese invasion of Laos. The increase in these political efforts removes any doubt about the firmness of Hanoi's determination to remain in Laos. All in all, the country is in a shaky condition, and, as one European ambassador put it to me, "Laos has proved itself shockproof by now, but it's not waterproof and one of these days it may just sink into the morass of Indo-China and disappear."

Apart from the relatively brief action within and around the Ho Chi Minh Trail complex, the war in Laos has remained more or less separate, in strategic if not in ideological terms, from the war in Vietnam. The war in Cambodia, on the other hand, has been very closely related to the Vietnamese conflict for the past year. East of the Mekong, South Vietnamese troops are ostensibly helping the Cambodians but are primarily protecting their own flanks in South Vietnam. In the former North Vietnamese sanctuary areas, a battle is now being waged between the South Vietnamese and the North Vietnamese in which the former are trying to keep the latter from reestablishing the sanctuary areas and supply lines into South Vietnam. Over the past two months the North Vietnamese are said to have suffered fifty-three hundred fatalities, largely because of American airpower, and the South Vietnamese only five hundred.

To the west of the Mekong, the South Vietnamese are less directly involved, and this phase of the war is rapidly developing into a struggle for Cambodia itself. With the exception of the area around Angkor Wat, where the North Vietnamese have entrenched themselves, the struggle increasingly involves native Cambodian Communists and the forces of the new Republic. The Communists, both Cambodians and North Vietnamese, naturally seek the overthrow of the Republic headed by Prime Minister Lon Nol, who got back this week from Hawaii, where he had been recuperating from a stroke he suffered two months ago. But the Cambodians, even more than the Lao, have no love for Vietnamese of any political coloration, and it is perfectly possible that had they been left to themselves the Cambodians might already have reached some form of internal accommodation. In fact, last February, a number of Khmer Communists met with representatives of the Phnom Penh government in the western province of Pursat, bordering on Thailand and the Gulf of Siam. Several sessions were held in a jungle clearing. No one knows whether any progress was made, however, because after an air attack by Cambodian pilots, flying T-28 bombers that the Thais had lent them to destroy a nearby Communist camp, all five government representatives were killed. Whether the attack was an accident or was

ordered by someone in Phnom Penh who knew about the meeting and didn't want it to succeed has been the subject of much speculation.

In any event, the attack served to emphasize the confusion that exists in Cambodia today. Besides some forty thousand North Vietnamese in the country, and some Vietcong, there are perhaps ten thousand Khmer Rouge, who cooperate with the North Vietnamese and are partly dependent on them for arms and ammunition (they give the North Vietnamese rice in return) but who are becoming increasingly restive and critical of the conditions the alliance imposes on them. The North Vietnamese appear to be concentrating more and more on developing their own Cambodian elements, and, especially in the southern part of the country, are training recruited or impressed Cambodians in scores of jungle camps. There is also a small remnant of anti-government forces still loyal to Prince Norodom Sihanouk, who was overthrown in March, 1970, but they don't amount to much. Sihanouk, who is in Peking, nevertheless keeps referring to them as the nucleus of his new revolutionary government. While Peking permits the Prince to exhort his "followers" over Radio Peking, the Chinese Communists apparently regard him as a mere puppet, and continue to prepare their own team of Sino-Khmer leaders, trained in Peking—or, in earlier days, in Moscow—to take over Cambodia when the time comes.

A year ago, when the South Vietnamese and American troops made their original attack on the sanctuaries, the North Vietnamese established new base areas west of the Mekong and in the northern part of the country, below Laos. Since they then still had enough supplies on hand, they conducted a wide-ranging campaign to consolidate their hold on at least half the country and to capture some cities. In the past few months, perhaps because they now want to husband their supplies of ammunition pending the arrival of more from the north, they have shifted their tactics and—except for engaging in a few big battles with South Vietnamese forces, mostly around Kompong Cham and the Chup-plantation area north of Phnom Penh—have concentrated on ambushing Republic troops and on cutting a number of main roads. They have had considerable success at this, but less success at stopping river traffic on the Mekong from Saigon to Phnom Penh. During the past two months, at least half a dozen protected convoys carrying oil and other supplies have reached the capital despite attacks en route from the shore.

The government's army, of some two hundred thousand men, is in the process of being pruned to a somewhat smaller and more effective force. The troops are still being trained mostly in Vietnam, but their effectiveness is not improving fast enough to satisfy the Americans. There are fifteen United States military attachés currently stationed in Phnom Penh, along with sixteen representatives of the new Military Equipment Delivery Teams. Fifty additional M.E.D.T. representatives stay in Vietnam and take turns serving in Cambodia. These men are not supposed to advise the Cambodians but simply to supervise the use of equipment—obviously a narrow line to draw.

At the moment, an effort is being made in Washington and Saigon to bring out another fifty M.E.D.T. men. This is being strongly opposed by a handful of Americans in Cambodia—notably by Jonathan Ladd, a retired Special Forces colonel with long experience in Vietnam, who has the title of political-military counselor. Ladd feels that we are starting to make the same mistakes in Cambodia that we have been making for years in Vietnam. He says that the Cambodian Army is now being turned into the same sort of conventional force we created

in Vietnam, and he is vigorously opposing a plan formulated by some military men in Saigon to send Cambodians to the United States for training at conventional war schools, such as Fort Leavenworth and Fort Benning. "The Cambodians have to clean up their own back yard first, and they're not going to learn how to do that in America," Ladd says. "We have to accept them for what they are rather than what they ought to be, and one thing they're not going to do is march through Belgium."

The number of personnel at the American Embassy in Phnom Penh has grown in the past year from a dozen, including secretaries, to just under a hundred. Emory C. Swank, an able ambassador with experience in Laos, is trying to adhere to President Nixon's policy of "keeping the profile low," but there are difficulties about doing this when the military-aid and economic-aid programs together total two hundred and fifty-five million dollars. The Cambodians naturally welcome the American aid, and very little remains of the anti-American feeling that Sihanouk engendered. They are proud of having survived over the past year, marked, as it was, by an expansion of the war following Sihanouk's downfall, but they also feel a deep uncertainty and discontent, which is most often expressed in criticism of nepotism, corruption, and the generally slow rate of progress in the fighting. Two weeks ago, Acting Prime Minister Sisowath Sirik Matak called for a "popular war" to combat the Communists in the countryside. This will include a small and poorly planned pacification program, mostly involving the distribution of medicines and pamphlets and some guns to villagers, on what neutral observers regard as far too lax a basis.

The uncertainty and discontent have surely been aggravated by Lon Nol's illness and temporary absence from the scene. Sirik Matak, despite his demonstrated administrative abilities—among other things, he has allowed the various generals in the military regions to run their own campaigns without the interference from Phnom Penh that Lon Nol kept imposing—is not a popular leader. Père Lon Nol, as he is often referred to, remains the consensus figure—the father who took over the guardianship of Sihanouk's "children," as the Prince was so fond of calling his people. During Lon Nol's absence, there was a flurry of coup rumors in Phnom Penh, mostly involving alleged efforts to restore the monarchy, but the diplomatic community is virtually unanimous in stating that there was little substance to these rumblings. However, considerable doubt exists about what will happen now that Lon Nol is taking over again. The question everyone is asking is whether he will be able to do his job effectively. He has made it clear that he cannot resume his eighteen-hour-a-day pace, but the degree to which he will allow Sirik Matak and others to share the burdens of leadership is not yet known. A fundamental Cambodian quality that diplomats in Phnom Penh describe as "immobility" or "the phlegmatic approach" continues to hamper progress in most areas of governmental concern, especially the economy, which is just barely holding its own as prices rise slowly and the riel—the Cambodian monetary unit—brings half the official rate on the black market. The problems include a lack of organization, too many overlapping ministries, and a lot of dead wood left over from the Sihanouk days. "There has been a loss of *elan*, of political enthusiasm, in the last few months," one Western ambassador says. "The Cambodians have been hurt militarily, and Lon Nol's illness was a real psychological blow. Now we'll just have to see what happens." Like other military observers in Cambodia, Jonathan Ladd believes that the Cambodians can survive as long as the North Vietnamese don't make that country their primary target. The signs

indicate that South Vietnam is still Target No. 1, but more will be known about that when the next dry season starts.

However one gauges the results of the recent military and political events in Laos, Cambodia, and South Vietnam, the biggest factor is their collective impact on North Vietnam, where new elections just took place, on April 11th, the fourth legislature of the National Assembly. These are the first such elections since 1964, and, important as they are in their own right, they may be even more important in presaging a full Party congress later this year or early next year. The last such congress was called in 1960. Though the election results are sure to be routine when they are announced—the official Fatherland Front chose five hundred and twenty-two out of the five hundred and twenty-nine candidates to run for four hundred and twenty seats—the new Assembly, which meets in June, is likely to take some important political steps, including making changes in the government. It seems likely that some younger men will be added to the Politburo, most of whose members are in their late sixties or older. There is also a possibility that North Vietnam may acquire a new President, for Ton Duc Thang, who replaced the late Ho Chi Minh, is in his eighties. Conceivably, he could voluntarily step down and be given some honorific post, in which case, experts here speculate, his place might be taken by Vice-President Nguyen Luong Bang, who played a significant role in Ho's efforts to maintain a precarious balance between Moscow and Peking. Or Bang might become the first of two Vice-Presidents with special duties.

Even if the new elections consolidate the position of Truong Chinh, the ailing chairman of the Standing Committee of the Assembly, who is generally regarded as the strongest pro-Peking man in the Politburo, no one here believes that he is prepared to challenge the "first-among-equals" position of Le Duan, the first secretary of the Lao Dong (Workers') Party. There are some differences within the Politburo over the emphasis that should be accorded domestic problems vs. the prosecution of the war, but the unity of the group remains basically firm. The policy is one of flexibility—a policy that was set forth in an important speech delivered a few months ago by General Giap and was further stressed in speeches made by Le Duan, during a trip to Peking and then to Moscow, where he was given the signal honor of being the first speaker at the Soviet Party Congress. Duan, Chinh, and Prime Minister Pham Van Dong are still the top three men in the Politburo. Many people now believe the fourth-most-important man to be Pham Hung, who runs the war in South Vietnam and spends most of his time there. Giap and Le Duc Tho, a theoretician, who is the liaison man for the Paris talks, are next in line.

While the Laotian and Cambodian attacks hurt the North Vietnamese, the mood in Hanoi, according to observers who have recently returned from there, is one of tough-minded confidence. For the first time in two years or so, articles propounding the official line in North Vietnamese publications are emphasizing the need to press on to military victory in Indo-China, and, at least for the moment, the stress on diplomatic offensives, in Paris or elsewhere, has been dropped. The threats to invade the North voiced by President Thieu and other South Vietnamese—and backed by President Nixon and various Administration spokesmen at least to the extent of not ruling out such a possibility—are regarded here by almost all experienced observers as psychological-warfare maneuvers. Since the South Vietnamese have suffered severe losses, and since they have their hands full right here as the American step up their troop withdrawals, they are certainly spread too thin to plan any further bold

offensives, though they could make commando raids.

The invasion threats have backfired in that they have helped the North Vietnamese leaders to rally the population to increase its military effort and to stiffen the economy for the imminent "total victory" that they claim lies ahead. In an effort to obtain hard currency, the North Vietnamese are exporting all the goods they can spare—even rice and coal. One reason they need hard currency is that they are buying necessary mining and other machinery and small mechanical plows from Japan, partly because the equipment obtained from Russia and China has been difficult to maintain. Prosecuting the war throughout Indo-China has certainly made heavy financial demands. "Legalizing" their cadres in South Vietnam, for example, costs a great deal of money, and, aside from the needs of individual cadres, Hanoi has increased what is known as its "shadow supply system," whereby its agents secretly buy into Western firms in South Vietnam and elsewhere. It also costs a lot to finance the Provisional Revolutionary Government in South Vietnam—the successor to the National Liberation Front—especially now that the P.R.G. is recognized by about a score of nations and maintains delegations abroad.

In their elections, the North Vietnamese decided to eliminate eighty-nine seats that had been accorded to "Southern delegates" in 1946—a decision that has given rise to much speculation here in Saigon. The step was probably taken simply to accord the P.R.G. status as a "government" in its own right, and thus enhance its position throughout the world. It has been suggested that, for propaganda purposes, and because the talks in Paris are getting nowhere, the Hanoi delegation may leave Paris, at least temporarily, and let the P.R.G. deal directly with the Saigon government. This would embarrass both Washington and Saigon, but in the long run it might lead to two sides within South Vietnam itself to hold some serious talks, and lead Washington and Hanoi to use their own channels to settle the matter of prisoners and troop withdrawals. In any event, by holding their elections now, ahead of those in South Vietnam, the North Vietnamese have mounted a political offensive at a time when the diplomatic front is momentarily quiet. Taken in conjunction with the negative effects of the Laotian invasion—especially its failure to spur negotiations—political events both in the North and in the South between now and the end of the year are apt to be more important than military events. The fighting will continue, as it seems to continue endlessly, but the real contest for power is now a political one. Unfortunately, the hard-liners in Hanoi are far more aware of this underlying situation than are the political leaders in the South, who seem to offer their followers only further doubts and uncertainties. That is why the Northerners seem so sure of ultimate victory, and why so many Southerners are secretly making their own plans for ultimate accommodation. Such an accommodation increasingly implies a willingness to get along somehow with the Communists in the South, while accepting the fact that North and South Vietnam are likely to remain separate countries indefinitely.

[From the Washington Star, Apr. 10, 1971]

WE MUST NOT MEDDLE IN VIETNAM'S ELECTION

(By Carl T. Rowan)

Most of the headlines have gone to the President's speech and to the lingering debate over Lt. William Calley's conviction, but Americans ought to ponder seriously a proposal on Vietnam put forth by Sen. Adlai E. Stevenson III.

Stevenson notes with perception that when and how the United States gets out of

Indochina will be greatly influenced by the South Vietnamese elections of a new House of Representatives in August and a president and vice president in October.

The freshman Democratic senator from Illinois wants Congress to set up safeguards to ensure that South Vietnamese voters have a free choice and that the vast U.S. military presence and covert U.S. dollars are not used to force reelection of President Nguyen Van Thieu and Vice President Nguyen Cao Ky.

Stevenson believes that the war will be over sooner, and American prisoners will be home earlier, if the South Vietnamese have a chance to elect people who, while not associated with Hanoi or the Viet Cong, "are committed to peace and reconciliation . . . and to a negotiated settlement of the war." He wants a commission of five senators and five congressmen sent to South Vietnam to ensure that U.S. actions are not the sort that will deny the people a free choice. It should be made clear that Stevenson is a dove who wants the U.S. out of Indochina by a fixed date. But even hawks dare not toss aside his arguments.

Stevenson believes that the Thieu-Ky regime "is committed to prolonging the war." He thinks the Nixon administration is striving "not to end the war, but to continue it as a proxy war between Asians."

Lost sight of, the senator argues, is our initial goal of securing for the South Vietnamese people "the right to choose their own future."

Stevenson points out, correctly, that the vast American presence gives Thieu and Ky an enormous advantage over all other potential candidates. He points out that the U.S. mission is already doing public opinion surveys for Thieu and Ky in all 44 provinces of South Vietnam, and that the broadcasting and other resources of the U.S. Information Agency have been turned to glorifying the Thieu-Ky government.

Stevenson says that in asking Congress to create a watchdog commission, he seeks "not to defeat Thieu and Ky, but to neutralize the political advantage which our military involvement affords them" and to insure that this advantage is not augmented by actions of U.S. officials during the campaign.

Stevenson takes the remarkably reasonable position that he "would not expect the government of South Vietnam to permit the candidacy or the election" of men representing either Hanoi or the Vietcong.

Still, do not expect his proposal to be embraced with enthusiasm by the administration. Influencing elections, surreptitiously, is one of the oldest and most successful tactics on both sides of the Cold War.

Influencing the upcoming elections in South Vietnam is surely one way the United States hope to establish future insurance against a Communist takeover, a guarantee that even President Nixon seems to have decided we can't provide militarily.

But we can all be sure that as long as our activities are such that the elections can be dismissed as frauds, and the South Vietnamese rulers can be viewed even by millions of Americans as hand-picked lackeys of Washington, there will not be much movement toward peace.

The commission Stevenson proposes will never stop all the electoral hanky-panky; it will never wipe out all the suspicion. But it is vital that we do everything reasonable to make it clear to the world that we remain committed to "self-determination," and that we are not only permitting, but encouraging, that process to work in South Vietnam.

THE UNITED STATES AND FREE ELECTIONS

(By Frank Mankiewicz and Tom Braden)

WASHINGTON.—There was a fatal continuing confusion of identity in President Nixon's address to the nation last week and

It has not gone unnoticed in the Senate. It consists of identifying the people of South Vietnam with their government.

Mr. Nixon's speech was full of references to our obligation to the South Vietnamese. We must leave them strong, he said, and we must leave the war in a way that "gives the South Vietnamese a reasonable chance to survive as a free people."

But all of these obligations, these commitments, are not to the people of Vietnam—of whom we have killed more than 300,000 by bombing and artillery—but to the government we installed in Saigon and which remains there only if we maintain troops in sufficient numbers. It is a regime, said Sen. Adlai Stevenson (D-Ill.), "which is committed to prolonging the war."

That is why Stevenson's resolution for a commission to look at the forthcoming Vietnamese elections, introduced two days before the President's report, is such a significant event. It marks almost the first formal step in the Senate toward really offering the South Vietnamese the right to self-determination. And that, as Stevenson pointed out, was the original goal of the war, "still unfulfilled, and perhaps forgotten."

The Stevenson proposal, a relatively simple one, relates only to the elections in Vietnam later this year. Those elections—for a House of Representatives in August and for a President in October—will be held under the provisions of a "constitution" drafted for Saigon by the White House in 1967. As of now, there is hardly any doubt in Vietnam that President Thieu would be defeated in a free and fair election. This judgment is the unanimous one of a number of Americans who have worked closely with the pacification effort for the past few years and of Vietnamese politicians and journalists.

But they are also unanimous in agreement that Thieu will win the October election, precisely because it will be neither free nor fair unless the United States acts, quickly and decisively, to counter the widespread opinion in Vietnam that we are actively supporting Thieu's campaign. Sad to relate, that opinion is based on the fact that—at all levels of the U.S. Embassy in Saigon—we are. That is why Stevenson's proposal is so timely. He proposes to create a commission of five members each from the House and the Senate, equip them with a Vietnamese-speaking staff of Americans who know the country and charge that commission with the responsibility of seeing that the United States' effort in Vietnam remains wholly neutral in the election.

It will be a difficult task, even if Stevenson's proposal is adopted. In 1967, a commission named by Lyndon Johnson went to Vietnam a few days before the election and returned to say that all was free and fair. It probably was, in the sense that Soviet elections are free and fair—the government names the candidates, decides who may vote and supervises the polling places.

In 1967, with U.S. assistance, Gen. Thieu ruled out candidates who might have beat him, induced others to run to split the civilian vote, issued the armed services cards to permit double voting and denied transportation to his opponents. The army then supervised the voting. Thieu's membership in the Free World is now attested by his having won a plurality—34% of the vote—in that election. But with that kind of help, Stokely Carmichael could have been elected governor of South Carolina.

Ambassador Ellsworth Bunker has already moved to support Thieu's re-election campaign. Sen. Stevenson, who really believes that a United States goal is to let the South Vietnamese decide their own future, wants Congress to affirm that goal, publicly, and to get that message to our allies, loud and clear.

[From Ripon Forum, May 1971]

NIXON'S NEW SEASON

(By Howard Gillette, Jr.)

The Washington (baseball) Senators opened a new season without the benefit of the President, the Vice President, or even the President's son-in-law this year. In a move to dramatize the plight of American POW's held in North Vietnam, the Administration called on Army M Sgt. Daniel Pitzer to throw out the first ball. A captive of the Vietcong for four years before his release in 1967, Pitzer threw two perfect strikes to start the hapless Senators on their way to their first opening-day victory in eight years. The President, who not only follows the baseball Senators, but loves to interpret the world through sports analogy might well have drawn a lesson from opening day.

The President has had several bad seasons of his own with the Senators on Capitol Hill. The once highly disciplined team which carried out executive orders at will has, in the last few years, practically ignored the wishes of their own manager, particularly on the strategy for Vietnam. So far they have done everything possible to make life difficult for their leader except refuse to play. Shortly before making his troop withdrawal announcement April 7, the President was given what should have been a welcome hint from one of his most loyal team players over the years, Republican Jack Miller of Iowa.

Senator Miller suggested that the United States agree to the complete withdrawal of all American military from Vietnam within twelve months following completion of the exchange of prisoners of war and accounting of men missing in action. The proposal differed only slightly with the President's position by announcing in advance a commitment to total withdrawal within a fixed time. Previously the President had suggested a willingness to negotiate a fixed date only after the release of American prisoners.

Miller's proposal might well have been seized upon to satisfy critics on the President's first team including the veteran Aiken and rookies like Lowell Weicker that the Administration go with something new for the new season. If accepted by the President it would surely have dampened the "final deadline faction" within Senate ranks. It would have given new impetus to the Paris talks, testing in particular Vance Hartke's claim that the opposition could accept exchange of prisoners when tied to "an acceptable deadline."

But the President insisted on sticking to his own game plan, leaving himself open to the inevitable criticism of a team whose record fails to meet public expectation. Most important, by failing to take any new initiative on POW's through the Paris talks, he leaves them only the symbolic value they had on opening day.

One problem Republicans now have in the Senate debate on war policy is rising above partisanship when it appears increasing opposition to Administration policy among Democrats may serve partisan purposes as well. Thus when Senator Adlai Stevenson proposed to establish an elections commission designed to insure free elections this fall in South Vietnam, Republican leader Hugh Scott, having just led a counterattack on Democratic critics of the Administration, felt compelled to reply in partisan terms. Such a commission, he said, would provide unwarranted interference in the South Vietnamese electoral process. Unfortunately the point of the Stevenson proposal, as it came from four young former State Department employees in South Vietnam, was precisely that the U.S. is already interfering unfairly on the side of the incumbent government in violation of the principle of free elections.

According to members of the Vietnam Elections Project some monitoring agent is necessary to prevent total American identification with the incumbent regime in face of U.S. toleration of the harassment of political candidates and restriction of free press by that regime. In 1967 President Johnson appointed a commission to oversee the elections, primarily to protect himself from critics of the electoral process. Unlike that commission—described since as too little, too late—Stevenson's plan would send staff to Vietnam well in advance of the elections, including Vietnamese-speaking representatives who could establish a presence independent of any particular political faction in the country.

Far from being a partisan matter, the Stevenson proposal should attract support from both parties, but particularly from Republicans who should have an interest in refuting charges that this Administration is tied to President Thieu more than to the general principle of self-determination.

DEATH OF ELMO ROPER

Mr. CASE, Mr. President, purely on a personal basis and in no way as an official announcement, I cannot refrain from expressing to my colleagues my deep, personal grief in learning this morning of the death of a great American, Elmo Roper.

I shall not presume to speak as though I were delivering a eulogy. But I could not let this day go by without indicating that, in my judgment, without great spirits like Elmo Roper, this country and humanity could scarcely function.

Mr. President, there will be a more appropriate time better to express our views on Elmo Roper and what his loss means to us, but just now I wish to express my personal sympathy to his family at this hour of their grief. My own is so great that I want to share it with my colleagues.

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

Mr. CASE, I yield.

Mr. JAVITS, Mr. President, I would like to identify myself with the remarks of the Senator from New Jersey. I knew Elmo Roper very well. I know how close the Senator from New Jersey was to him.

He helped me in my first campaign. That was probably the first time that any survey was taken of any district to see what was troubling the district.

I have the fondest memory of Elmo Roper. I join my colleague in expressing our condolences and sorrow to his family.

The PRESIDENT pro tempore. Is there further morning business?

NOTICE OF INTENTION TO OFFER RESOLUTION CONCERNING GIRL PAGES

Mr. JAVITS, Mr. President, the Senator from Illinois (Mr. PERCY), the Senator from Oklahoma (Mr. HARRIS), and I have raised the so-called girl-page issue.

The Senate is in session today, which we did not expect, and in deference to the present situation on the floor, about which the Senator from Vermont has

acquainted me, I shall not introduce the resolution today, but I will do so on Monday.

I understand that a request for immediate consideration of the resolution will be objected to, and that it will then go over until Tuesday. I hope that the leadership will be advised, so that we may have a reasonable time in which to discuss the matter.

In order to give complete advance notice of my intention, I ask unanimous consent that the text of the proposed resolution be printed in the RECORD.

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

S. RES. —

Resolution to permit the appointment of Senate pages without discrimination on account of sex

Resolved, That no individual shall be denied appointment as a page of the Senate solely on the basis of sex.

AMTRAK

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MAGNUSON. Mr. President, I am about 5 minutes late. We had a little trouble getting down Constitution Avenue. What is the status of the bill introduced by the Senator from Montana?

The PRESIDENT pro tempore. The bill is on the calendar. It will come up Monday.

Mr. MAGNUSON. What is the status of the nominations to the board? I filed on behalf of the Commerce Committee the nominations with a favorable recommendation of the committee that they be renominated. They are on the Executive Calendar.

The PRESIDENT pro tempore. They could be voted on in executive session.

Mr. MAGNUSON. But the Senate is not in executive session at this time.

The PRESIDENT pro tempore. The Senate is not yet in executive session. It is in legislative session.

Mr. MAGNUSON. Mr. President, if I may be permitted to make a brief statement, I thoroughly agree with the Senator from Montana, the Senator from Ohio, and others who are concerned about this matter.

The Senator from Washington was not very happy about what they had done in our area.

I want to say that in the beginning they came out with a preliminary report in which there would be absolutely no rail service from Chicago to the Pacific Northwest. They changed that to put in one route from Chicago via Spokane. When they got to Spokane, there was always the Great Northern and the N.P. One went the north route and the other went the south route.

They decided that the basic system involved the elimination of the north route. I know that they have to do certain things consistent with their financial capabilities. However, I am not at all pleased with some other things they did, and particularly with respect to the route between Seattle and Vancouver, British Columbia, which was a passen-

ger route that, I think, with the right kind of equipment could make money. They did not want to do anything about that.

The people involved called me and I called them. They told me that this was an international matter and they did not want to take it up. They eliminated the route up to Montreal. There is no international complication involved in running a train from Seattle to Vancouver. All they needed to do was to make a telephone call.

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

Mr. BYRD of West Virginia. Mr. President, if the Presiding Officer would recognize me, I will yield my 3 minutes to the Senator from Washington.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I yield my 3 minutes to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I think the best way to handle this matter is to have a second go-around.

I do not want to disturb the original routes. Neither do any of the other members of the committee. We want to add to them. The Senator from Vermont knows that we discussed the matter at some length in the committee. We wanted an opportunity to have a second go-around.

When we get to the date, Saturday night, May 1, it does not look to me as if there is any possibility for a second go-around. It will be very complicated.

There must be some way that we can work this out. There are some routes obviously that they have to abandon. We know that. However, there are not too many of them.

The complaints were entirely legitimate. I thought the simpler way to do this would be to have an extension of time.

We found that there was at least some evidence in the committee that this would cause some legal problem. Therefore, they said, "Let us go ahead with the date of May 1 in the hope we can thereafter get another go-around at the problem." The problem is that once we take the passenger line off the tracks, it will be pretty hard to get it back.

If they are going to have some legal problems, they have plenty of lawyers.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Evening Star of last night which points out that they have \$252,000 worth of lawyers today in all the firms involved.

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

HUNK TO LAWYERS: \$4 MILLION STARTING AMTRAK

(By Stephen M. Aug)

Ever wonder how much it costs to start a new business? For the new National Railroad Passenger Corp., which calls itself Amtrak, the costs are estimated at \$4 million.

Not surprisingly, a big chunk estimated at \$600,000 is budgeted for the lawyers, and a long list of lawyers they've got.

Several documents submitted to the Senate Commerce Committee yesterday show

that along with the accountants, management consultants, advertising agencies, engineering consultants—and even an airline—there are 10 law firms helping Amtrak get under way.

Included are some of the nation's most prestigious. Running through several of them is a single thread: They have members who were active politically during the Eisenhower administration.

GOP CONNECTIONS

Two of the firms have present-day Republican connections: Royall, Koegel & Wells, which has so far billed Amtrak for slightly less than \$4,000, is the law firm with which Secretary of State William P. Rogers was associated.

In addition, one of its members, Stuart Rothman, was general counsel of the National Labor Relations Board from 1959-1963. The firm is said to have helped Amtrak in connection with labor negotiations with the railroad industry.

Amtrak's lead law firm is Jones, Day, Cockley & Reavis of Cleveland, Ohio. One of its alumni is James T. Lynn, general counsel at the Department of Commerce. Jones, Day has billed Amtrak for \$106,407 for the period Jan. 1 through March 1. Jones, Day is acting as general counsel for Amtrak.

BROWNELL IN FIRM

Lord, Day & Lord, a highly regarded New York City firm, which has billed Amtrak \$24,697.89 for work from Jan. 4 to March 15, includes as one of its members Herbert Brownell Jr., U.S. attorney general under Eisenhower from 1953-57.

Hamel, Morgan, Park & Saunders, of Washington, which has billed Amtrak \$11,342.85 for Jan. 6-March 15, has two members who worked closely with Eisenhower. Edward A. McCabe was an associate special counsel and later administrative assistant to Eisenhower from 1956-61 and Henry R. McPhee was a special assistant from 1954-61.

Total billings by the 10 law firms so far are \$252,044.53.

The fact that so many of the firms have had ties with the Eisenhower administration obviously results from the influence Amtrak's board chairman, David W. Kendall, had in their selection. Kendall himself was assistant secretary of the Treasury from 1955-57 and from 1958-61 was a special counsel to Eisenhower.

LARGEST SINGLE FEE

The largest single fee budgeted by Amtrak so far, however, is for management services—\$691,000 to McKinsey & Co. The firm was originally retained by the Federal Railroad Administration to prepare preliminary information on the corporation's staffing functions.

Two accounting firms are budgeted a total of \$580,000. Arthur Andersen & Co. was selected to provide the corporation with assistance in establishing internal accounting and financial information systems and to examine cost and revenue data provided by the railroads. It will be paid \$500,000. The remaining \$80,000 is for Arthur Young & Co., which assisted the Andersen firm in examining railroad costs and revenues.

Another \$350,000—shared by two firms—is listed as the price of searching for executives for the new organization.

\$150,000 LOCATING FEE

Heldrick & Struggles is to be paid \$150,000 for its part in locating 10 key executives—plus helping to fill the post of president and chief executive. Ward Howell & Associates will get \$200,000 for primarily finding the chief executive and helping recruit 15 other lesser executives.

Other consultants include:

Louis T. Klauer & Associates, engineering firm based at Philadelphia, \$410,000, for surveying railroad cars, locomotives and terminal facilities.

American Airlines, \$138,000, to study and make recommendations on reservations, food handling and baggage handling systems.

Parsons Brinkerhoff-Gibbs & Hill, \$40,000, to perform an inspection and general evaluation of Metroliner equipment stored at the Budd Co. and not being used on the Washington-New York run.

Lippincott & Margulies, Inc., \$125,000, to devise a corporate symbol and name (it devised Amtrak), and to provide designs for car exteriors and interiors and other matters of corporate identification.

Harshe-Rotman & Druck, \$75,000, for public relations assistance.

Robert R. Mullen & Co., \$20,000, to help the directors reply to congressional inquiries.

Ted Bates Advertising, advertising. Its fee is derived from advertising it places.

Mr. MAGNUSON. Mr. President, that is beside the point. Legally, it seems to me that they could forestall this for a while and make a further review of some of these things that the Senator from Montana, the Senator from Ohio, and others are talking about. There must be a way to do it.

The committee finally decided that if we had a 6-month extension, it would not be possible to go ahead with what they have done and have a second go-around later on.

I am quite dubious as to whether we can get that done. They can put on experimental trains for 90 days, but that does not solve the question.

I voted against the resolution that was reported from the committee. We did not have a record vote. I raised my hand, as the Senator from New Hampshire will attest.

The resolution provides that they will make a study and review the matter. Based upon the report, we will have to face up to the matter of the money involved. I think we made it clear in the hearings that if we were going to have these other routes, they would have to be paid for.

THE PRESIDING OFFICER (Mr. STEVENSON). The Senator's time has expired.

Mr. METCALF. Mr. President, I ask that I be recognized.

THE PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. METCALF. Mr. President, I yield my 3 minutes to the Senator from Washington.

THE PRESIDING OFFICER. The Senator from Washington is recognized for an additional 3 minutes.

Mr. MAGNUSON. Mr. President, the committee stated the matter was still pretty fuzzy. It is questionable whether, after midnight, Saturday, tomorrow, we can ever get back into the ball game again. That is what I am talking about.

I am perfectly willing to endorse anything that the Senator from Montana and the Senator from Wyoming have done. I have said so on many occasions.

There must be some way we can do this. No one wanted to disturb the original routes. They were basic and well worked out. However, we should not close the door on any possibility of doing some of these things. We should have a southern route in Montana and in Wyoming. We should not have the shutting off of the whole Cleveland area. We should have a chance to talk about the matter.

One thing that irks me is that we set up this group and I do not know during the time they have been in existence that they have ever consulted with me about the matter and said, "This is what we are thinking. What do you think?" They have not suggested that the Commerce Committee have even a small hearing about the matter.

It all happened so abruptly. At midnight the board expires.

On behalf of the Commerce Committee I reported their nominations. They are the same people, with the exception of adding the man who will be the executive director, Roger Lewis, who is well known up here.

It seems to me that there ought to be some way that we could have some time in which to discuss this matter further and see if we cannot work out some alternatives and some compromise with a distinct understanding and this was paramount in all the hearings we had, that if we are going to add some lines, Congress is going to have the responsibility to put up the money to pay for them. But I do not think there is any particular problem there. Obviously, Mr. President, you cannot run the 348—is that the number?—but we are talking about 10 or 12 which we believe all Members of Congress jointly think are important.

I do not know how to get them back on the track if this plan becomes frozen in concrete as of tonight at 12 o'clock.

I want to be frank. I do not hold any brief for the railroads. I have been dealing with them in the committee for 25 years. The railroads would like to abandon almost every passenger line in the United States, and maybe all of them. I do not know.

They come up with figures that I sometimes doubt. I have often said that I thought they kept two sets of books. I do not know if they do or not, but sometimes the treasurers have a set of books on losses on passenger lines that are different from what the ICC gets. They have been dealing with that problem for years and years.

It seems to me there should be some reasonable way to postpone this matter until we can sit down and make some sense in this matter.

Mr. MCGEE. Mr. President, I applaud the Senator from Washington for the remarks he has just made.

I am here, in particular, to say to the Senator from Montana that we are on the right track now in attempting to get this postponement.

I want to pay tribute to the distinguished Senator from Washington for his efforts to help us, through his Committee on Commerce; and I pay tribute to the Senator from West Virginia who immediately made it possible for us to get a hearing on the problem posed here.

Mr. President, I wish to commend the majority leader for the effort he is making today to delay the commencement date of Amtrak from May 1, 1971, until December 1, 1971.

As the senior Senator from Montana is aware, this is an effort in which I have been participating very actively over the past few weeks, and I share many of the sentiments expressed yesterday by him

with reference to the unresponsiveness of Railpax—now Amtrak—to the congressional directive to provide service to all sections of these United States.

My own State of Wyoming, until Monday of this week, was entirely omitted from the national rail passenger network—a recommendation which flabbergasted me, since the existing Union Pacific route across southern Wyoming is the most natural and logical east-west link from Chicago to the west coast. On Monday of this week we were advised by the incorporators that they had been unable to agree on a contract with the Denver & Rio Grande Western Railroad and, therefore, they would use the Wyoming route after all. Needless to say, this was good news for Wyoming. We are delighted, for we have felt all along that this service would be the best, the most practical, and the most efficient.

Our current glee, however, does not obscure our feelings of sympathy with our sister States, such as Montana and Idaho, or the other States which have been omitted entirely from railroad passenger service by the Corporation.

I would like to pledge to the majority leader today that, even though Wyoming has now been taken care of in this matter, I will continue to lend my efforts to assist him in obtaining the delay he seeks here today.

It is obvious that a great number of Senators and Members of the House of Representatives are most unhappy with the present Amtrak recommendations. I believe it is equally obvious that a 6- or 7-month delay to give Congress the opportunity to act in this matter would not seriously hamper the eventual success of Amtrak. In the interim, trains presently operating would continue to do so.

In short, I believe the delay requested by the majority leader makes good sense.

I must say Wyoming is in a different position in connection with railroads than it was before when the Denver & Rio Grande Western Railroad refused to join Amtrak. On Monday they then backed into the State of Wyoming, against the wishes of the Union Pacific, the largest railroad in the United States, but at least unintentionally in the interest of the people.

Mr. President, that does not compromise my position on this bill. I still believe because of the way it has been handled and the way in which the interest and the intent of Congress has been flouted, that we should have this delay the Senator from Montana now seeks.

Given the missions in the proposal, given the controversy now over severance contracts, and given the refusal of the major railroads to participate in the program, there is every reason, with good sense, to suspend the launching of this new railroad plan that is an instrumentality of this body, the Congress. All of the national interest and not just some of it must be satisfied, and we must make certain that the intention of Congress is lived up to.

Mr. President, again I join forces with the Senator from Montana in making this possible through a delay in the launching of the Amtrak implementation.

Mr. PROUTY. Mr. President, personally nothing could be more distasteful for me than to have to oppose my distinguished friend, the majority leader, for whom I have the highest admiration and affection. Also, I am completely sympathetic with what he is trying to accomplish.

No one should be more critical of Amtrak than the Senators from the three northern New England States, because we are presently without any rail service whatsoever. In my opinion, this service can be justified between Boston and New York on the one hand and Montreal on the other. Metropolitan Montreal has a population in excess of 4 million people. The ski areas in Vermont could furnish and encourage a great deal of passenger traffic.

My point is if we allow or permit this extension, despite contracts already entered into with the railroads involved—20 of the 23 passenger-carrying railroads—we are going to destroy the whole concept of Amtrak and we might as well say goodbye to passenger service in this country. In the Senator's State they can do as they have done in my State over a period of time—take the trains off regardless of whether we have Amtrak or not.

I am encouraged to believe the board is sincere in its professed determination to review and extend this new system. Hopefully, it will benefit my State, the State of the Senator from Montana, as well as other areas where service is threatened to be discontinued.

However, it is my feeling if we take this action now—and incidentally, the House is not in session and Amtrak goes into effect 1 minute after midnight tonight—it would be a futile gesture, but by the same token it would be most unfortunate for us to do this because it would jeopardize everything we want.

Mr. MANSFIELD. Mr. President, I agree with the distinguished chairman of the Committee on Commerce. As far as existing lines are concerned, we are for them but we think they should be added to. The Senator from Washington thinks the line from Seattle to Vancouver should be kept in operation. I do not think the idea of international implication holds much water.

Both of us think the Northern Pacific should run in Montana, Idaho, Washington, North Dakota, and other States where it is being discontinued. These are good trains and what Amtrak should do is operate on the basis of seeking whether a line like the N.P. and the Short Line from Butte to Salt Lake City can operate on a reasonable comparable basis.

I know two members on the Commission: Mr. Kendall, who impressed me very much, and Catherine May Bedell, who served in the House of Representatives. I do not question the motives of this group. I think they are an honorable group of people, but we are here to look after the interests of our States and if we do not do it who is going to do it?

Outside of Mrs. Bedell who else is from the West? They are all from the East. The east coast and the west coast have been treated with great courtesy

and consideration, but the heartland of this country will be hanging on the ropes.

I have a high regard for Catherine May Bedell who was an outstanding Congresswoman.

Mr. MAGNUSON. I know her well, too. The Pacific lines cannot be abandoned, the ones now operating, without permission of the ICC. They cannot be abandoned without the permission of the ICC.

Mr. PROUTY. I agree, but railroads have been discontinuing all over the country.

Mr. MAGNUSON. If this is held up for a while the lines now in operation cannot be abandoned until they go to the ICC. Every one can file an application with the ICC but that does not mean the ICC is going to do it.

I would not suggest 368 passenger lines should be operated in the United States. This cuts it down to 184 scheduled. We are talking about maybe 25 or 20 more that we think are important to the transportation system.

They say they have to get more money from Congress. Yes, but Congress has to put up money if there is any possibility to get this service. We are trying to get people off the cluttered highways. The people in Vermont in the wintertime have that train that goes up and down and you have to take it.

Mr. PROUTY. It would be—

Mr. MAGNUSON. Under this system.

Mr. PROUTY. Nothing under this system.

Mr. AIKEN. It goes through New Hampshire.

Mr. MAGNUSON. Anyone going to New England would take that train. Nothing is going to particularly happen if there is an extension; it is going to be just as it is.

Mr. PROUTY. That is where the Senator and I disagree. In the Commerce Committee I thought it was a unanimous vote.

Mr. MAGNUSON. No; some Senators raised their hands. The chairman raised his hand against it.

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

Mr. MAGNUSON. And I so state now.

Mr. PROUTY. Well, I do not question the Senator.

STREET DEMONSTRATIONS AND MEMBERS OF CONGRESS

Mr. DOLE. Mr. President, I think every American, except those who participate in or approve of politics of the street, politics by mass confrontation and politics by threat and disruption, feels a little better today, a little more secure because of what President Nixon said last night at his press conference.

The President said bluntly of the activities and proposed activities of these people:

The Congress is not intimidated; the President is not intimidated. This government is going to go forward.

He also said:

Those who come and break the law will be prosecuted to the full extent of the law.

Which was the suggestion made yesterday by the distinguished Senator from West Virginia (Mr. BYRD).

I am certain that even those Members of the Congress who support the demonstrators must agree that neither the Congress nor the President is or dare be intimidated, that this Government must indeed go forward, and those who break the law must be punished.

For that reason I would like to call today on those who have met and marched with and endorsed the demonstrators, now, as leaders of those demonstrators, to go to them and ask them to obey the law and keep the peace.

I particularly urge them to urge the demonstrators whom they have supported with word and deed to reconsider their threats to disrupt Washington, D.C., on Monday by blocking access routes to the city and by performing other unlawful acts.

I believe those who have catered to the demonstrators and have set themselves up as spokesmen for them and endorsers of them have this obligation.

For this reason I urge those Members of both Houses to speak out for the cause of law and domestic peace, just as they have spoken out for the cause of peace abroad.

Surely none of these Members who has encouraged the demonstrators wishes violence or wishes to see the road obstructed so that those who have legitimate business as well as those, such as police and firemen and doctors, who serve the public interest, are unable to get through.

No one Member of Congress should ever have on his head the unnecessary death of one heart attack victim, the commission of one felony, or the burning of one building.

Therefore, Mr. President, I now call on those Members of both Houses who have involved themselves in the demonstrations to seek now an end to them before they reach the point of violence or criminal disruption.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON THE AGRICULTURAL CONSERVATION PROGRAM

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report on the agricultural conservation program for the fiscal year ending June 30, 1970 (with an accompanying report); to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION TO PROVIDE FOR MAXIMUM ENTRANCE AND RETENTION AGES, TRAINING, AND EARLY RETIREMENT FOR AIR TRAFFIC CONTROLLERS

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to amend title 5, United States Code, to provide for maximum entrance and retention ages, training, and early retirement for air traffic controllers, and for other purposes (with accompanying papers); to the Committee on Commerce.

REPORT OF THE U.S. ADVISORY COMMISSION ON INFORMATION

A letter from the Chairman, U.S. Advisory Commission on Information, transmitting, pursuant to law, the 25th Report of the U.S. Advisory Commission on Information, May

1970 (with an accompanying report); to the Committee on Foreign Relations.

ENVIRONMENTAL IMPACT STATEMENT FOR THE NATIONAL LAND USE POLICY

A letter from the Legislative Counsel, U.S. Department of the Interior, submitting the environmental impact statement to accompany the Department's proposed legislation "To establish a national land use policy to authorize the Secretary of the Interior to make grants to encourage and assist the States in the preparation and implementation of land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FOR THE CREATION OF THE INDIAN TRUST COUNSEL AUTHORITY

A letter from the Secretary of the Interior, submitting a draft of proposed legislation to provide for the creation of the Indian Trust Counsel Authority, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON APPLICATIONS FOR ORDERS AUTHORIZING OR APPROVING THE INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

A letter from the Director, Administrative Office of the U.S. Courts, transmitting, pursuant to law, the annual report of the Director of the Administrative Office of the U.S. Courts on applications for court orders made to Federal and State courts to permit the interception of wire or oral communications (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION WITH RESPECT TO JUDICIAL REVIEW OF DECISIONS OF THE INTERSTATE COMMERCE COMMISSION

A letter from the Chairman, Administrative Conference of the United States, submitting a draft of proposed legislation to amend title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the National Labor Relations Board; cases heard and/or decided by the Board; and the fiscal statement showing total obligations and expenditures for the fiscal year ended June 30, 1970 (with accompanying reports); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION RELATING TO AGE REQUIREMENTS FOR APPOINTMENTS TO POSITIONS IN EXECUTIVE AGENCIES AND IN THE COMPETITIVE SERVICE

A letter from the Chairman, U.S. Civil Service Commission, submitting a draft of proposed legislation relating to age requirements for appointments to positions in executive agencies and in the competitive service (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION TO DESIGNATE CERTAIN ROUTES OF THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

A letter from the Secretary of Transportation, submitting a draft of proposed legislation to designate Interstate Route I-70 from Washington, D.C., to Denver, Colo., Interstate Route I-25 from Denver to Cheyenne, Wyo., and Interstate Route I-80 from Cheyenne to San Francisco, Calif., as the "Dwight D. Eisenhower Highway" (with accompanying papers); to the Committee on Public Works.

MEMORIALS

Memorials were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint memorial of the Legislature of the State of Washington; to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL NO. 17

"A memorial to the Honorable Richard M. Nixon, President of the United States, and to the President of the Senate and the Speaker of the House of Representatives, and to the Senate and House of Representatives of the United States, in Congress assembled

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, The Committee on Commerce and Regulatory Agencies of the Washington State Senate has held hearings on the entire energy supply question; and

"Whereas, The committee is particularly distressed by diminishing natural gas and electrical energy power potential which appear to be falling behind projected domestic, industrial, and municipal requirements; and

"Whereas, Fierce competition over federal funds threatens to severely limit the availability of new appropriations for development of additional power resources; and

"Whereas, There now exists a nationwide shortage of proven gas reserves which has obviated the competition between rival suppliers to enter new markets and requires that efforts be directed to continuing service to present markets already connected and authorized under existing certificates of public convenience and necessity from the Federal Power Commission; and

"Whereas, El Paso Natural Gas Company acquired the stock of Pacific Northwest Pipeline Corporation, in 1957 under a merger which was approved by the Federal Power Commission, after extensive hearings, as being in the public interest from the standpoint of (1) improved gas supply and utilization of gas reserves, (2) financially strong gas supplier, (3) extended and improved gas service to the public, and (4) lower rates to the gas consumer; and

"Whereas, The United States Justice Department, contending that the acquisition would substantially lessen competition in California, commenced an anti-trust action to acquire divestiture of the assets acquired by El Paso under the merger; and

"Whereas, The matter has been extensively litigated without any final determination of a divestiture plan; and

"Whereas, Other major gas suppliers have entered into the California gas supply market during the course of the litigation, thereby adding substantial competition in that market; and

"Whereas, The benefits of the merger predicted by the Federal Power Commission in approving same in 1959 have come to pass; and

"Whereas, It appears that divestiture in the manner most recently directed by the Supreme Court of the United States will deny such benefits to the public in all areas served by the El Paso system unless remedial legislation is enacted; and

"Whereas, Countervailing economic, political and social values clearly indicate that an anti-trust exemption should be enacted by Congress to exempt the El Paso-Pacific Northwest merger from the operation of the anti-trust laws in the best interests of the public;

"Whereas, The divestiture if accomplished would insure that the costs of natural gas to the consuming public would increase substantially and would aggravate an already

deteriorating economic climate in our state with further loss of job; and

"Whereas, The Governors of the Northwest states have expressed strong feelings of support for preservation of this merger through letters to United States Senator Magnuson; and

"Whereas, Hearings have been scheduled for April 19 and 20, 1971 in Seattle by the United States Senate Committee on Commerce to look into this problem with a view toward remedial legislation;

"Now therefore, your memorialists respectfully pray that the Senate and House of Representatives of the United States of America enact and the President sign legislation creating an exemption from the operation of the anti-trust laws as to such mergers effected prior to January 1, 1960, where application for certificate of public convenience and necessity was made to and approved by the Federal Power Commission prior to January 1, 1960.

"Be it resolved, That copies of this Memorial be immediately transmitted by the Secretary of State to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

A joint memorial of the Legislature of the State of Washington; to the Committee on Labor and Public Welfare:

"SENATE JOINT MEMORIAL NO. 19

"A memorial to the Honorable Richard M. Nixon, President of the United States, and to the President of the Senate and the Speaker of the House of Representatives, and to the Senate and House of Representatives of the United States, in Congress Assembled

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, Total unemployment in Washington State stands at 10,400, at a seasonally adjusted rate of 10.4 percent, up from year ago figures of 104,500 persons at a rate of 6.8 percent; and

"Whereas, All economic indicators predict a continuation of extremely high unemployment in Washington State for months to come; and

"Whereas, Thousands of people in Washington State have exhausted regular and extended unemployment insurance benefits and are still without gainful employment; and

"Whereas, The Employment Supplement Program, providing for temporary employment in public and private nonprofit agencies, has been the most successful of all federally assisted manpower programs in recent months in dealing with the grave problems of the Washington State economy, and has been enthusiastically endorsed by both enrollees and employing agencies; and

"Whereas, The initial funding of this program, five million dollars provided by the Secretary of Labor to help meet the crisis in unemployment in Washington State, is very nearly exhausted.

"Now therefore, Your Memorialists respectfully pray that the President of the United States authorize the Secretary of Labor to release additional funds for this purpose, or, should funds be lacking, that the Congress enact legislation necessary for the expansion and continuation of this extremely worthwhile program.

"Be it resolved, That copies of this Memorial be immediately transmitted by the Secretary of State to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, to each member of Congress from the State of

Washington, and to the Secretary of Labor of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 1204. A bill to amend section 8332 of title 5, United States Code, to allow certain service to be credited for purposes of civil service retirement (Rept. No. 92-91).

By Mr. STENNIS, from the Committee on Armed Services, with an amendment:

S. 421. A bill to amend title 10, United States Code, to provide special health care benefits for certain surviving dependents (Rept. No. 92-92).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. Res. 109. A resolution authorizing special supplementary expenditures by the Committee on Banking, Housing and Urban Affairs for an inquiry and investigation pertaining to the securities industry. Referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable executive reports of nominations were submitted:

By Mr. BYRD of West Virginia, from the Committee on Labor and Public Welfare:

Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1975; and

Phillip Victor Sanchez, of California, to be an Assistant Director of the Office of Economic Opportunity.

By Mr. METCALF (on behalf of Mr. JACKSON), from the Committee on Interior and Insular Affairs:

William T. Pecora, of New Jersey, to be Under Secretary of the Interior.

BILLS AND JOINT RESOLUTIONS INTRODUCED

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HRUSKA (for himself, Mr. CURTIS, Mr. DOLE, and Mr. PEARSON):

S. 1726. A bill to consent to the Kansas-Nebraska Big Blue River Compact. Referred to the Committee on the Judiciary.

By Mr. BYRD of West Virginia:

S. 1727. A bill to prevent a decrease in the dependency and indemnity compensation of any dependent parent of a deceased veteran or in the pension of any veteran or widow of a veteran as the result of the increase in social security benefits provided by Public Law 92-5 or by any increase in railroad retirement benefits during the calendar year 1971. Referred to the Committee on Veterans' Affairs.

By Mr. MATHIAS:

S. 1728. A bill for the relief of George Wise. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself, Mr. ALLOTT, Mr. BROCK, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. DOLE, Mr. DOMINICK, Mr. EAGLETON, Mr. EASTLAND, Mr. FULBRIGHT, Mr. HARRIS, Mr. HARTKE, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. JACKSON, Mr.

MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PACKWOOD, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPONG, Mr. TAFT, Mr. TUNNEY, Mr. WILLIAMS, and Mr. YOUNG):

S. 1729. A bill to supply general service freight cars to meet the needs of commerce, users, shippers, national defense, and the consuming public. Referred to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 1730. A bill to provide a pool of general service railroad freight cars to be made available to shippers in any part of the country during times of regional car shortage and to be unrestrictedly available throughout the country according to the needs of shippers in the event of a general car shortage, and to assist in preventing or alleviating such shortages; and

S. 1731. A bill to amend the Interstate Commerce Act to promote acquisition of general service railroad rolling stock by providing the Secretary of Transportation with authority to aid common carriers by railroad, their car furnishing subsidiaries, and car leasing companies in acquiring such general service railroad rolling stock. Referred to the Committee on Commerce.

By Mr. BAYH:

S. 1732. A bill to amend title 18 of the United States Code relating to the Federal Juvenile Delinquency Act and to extend the provisions of the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1733. A bill to amend the act of September 26, 1970 (84 Stat. 884). Referred to the Committee on Interior and Insular Affairs.

By Mr. METCALF:

S. 1734. A bill to provide for comprehensive management of the Nation's forest reserves created from the public domain, and other forest lands, through the application of sound forest practices, and for other purposes. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS

By Mr. MAGNUSON (for himself, Mr. ALLOTT, Mr. BROCK, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. DOLE, Mr. DOMINICK, Mr. EAGLETON, Mr. EASTLAND, Mr. FULBRIGHT, Mr. HARRIS, Mr. HARTKE, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. JACKSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PACKWOOD, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPONG, Mr. TAFT, Mr. TUNNEY, Mr. WILLIAMS, and Mr. YOUNG):

S. 1729. A bill to supply general service freight cars to meet the needs of commerce, users, shippers, national defense, and the consuming public. Referred to the Committee on Commerce.

THE FAST FREIGHT SYSTEMS TRANSPORTATION ACT OF 1971

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference a bill to alleviate freight car shortages now and in the future by establishment of a national corporation to develop a national pool of general service freight cars and

make the cars available when needed for use of the Nation's shippers. The corporation would also be mandated to improve the nationwide utilization and distribution of freight cars through the use of modern computer technology. The following Senators have joined with me in sponsoring the Fast Freight Systems Transportation Act of 1971: Senator ALLOTT, Senator BROCK, Senator BURDICK, Senator BYRD of West Virginia, Senator DOLE, Senator DOMINICK, Senator EAGLETON, Senator EASTLAND, Senator FULBRIGHT, Senator HARRIS, Senator HARTKE, Senator HATFIELD, Senator HUGHES, Senator HUMPHREY, Senator JACKSON, Senator MANSFIELD, Senator MCGEE, Senator MCGOVERN, Senator MONDALE, Senator MONTOYA, Senator MOSS, Senator NELSON, Senator PACKWOOD, Senator PEARSON, Senator PELL, Senator RANDOLPH, Senator SCHWEIKER, Senator SCOTT, Senator SPONG, Senator TAFT, Senator TUNNEY, Senator WILLIAMS, and Senator YOUNG.

New car purchases by the railroads have not kept pace with the retirement of obsolete and wrecked cars, let alone the expanding needs of our economy. The fleet has declined by 14 percent in the past 10 years. It is significant to note that shippers and car companies have expanded their ownership of private cars in the last decade. They have lost faith in the ability of railroads to provide enough cars to service their needs. In addition to a dwindling car fleet, the railroads have been unable, because of fragmented ownership, to provide adequate utilization and distribution of the cars they do have.

Freight car shortages have plagued the Nation's shippers since the early days of the railroads. The issue has been before the Interstate Commerce Commission ever since that agency came into existence in 1887. The problem is all too well known and Congress has provided legislative modifications of the freight car distribution system down through the years. But unfortunately, legislation in the nature of modifications to the existing system has not yet proved adequate to solve the problems. It now appears clear that a new approach is necessary. Freight car shortages are already building this year. If the economy recovers this spring, we could be faced with the greatest car shortages of the century. And these shortages will adversely affect producers, shippers, and consumers across the land. The shortage of freight cars is no longer a regional problem affecting primarily western grain farmers or western lumber and plywood shippers at the peak of the shipping season. Today, any industry in any part of the country may experience a car shortage at one time or another during the year.

In hearings before the Special Subcommittee on Freight Car Shortages of the Commerce Committee last year various industry representatives testified to their car shortage experience. The forest products industry—lumber, paper, homebuilding materials—had car shortages at many of their mills and plants, regardless of their location in the Northwest, South or Northeast. Mines in the coalfields of Ohio, Kentucky, Virginia,

Pennsylvania, and West Virginia were forced to shut down on occasion by lack of cars. The ability of the Nation's utilities to meet our growing energy needs is impaired by the shortage of cars. The threatened fuel shortage in the East this winter was in large measure attributable to the unavailability of cars. The scrap iron and steel industry has no alternative means of transportation other than gondola cars, yet the gondola fleet has declined by 35 percent since 1955. Shipment of retail goods has also been affected by the unavailability of cars in satisfactory condition, despite the fact that they move generally from East to West—counter to the direction of overall movement of loaded cars.

Freight car shortages are not just a business problem affecting only industrial and agricultural shippers. They also affect the consumer, increasing the prices he must pay for his purchases and reducing the reliability of service he can expect to receive. The costs to the consumer are not simply transient costs to be avoided when—and if—the railroad freight car supply and distribution is improved. They are being built into the structure of transportation facilities. If shippers cannot obtain an adequate supply of freight cars, they turn to alternative modes of transportation which in some cases are neither as inexpensive nor efficient as the railroads.

The continuing and increasingly severe shortages of freight cars indicate that the present system may not be adequate to meet the burdens imposed upon it. It is now time to consider restructuring the system.

The bill here introduced is based on the concept of a national freight car pool which, under a single ownership and management, would be able to add to the supply of freight cars and maintain control of cars regardless of where they might be, thereby improving the utilization and distribution of the fleet. The concept is not a new one—a special staff study first suggested it to the committee some 10 years ago—but it may be an idea whose time has now come. The bill also provides the corporation with power to encourage the establishment and use of computer technology to locate and distribute its cars. I consider this bill to be a "working paper." It is introduced to provide a starting point for deliberation on the concept of a national freight car pool and on the best way to implement the concept should it receive favorable recommendation. I will not be surprised to see changes in the language of the bill as improvements of its ideas are worked out by the committee. I anticipate that other bills will also be introduced and brought to the committee's attention. The committee welcomes ideas on this persistent problem. Hopefully this bill will be the catalyst for a serious and thorough exploration of the matter. The goal will be to produce the necessary statute before the end of this Congress.

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

There being no objection, the bill and

summary were ordered to be printed in the RECORD, as follows:

S. 1729

A bill to supply general service freight cars to meet the needs of commerce, users, shippers, national defense, and the consuming public

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 "Fast Freight Systems Transportation Act of 1971."

PURPOSES

SEC. 2. The Congress hereby declares that the purposes of this Act are—

(a) To improve the utilization and distribution of general service freight cars to meet the needs of commerce, users, shippers, the national defense, and the consuming public;

(b) To acquire additional general service freight cars to provide fast and expeditious service to meet the increasing demands of the Nation's economy in the years to come; and

(c) To assist in achieving full employment by supplying adequate equipment necessary to transport the products of American industry.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "Railroad" means a common carrier by railroad, as defined in section 1(3) of part I of the Interstate Commerce Act, as amended (49 U.S.C. 1(3)), other than the corporation created by Section 4 of this Act.

(2) "Commission" means the Interstate Commerce Commission.

(3) "Corporation" means the Fast Freight Systems Transportation Corporation, which may also be known as "Fastcor".

(4) "General Service Freight Car" means any type of railroad freight car whose use is not confined to a specialized purpose by special equipment, design or other limiting features. The Corporation may designate what types of freight cars are "general service freight cars" and shall include, but is not limited to, an unequipped boxcar, gondola, open top hopper car and flat car.

(5) "Board" means the board of directors of the corporation provided in section 6.

THE CORPORATION

SEC. 4. (a) There is hereby created, as an agency of the United States, a corporation to be known as the Fast Freight Systems Transportation Corporation. Its purpose shall be to acquire, maintain and provide railroad freight car equipment, employing innovative concepts to develop and maintain distribution and allocation systems to insure the effective and expeditious application of rail transportation facilities to the needs of the national economy.

(b) The Corporation shall not be subject to the provisions of the Interstate Commerce Act, as amended, or of any other law regulating railroads except that it shall be deemed to be a railroad with respect to section 1(10) through 1(17) of the Interstate Commerce Act and shall also be deemed to be a railroad with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between railroads and their employees, employee retirement, annuity and unemployment systems, and other dealings with its employees.

(c) The Corporation shall not be subject to any state or other law pertaining to the transportation of freight by railroad as it relates to rates, routes, or service.

ORGANIZATION

SEC. 5. The President of the United States shall appoint not fewer than three incorpo-

rators, by and with the advice and consent of the Senate, who shall also serve as the board of directors for not more than one hundred and eighty days following the date of enactment of this Act. The incorporators shall take whatever actions are necessary to establish the Corporation.

DIRECTORS AND OFFICERS

SEC. 6. (a) The Corporation shall have a board of eleven directors of whom one shall be elected annually by the board to serve as chairman. The Secretary of Transportation, and the Secretary of the Treasury of persons designated by them respectively in writing, shall serve as ex officio members of the board with the same powers as other members of the board. The President of the United States shall appoint the remaining members of the board, by and with the advice and consent of the Senate, on the following basis: (1) three, upon recommendation of the Association of American Railroads, one of whom shall be representative of the Eastern Railroads, one of whom shall be a representative of the Western Railroads, and the other shall be a representative of Southern Railroads; (2) one, upon recommendation of the National Association of Regulatory Commissioners, who shall be a member of a state agency authorized by state law to fix rates for transportation by railroad; (3) two who shall be representative of interested shippers; (4) one who shall be representative of interested investors; (5) one, upon recommendation of the parent body of the American Federation of Labor and Congress of Industrial Organizations, who shall be representative of labor; and (6) one who shall be representative of consumers.

(b) The terms of office of the members of the board, other than those serving ex officio, shall be for four years except that the member serving as a representative of the State Commission shall be appointed annually and except that the terms of five of the members, initially appointed, shall expire at the end of two years following their first appointment. A member appointed to fill a vacancy may be appointed only for the unexpired term of the member whom he succeeds. The members of the board shall take office immediately upon the expiration of the terms of the incorporators. Seven members shall constitute a quorum for the purpose of conducting the business of the board. Each of the directors, other than those serving ex officio, shall receive compensation at the rate of \$300 for each meeting of the board which he attends and shall be reimbursed for necessary travel and subsistence expense incurred in attending such meetings.

(c) Directors, officers and employees shall be deemed to be special government employees subject to the conflict of interest provisions of title 18, United States Code, sections 201-209. They may be included for purposes of determining the presence of a quorum at any meeting of the board which they attend and may participate in discussions in any such meeting notwithstanding the provisions of title 18, United States Code, section 208.

GENERAL POWERS OF THE CORPORATION

SEC. 7. The Corporation shall have power—

(a) To sue and be sued, complain and defend, in its corporate name;

(b) To adopt, alter, and use a corporate seal, which shall be judicially noticed;

(c) To adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(d) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act in any State;

(e) To lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal,

or mixed, or any interest therein, wherever situated;

(f) To accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Corporation;

(g) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(h) To appoint such attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined; *Provided*, That, except as otherwise specified in this Act, such attorneys, employees, and agents as well as the members of the Board of Directors shall not be subject to the provisions of Federal laws relating to Federal employees with respect to appointments, promotions, adverse actions, hours of work, rates of compensation, allowances, leave, unemployment compensation, compensation for work injuries, and Federal benefits such as retirement, life insurance, and health benefits;

(i) To enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of the affairs and the proper conduct of its business;

(j) To build, purchase, own, lease, and manage general service freight cars to be operated for the purpose of providing modern, efficient freight transportation of goods; to conduct research and development related to the purposes of this Act; and to acquire, or to contract for the use of, physical facilities, equipment, and devices necessary to the identification and forecasting of need for general service freight cars; and

(k) To enter into agreements and contracts necessary for the operation and maintenance of its freight cars and to the performance of all services and work incidental thereto consistent with prudent management of the affairs of the Corporation and not inconsistent with the provisions of subsection 13(b) of this Act.

Persons contracting with the Corporation for the use, operation, or maintenance of such facilities and equipment and for the performance of such services and work shall be and are hereby relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

FINANCING

Sec. 8. (a) Per diem surcharge.—Every railroad, except switching and terminal railroads, shall pay to the Corporation a per diem surcharge of 50 cents per car-day on each general service freight car for each day that a carrier incurs a car-hire charge for the use of such car, except that no one railroad, or group of railroads under common management and control, shall make total payments in excess of 10 per centum of the total amount paid by all railroads. The Corporation shall impose the surcharge levy no later than 60 days after the Board of Directors shall have taken office pursuant to Section 6(b), and the levy shall continue until the Board of Directors of the Corporation determines that not less than \$10,000,000 nor more than \$30,000,000 will be due or will have been paid to the Corporation as of a certain date, whereupon the levy of the surcharge will cease as of that date. The surcharge shall be payable on the tenth day of the second month succeeding the month in which the charge accrues. If it should be determined that any one railroad, or any group of railroads under common management and control at the time of payment, has paid in excess of 10 per centum of the total amount

paid by all railroads, the Corporation shall refund the excess payments.

(b) **Refund of Capital Investment**—

(1) In the event of partial or complete liquidation of the Corporation, any assets remaining after payment of the Corporation's obligations and expenses will be distributed prorata to the railroads, not to exceed the base amount of capital investment paid into the Corporation as Per Diem Surcharge under paragraph (a) of this section; and the remainder will be paid into the Treasury of the United States and credited to miscellaneous receipts.

(2) In the event of complete liquidation of any railroad subject to this Act, the Board of Directors of the Corporation may, if and when funds are available, refund to the railroad a sum not to exceed the base amount of the railroad's capital investment in the Corporation, paid in as Per Diem Surcharge under the provisions of paragraph (a) of this section.

(c) From the sums appropriated therefor, the Secretary of the Treasury shall pay to the Corporation for each quarter, beginning with the quarter commencing January 1, 1972 and terminating with the quarter ending December 31, 1972, an amount equal to the total of all per diem surcharges paid or accrued during such quarter as certified by the Corporation.

(d) **Incurrence of Debt for Capital Purposes**—The Corporation is hereby empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements or obligations. The payment of principal and interest on all obligations issued by the Corporation, which shall not exceed \$3,000,000,000 in principal amount outstanding at any one time, shall be guaranteed by the Government of the United States, such guaranty to be expressed on the face thereof. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board of Directors, with the approval of the Secretary of the Treasury.

(e) **Purchase of Obligations by Treasury**—The Secretary of the Treasury may elect to purchase the obligations of the Corporation, in an amount not to exceed \$2,000,000,000 in principal amount outstanding at any one time, under such terms, including rates of interest, as he and the Corporation may agree, but at a rate or yield no less than the current average yield on outstanding Treasury securities of comparable maturity, as determined by the Secretary.

(f) **Public Debt Transaction**—For the purpose of any purchase of the obligations of the Corporation, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this Act. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him hereunder. All redemptions, purchases, and sales by the Secretary of the obligations of the Corporation shall be treated as public debt transactions of the United States.

(g) **Authorization for Appropriations**—For the purpose of enabling the Corporation to obtain the necessary funds to implement and

expand the freight car fleet for the public good in the manner set forth hereinbefore there is hereby authorized to be appropriated for each fiscal year sums sufficient to carry out the purposes of this Act. Further, in order to facilitate the formation of the Corporation and the implementation of its objectives, there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of \$20,000,000 to be used in carrying out the provisions of this Act, to continue available until expended.

(h) **Lawful Investment and Exemption from Regulations and Restrictions**—Securities issued under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof, and shall be deemed to be exempt securities within the meaning of laws administered by the Interstate Commerce Commission or the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in Title 12, United States Code, Sections 24 and 335, shall not apply to securities issued under this section.

AUDIT AND EXPENDITURES

SEC. 9. (a) "Fast Freight Transportation Systems Corporation" shall be added to the list of corporations in 31 U.S.C. 846 and the Corporation shall be subject to the provisions of the "Government Corporation Control Act", (31 U.S.C. 841 *et seq.*)

(b) Except as otherwise provided in paragraph (a) of this section, the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it deems necessary, including the final settlement of all claims and litigation by or against the Corporation.

(c) Nothing in this section shall be construed as denying to the Corporation the power to obtain audits of the accounts of the Corporation and reports concerning its financial condition and operations by certified public accounting firms. Such audits and reports shall be in addition to those required by this section.

CONTROL OF USE OF FREIGHT CARS

SEC. 10. (a) The Corporation shall establish in accordance with the provisions of section 4(b) the terms and conditions governing the use of its equipment, including requirements for identification and distribution of its general service freight cars, as shall in its judgment be appropriate to effectuate the purposes of this Act.

(b) The Corporation may provide financial incentives, including sharing of costs and per diem surcharges, to encourage the installation and use of automatic car identification, scanning devices, and computed technology to assure improved use and distribution of freight cars; and, may enter into such contracts as, in its judgment, may be required for the development and operation of a computer system for car distribution.

(c) The Commission on its own motion, may, or on petition of any interested party, including the Corporation, shall investigate and establish such rules, regulations, practices, charges or car identification and distribution requirements as it considers to be appropriate to effectuate the purposes of this Act.

CHARGES FOR USE OF FREIGHT CARS

SEC. 11. The Corporation shall establish charges for the use of cars supplied by it which, in the judgment of the Board, will enable the Corporation to meet its operat-

ing expenses, including depreciation and debt-carrying charges, and to effectuate the purposes of this Act. Such charges shall be subject to the review and advice of the Commission. In establishing such charges the Corporation shall take into account the prevailing rates and conditions for use of similar cars.

CAR SERVICE RULES

SEC. 12(a). The Commission shall establish and may amend from time to time such just and reasonable car service rules, regulations, and practices with respect to general service freight cars of any railroad and shall issue such car distribution directions thereunder as in its judgment may be necessary or appropriate to effectuate the purposes of this Act. Upon finding that the purposes of this Act will be served thereby, the Commission may, and upon request of the Corporation shall, delegate to the Corporation the authority to establish and to amend such rules, regulations, and practices and to issue car distribution directions thereunder.

(b) The Corporation shall establish and may amend from time to time such just and reasonable car service rules, regulations, and practices with respect to its general service freight cars, and if so authorized by the Commission pursuant to paragraph (a) of this section, with respect to the freight cars of any railroad, as shall in the judgment of the Corporation best serve the purposes of this Act. Such rules, regulations, and practices, and car distribution directions issued thereunder, shall take precedence over any conflicting rules, regulations, or practices established by any railroad or group of railroads or by the Commission. Upon petition of any person affected by any such rule, regulation, or practice, the Commission shall make an investigation and, with or without a hearing, shall order any rule, regulation, or practice which it finds not to be in conformity with this Act canceled, annulled, or amended as the Commission shall find to be appropriate.

(c) Each railroad shall comply with such car service rules, regulations, and practices as may be established, and such car distribution directions as may be issued pursuant to this section.

PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

SEC. 13. (a) It shall be a condition of any contract, under this Act, that fair and equitable arrangements are made, as certified by the Secretary of Labor, to protect the interests of employees affected by such contract. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5(2)(f) of the Interstate Commerce Act. Any contract entered into pursuant to the provisions of this Act shall specify the terms and conditions of such protective arrangements. The certification by the Secretary of Labor that employees affected have been provided fair and equitable protection as required by this section shall be a condition to the completion of any transaction requiring such protection.

(b) The Corporation shall not contract out

any work normally performed by employees in any bargaining unit covered by a contract between the Corporation or any railroad and any labor organization, if such contracting out may result in the layoff of any employee or employees in such bargaining unit.

(c) The Corporation shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into 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. The Corporation shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

ACTIONS TO ENFORCE OBLIGATIONS

SEC. 14. (a) The Corporation may by any appropriate civil action apply to any district court of the United States having jurisdiction of the parties to enforce compliance with any obligation owing to it by virtue of or pursuant to any provision of this Act or any agreement or regulation made pursuant thereto.

(b) If any railroad fails or refuses to comply with any rules, regulations, charges or identification and distribution requirements or practices established or any car distribution directions and orders issued under this Act, or Commission directive to pay charges, any district court of the United States having jurisdiction of the parties shall have jurisdiction, upon petition by the Commission with respect to matters arising under Section 12(a) of this Act or by the Corporation with respect to matters arising under Section 12(b) of this Act to grant such equitable relief as may be necessary or appropriate to prevent or terminate such failure or refusal.

(c) If the Corporation or any railroad or other party violates or threatens to violate any provision of this Act, or any order, rule, or regulation issued thereunder, any district court of the United States having jurisdiction of the parties shall have jurisdiction, upon petition by the Corporation, or in a case involving a labor agreement, upon petition by any employee affected thereby, including duly authorized employee representatives, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any such violation.

(d) Nothing contained in this section shall be construed as relieving any person from any punishment, liability, or sanction which may be imposed otherwise than under this Act.

REPORTS TO THE CONGRESS

SEC. 15. The Corporation shall transmit to the President and directly to the Congress, annually, commencing one year from the date of enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report on its operations, activities, and accomplishments under this Act, the state of rail freight service, and the effectiveness of this Act in meeting the requirements of a balanced national transportation system and shall in-

clude in such report a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

SEPARABILITY

SEC. 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SUMMARY OF THE PROBLEM AND THE BILL

PROBLEM IN A NUTSHELL

Until recently freight car shortages have been characterized as a western grain harvest problem. Today any part of the Country can experience shortage any time of the year. The Northeastern fuel shortage of this winter, the difficulty of getting Maine potatoes to market, and problems in obtaining cars at an Indiana plant in time to meet contractual schedules are new scenes in an old picture.

The root of the problem is a lack of cars and poor utilization of those available (only 6% of a car's life is actually spent in transporting a payload).

Solution: Increase the number of cars (particularly the general service freight cars) and improve distribution (have cars where needed when needed).

WHAT THE BILL DOES

1. Establishes a national freight car corporation with 11 directors appointed by the President. (shippers, railroads, consumers, investors, labor, Secretaries of Transportation and Treasury will be represented).

2. The corporation will—

(a) Increase supply by acquiring (thru lease, purchase, or otherwise) general service freight cars.

(b) Improve utilization and distribution by controlling use of its own cars, encouraging use of computer technology in locating cars (with assistance of ICC if necessary), imposing appropriate charges on cars it supplies; and in cooperation with the ICC issuing car service orders.

3. Financing:

(a) Between \$10 and \$30 million will be raised thru a special 50c per diem surcharge on all general service freight cars.

(b) Federal funds matching sums obtained thru surcharge for first year.

(c) \$3 billion Federal guarantee of private loans.

(d) \$20 million direct authorization to initiate operations.

(e) Charges for use of cars.

Total direct Federal investment would not exceed \$50 million.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent to have a statement prepared by the Senator from Indiana (Mr. HARTKE) printed in the RECORD.

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

STATEMENT OF SENATOR HARTKE

Mr. President, I am pleased to join as a co-sponsor of the Fast Freight Systems Transportation Act of 1971 introduced today by the distinguished senior Senator from Washington (Mr. MAGNUSON).

Last month the Nation's news media carried reports that 277 freight cars had been

stolen from the lines of the Penn Central. The theft of freight cars is a remarkable occurrence. No doubt many shippers have suspected as much—as they sat beside their products on the shipping dock waiting for cars. Where were the cars they had a right to expect? Perhaps stolen enroute.

I do not relate the theft of Penn Central freight cars as an anecdote at the expense of a normally efficient system, once on a rare occasion gone awry. Rather, I mean it as a footnote to a compendium of poor service to the shippers who must depend on one railroad or another.

Senators do not need to read the newspapers to learn of the sorry state of rail freight service. We receive reams of correspondence from our constituents asking for assistance, including legislative action. Neither do we lack for specific examples of the appalling increase in freight car shortages.

As chairman of the Surface Transportation Subcommittee and also of the Special Subcommittee on Freight Car Shortages of the Commerce Committee, I am quite familiar with the grim statistics of the freight car fleet. The typical freight car moves only about 10% of the time. A part of that time is spent moving empty, so that only 6% of a car's life is spent in transporting goods.

During the decade of the 60's the average shortage of freight cars increased from 1,500 to 10,000 per day. In the past 15 years the volume of freight has increased by about a fourth—while the boxcar fleet has declined in numbers by about a fourth.

We need more freight cars, especially the kinds of versatile cars that can be used to help relieve periodic peak shortages that occur in a number of industries.

Unfortunately, some major railroads are unable or unwilling because of strained finances to undertake car acquisition program of the magnitude needed to keep up with the demands of a dynamic economy. Other roads are unwilling to acquire an adequate supply of cars, preferring to rely on the availability of cars owned by other roads that must perform come their way. The Fast Freight Corporation will not be caught in a financial bind. It will be able to acquire needed equipment because government guarantee of its obligations will insure that it can raise money in the private bond markets. Neither will it be caught in the trap of uneven regional distribution of empty cars because it will be a nationwide operation; it will have a national pool of cars and will be able to direct empties straightaway to the location of demand for them. It will not face the problem, as some roads do, of buying cars only to see them leave its lines rarely to return.

Of equal importance, the bill introduced today would direct the new corporation to use the facilities of modern technology to keep track of its cars and to improve their utilization.

The theft of a million dollars worth of freight cars from the Penn-Central—a line that has been notorious for its inadequate contribution to the national fleet of freight cars and that should have been particularly sensitive to retaining its cars—is symptomatic of the failure of the industry's old-fashioned procedures. The industry finds it hard enough to keep track of its cars, let alone to utilize them fully and efficiently.

Mr. President, I think the bill marks a turning point in our consideration of the freight car shortage problem. Heretofore, freight car shortages have been an irritating problem. They have had serious effects on particular shippers in particular regions at particular times of the year. Nonetheless, we have seen them as a minor issue and one to be primarily solved by the railroad industry with a strong push from the ICC.

However, the freight car shortage problem

has grown more and more extensive with the passage of time and takes on even greater dimension in the context of the present weakened condition of some segments of the railroad industry.

We must now realize that freight car shortages are a substantial flaw in our national transportation system. We should now see our goal not as solving a railroad problem, but rather as insuring better service for our nation's shippers and consumers. The freight car shortages are a shippers' problem (and not of their own making).

Further, in a broader perspective of the current condition of the railroad industry, this corporation may be seen as a vital piece in restructuring the industry so that it can play its proper role in the national transportation system. Rail traffic must inevitably decline unless some way is devised so that it can provide prompt, useful service to shippers. An adequate supply of cars, efficiently utilized and properly distributed is the heart of any such service. Not only may Fastcar alleviate the problems of car shortages; it may also point out the direction for a revitalized railroad industry necessary for a better balanced transportation network.

Some people have indicated their reluctance to involve the Federal Government or its credit to the extent contemplated in this bill. I, too, was reluctant to venture in this direction. However, the events of the last few years have made government involvement of some nature and degree unavoidable. Without governmental aid, the essential services of the Penn Central would have closed down last January. Without substantial government action in terms of revising the statutory framework regulating railroad operation and in assuming part of the cost of the road's public service functions, the trustees of the Penn Central apparently see no way successfully to reorganize the railroad. The railroad industry itself has claimed that massive governmental assistance will be necessary if the industry is to be revitalized.

If the problems of the rail industry—freight car shortages and others—can be solved privately, so much the better. I certainly will be alert to seize any such opportunity. However, the past record and current proposals do not hold out reason for much optimism on the point. Thus, we must move ahead expecting some degree of government involvement and work out its extent as more facts become available.

Certainly, if the government is to become involved we must make very sure that a substantial benefit is returned to the public. Thus, we cannot tolerate simply opening the Treasury doors to the industry. There must be adequate controls to insure that the taxpayers receive value for their money and do not simply bail out private interests.

I believe that this bill provides a starting point for innovative work on both the problem of freight car shortages and on other transportation problems. The bill is not simply "more of the same" that has so often been advanced for railroad problems. It provides a meaningful amount of financial backing with controls to protect the public's rail service. As chairman of the Special Subcommittee on Freight Car Shortages, of which Senator Magnuson is a very influential member, I anticipate we will hold hearings in the near future on this bill, and other related measures.

By Mr. MAGNUSON (by request):

S. 1730. A bill to provide a pool of general service railroad freight cars to be made available to shippers in any part of the country during times of regional car shortage and to be unrestrictedly available throughout the country according to the needs of shippers in the event of a general car shortage, and to assist in pre-

venting or alleviating such shortages; and

S. 1731. A bill to amend the Interstate Commerce Act to promote acquisition of general service railroad rolling stock by providing the Secretary of Transportation with authority to aid common carriers by railroad, their car furnishing subsidiaries, and car leasing companies in acquiring such general service railroad rolling stock. Referred to the Committee on Commerce.

THE NATIONAL FREIGHT CAR CORPORATION ACT OF 1971 AND THE RAILROAD EQUIPMENT OBLIGATION INSURANCE ACT OF 1971

Mr. MAGNUSON. Mr. President, I introduce, by request, two other bills dealing with freight car shortage. As I indicated in my remarks when introducing the fast freight systems bill, other bills would also be brought before the committee. Accordingly, in response to a request from the National Industrial Traffic League I hereby introduce a bill to provide a pool of general service railroad freight cars to be made available to shippers in any part of the country during times of regional car shortage and to be unrestrictedly available throughout the country according to the needs of shippers in the event of a general car shortage, and to assist in preventing or alleviating such shortages. I also introduce at the request of the Association of American Railroads a bill to amend the Interstate Commerce Act to promote acquisition of general service railroad rolling stock by providing the Secretary of Transportation with authority to aid common carriers by railroad, their car furnishing subsidiaries, and car leasing companies in acquiring such general service railroad rolling stock. This legislation is very similar to S. 4463 and S. 4464 which I also introduced by request in the 91st Congress.

I ask unanimous consent that the texts of the bills be reprinted at this point in the RECORD.

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

S. 1730

A bill to provide a pool of general service railroad freight cars to be made available to shippers in any part of the country during times of regional car shortage and to be unrestrictedly available throughout the country according to the needs of shippers in the event of a general car shortage, and to assist in preventing or alleviating such shortages.

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 Freight Car Corporation Act of 1971".

SEC. 2. PURPOSES.—The Congress hereby declares that the purposes of this Act are—

(a) To eliminate, insofar as possible, regional shortages of general service freight cars.

(b) To eliminate chronic nationwide shortages of general service freight cars and to alleviate seasonal or temporary nationwide shortages.

SEC. 3. DEFINITIONS.—As used in this Act, unless the context requires otherwise:

(a) "General service freight cars" means a plain or ordinary railroad car such as a boxcar, or an open or a covered hopper car, or a gondola car, or a flat car, or a mechanical

refrigerator car, without special equipment or other features that would tend to limit its use to the transportation of a particular commodity. Any type of railroad car that is determined by the Board of Directors of the National Freight Car Corporation to be a general service freight car shall be considered to be such for the purpose of this Act.

(b) "Shipper" means any person, partnership, corporation, or other legal entity that regularly ships freight in or on general service freight cars.

(c) "The Corporation" means the National Freight Car Corporation.

SEC. 4. CREATION OF THE NATIONAL FREIGHT CAR CORPORATION.—There is hereby created a body corporate, to be known as the National Freight Car Corporation. It shall have succession until dissolved by Act of Congress, and shall maintain an office in the District of Columbia and be deemed to be a resident thereof subject to and governed by the District of Columbia Business Corporation Act to the extent consistent with this Act.

SEC. 5. PURPOSES AND POWERS.—(a) The Corporation shall acquire and maintain a fleet of general service freight cars and make such cars available to common carrier railroads for the use of shippers, as contemplated by this Act. Initially, only, this fleet shall consist entirely of general service boxcars, and open top hopper or gondola cars, but when it is determined by the Board of Directors of the Corporation that the acquisition of other types of general service freight cars is in the interest of shippers and the railroad transportation system, then the Board may add other types of general service cars to the fleet.

(b) The Corporation shall have all of the powers allowed under the District of Columbia Business Corporation Act, including the power to acquire, own, use, or convey real property. The Corporation shall also have the power to acquire property by condemnation for repair, maintenance, and storage facilities and for other operating purposes, except that it shall not have power to condemn property that is already devoted to a public use or use by a common carrier or utility company. The Corporation shall keep its books and records in accordance with generally accepted accounting principles as determined by an accredited firm of certified public accountants appointed by the Board of Directors.

(c) The Corporation shall have the power to establish rates and collect charges for the use of its cars as provided in section 10 hereof, and to establish car service rules and issue orders governing the use, movement, and distribution of its cars, as provided in section 10 hereof.

SEC. 6. CAPITALIZATION.—(a) A per diem surcharge of 50 cents per car-day is hereby levied upon all plain unequipped boxcars, Association of American Railroads mechanical designation XM. In the event that the surcharge as hereby levied or as subsequently reinstated in accordance with Section 6(c) of this Act is not paid when due, the Corporation may bring an action in any district court of the United States to recover the amount due. The surcharge shall be paid to the Corporation by every common carrier railroad subject to part I of the Interstate Commerce Act, except switching and terminal railroads, for each day that such a carrier accrues a car-hire charge payable to another railroad for use of the other railroad's type of XM boxcar, except that no one railroad, or group of railroads under common management and control, shall make total payments in excess of 10 per centum of the total amount paid by all railroads. The surcharge shall be payable on the tenth day of the second month succeeding the month in which the charge accrues, but shall accrue starting with the first day of the month following the effective date of this Act and continuing until the Board of Directors of the Corporation determines that not

less than \$10,000,000 nor more than \$30,000,000 will be due or will have been paid to the Corporation as of a certain date, whereupon the surcharge will cease as of that date. If it should be determined that any one railroad, or any group of railroads under common management and control at the time of payment, has paid in excess of 10 per centum of the total amount paid by all railroads, the Corporation shall refund the excess payments.

(b) In exchange for each 50 cents per diem surcharge payment the Corporation shall issue one share of stock without par value and which shall not bear or pay dividends, and one 50 cents par debenture, which shall bear and pay interest at the rate of 8 per centum annually and the par value of which shall be due and payable December 31 of the thirtieth year after the date of issuance unless such date shall be a Saturday, Sunday, or holiday, in which event said par value shall be payable the next full business day, which shall not be either a Saturday, Sunday, or holiday. Said debentures shall be debts of the Corporation but shall be subordinate to all other debts of the Corporation. Neither the par value nor the interest on said debentures shall be guaranteed by the United States of America or otherwise be construed to be within the provisions of section 8 of this Act. In the event that adjustments are made between railroads under the railroad per diem rules, as in the case of a per diem reclaim by one railroad against another, the stock and debentures shall be issued to the railroad that actually bears the cost of the surcharge. The stock and debentures shall be transferable only between common carrier railroads subject to part I of the Interstate Commerce Act, but in no event may any one railroad, or a group of railroads under common management and control, vote more than 10 per centum of the outstanding stock.

(c) If the Board of Directors subsequently determines the original capitalization assessment is inadequate and that additional capitalization is necessary, but not in excess of \$30,000,000 total capitalization, the surcharge may be reinstated by a vote of not less than nine of the eleven Directors for such period of time as such Directors shall find to be necessary to accomplish the purpose of this Act, and additional stock and debentures shall be issued in exchange therefor as in the case of the original issue. The surcharge may be made applicable to any type or types of general service freight car that has been or is to be acquired by the Corporation.

(d) In the event of partial or complete liquidation of the Corporation, any assets remaining after payment of the Corporation's obligations and expenses will be distributed pro rata to the debenture holders up to the par value of their debentures, plus any due but unpaid interest, and the remainder will be paid into the Treasury of the United States and credited to miscellaneous receipts.

SEC. 7. BOARD OF DIRECTORS.—(a) The Corporation shall have a Board of Directors consisting of eleven members, as follows:

The Secretary of Transportation or a person designated by him, in writing;

The Secretary of the Treasury or a person designated by him, in writing;

The Chairman of the Interstate Commerce Commission;

One member representing shippers to be appointed annually by the President of the United States;

One member of a State Agency, authorized by State law to fix rates for transportation by railroad, to be appointed annually by the President of the United States after consultation with representatives of the national organization of the State commissions

referred to in section 202(b) and 205(f) of the Interstate Commerce Act; and

Six members to be elected annually by the railroads that are stockholders of the Corporation, on the basis of one vote for each share of stock. Two of these six Directors shall be elected by stockholders affiliated with eastern railroad territory (including New England), two by stockholders affiliated with western railroad territory, and two by stockholders affiliated with southern railroad territory. No stockholder shall vote for Directors from more than one territory.

(b) There will be no stockholder at the time the Corporation is created, the initial Board of Directors will include six members elected by the directors of the Association of American Railroads, two being elected to represent each of the three railroad territories, and these six members of the Board will remain Directors of the Corporation until their successors are elected at the first meeting of stockholders as provided in the bylaws of the Corporation.

(c) Within ninety days after the effective date of this Act, the Board of Directors shall meet to adopt bylaws, elect officers, and transact other business.

(d) Directors shall serve until their successors are elected or appointed. Vacancies shall be filled by election or appointment as provided in 7(a).

SEC. 8. GUARANTEE OF BORROWED CAPITAL.—The Federal Government will not make any contribution to the capital of the Corporation or purchase any stock in the Corporation, and will not be responsible for the acts, defaults, or debts of the Corporation except as set forth in this section 8.

(a) In addition to its other powers, the Corporation is hereby empowered to incur debt for capital purposes, in such amounts and upon such terms and conditions as the Board of Directors shall determine, which may be backed by the general credit of the Corporation and secured by any or all of its assets, and shall be fully and unconditionally guaranteed both as to interest and principal by the United States of America when such debt is incurred and approved as specified in part (b) below.

(b) Debt may be incurred under this section only by an approving vote of at least two-thirds of the members of the Board of Directors. That action of the Board of Directors must then be approved by the Secretary of the Treasury of the United States, or by a person designated by him in writing.

(c) Such debt may be incurred in the form of bonds, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations.

(d) Securities issued under this section shall be lawful investments for all fiduciary, trust, and public funds, and shall be issued in such form and under such terms and conditions as the Board of Directors may determine and shall not be subject to regulation by the Interstate Commerce Commission or the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in title 12, United States Code section 24 and section 335, shall not apply to securities issued under this section.

(e) In the event that the Corporation shall be unable to pay when due the principal or interest on any debt incurred in accordance with this section, the Secretary of the Treasury shall pay to the creditor the amount due, which is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of such creditor.

SEC. 9. TAXES.—For Federal income tax purposes, the Corporation shall be a tax-exempt nonprofit corporation. Any gifts to the Corporation shall be allowable as deductible contributions for Federal income tax purposes. The Corporation and its property shall be deemed to be instrumentalities of the United States engaged in furtherance of interstate commerce and shall be exempt from all State and local taxation.

SEC. 10. CHARGES FOR USE OF FREIGHT CARS.—Charges for cars supplied by the Corporation shall be assessed on the same basis and at the same rates as the charges that are assessed for use of railroad-owned cars at the same time under similar circumstances, except that the charges by the Corporation shall be increased by a surcharge in the form of a percentage. The Board of Directors shall establish from time to time the amount of such surcharge percentage. Such surcharge shall be set at a rate which in the judgment of a majority of the Board will most effectively enable the Corporation at least to earn sufficient income to pay all of its costs and expenses, including depreciation and debt carrying charges. In the event that charges established by the Board under this section are not paid when due, the Board may request the Interstate Commerce Commission to enforce payment whereupon the Interstate Commerce Commission shall promptly make an investigation and, if it determines, with or without a hearing, that the charges are in accordance with this Act and are due and payable, shall order the charges to be paid with interest and if necessary shall enforce such order by the imposition of penalties as prescribed in section 16(8)–(10) of the Interstate Commerce Act (49 U.S.C. 16(8)–(10)).

SEC. 11. CAR SERVICE RULES.—(a) The Board of Directors shall establish and may amend from time to time such just and reasonable car service rules, regulations, and practices as shall in the judgment of the Board best serve the purposes for which the Corporation is established. Such rules, regulations, and practices, and car distribution directions issued thereunder, shall take precedence over any conflicting rules, regulations, or practices established by any railroad or group of railroads or by the Interstate Commerce Commission. Upon petition of any railroad affected by any such rule, regulation, or practice, the Interstate Commerce Commission shall make an investigation and, with or without a hearing, shall order any rule, regulation, or practice that it finds not to be in conformity with this Act canceled, annulled, or amended, as the Commission shall find to be appropriate.

(b) In the event that any common carrier by railroad subject to part I of the Interstate Commerce Act shall fail or refuse to obey or follow any rule, regulation, or practice established under this section, or any car distribution direction issued thereunder, such failure or refusal may be prosecuted by the Interstate Commerce Commission as provided in section 16(8)–(10) of the Interstate Commerce Act (49 U.S.C. 16(8)–(10)).

SEC. 12. LIMITATION OF LIABILITY.—No person shall be liable to the Corporation for any loss or damage suffered by it on account of any action taken or omitted to be taken by that person as a director, officer, or employee of the Corporation in good faith, if that person relied upon financial statements of the Corporation represented to him to be correct by the President or by the officer of the Corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of the Corporation, or if that person considered the assets to be of their book value or relied upon the advice of legal counsel for the Corporation.

SEC. 13. INITIAL REGISTERED OFFICE AND REGISTERED AGENT.—The initial agent of the Corporation shall be the Federal Railroad Administration, Department of Transportation, Washington, District of Columbia, and his office shall be the initial registered office.

SEC. 14. REPORT TO CONGRESS.—The Board of Directors of the Corporation shall annually make a full report of its operations, and the effectiveness of its operations in meeting the purposes of this Act. That report shall be made to the President of the United States and to the President of the Senate and to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress.

S. 1731

A bill to amend the Interstate Commerce Act to promote acquisition of general service railroad rolling stock by providing the Secretary of Transportation with authority to aid common carriers by railroad, their car-furnishing subsidiaries, and car-leasing companies in acquiring such general service railroad rolling stock

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 "Railroad Equipment Obligation Insurance Act of 1971".

SEC. 2. Congress finds that provision of modern, efficient freight cars and locomotives is a necessary part of our transportation system and that regional and nationwide shortages of such equipment exist.

SEC. 3. The Interstate Commerce Act is amended by adding the following new part at the end thereof:

"PART VI

"DECLARATION OF PURPOSE

"SEC. 601. It is the purpose of this part, by facilitating the enlistment of private capital, to provide for assistance to common carriers by railroad subject to the Interstate Commerce Act, their car-furnishing subsidiaries, and car-leasing companies in acquiring and maintaining adequate general service freight cars and locomotives and in such a manner to encourage the maintenance and growth of a private national transportation system adequate to meet the needs of the commerce of the United States, and of the national defense.

"DEFINITIONS

"SEC. 602. For the purposes of this part—

"(a) 'Secretary' means the Secretary of Transportation.

"(b) 'Railroad' means a common carrier by railroad, as defined in section 1(3) of part 1 of this Act (40 U.S.C. 1(3)).

"(c) 'Car-furnishing subsidiary' means a corporation at least 80 per centum of the voting stock of which is owned by one or more railroads.

"(d) 'Leasing company' means a corporation which leases rolling stock to one or more railroads.

"(e) 'Rolling stock' means (i) new standard gauge railroad freight cars suitable for use by more than one railroad in normal interchange under the Interchange Rule of the Association of American Railroads, (ii) standard gauge railroad locomotives, and (iii) cabooses.

"(f) 'Equipment obligations' means bonds, notes, conditional sale agreements, equipment trust certificates, mortgages, and other obligations or security interests issued or guaranteed by railroads, car-furnishing subsidiaries, or car-leasing companies, to finance or refinance rolling stock.

"(g) 'Lease' means any contractual arrangement under which a leasing company owning rolling stock permits use thereof by railroads for all or a substantial portion of the useful life thereof, and includes a net lease."

"(h) 'Holder' means the holder of an equipment obligation, except that where a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, such bank or trust company shall be deemed to be the holder.

"(i) 'Interest' means the interest or dividends payable pursuant to the provisions of an equipment obligation.

"(j) The term 'obligor' includes the original borrower under an equipment obligation and his successors and assigns approved by the Secretary.

"FEDERAL RAILROAD EQUIPMENT OBLIGATION INSURANCE FUND

"SEC. 603. There is created a Federal Railroad Equipment Obligation Insurance Fund (hereinafter referred to as the "fund") which shall be used by the Secretary as a revolving fund for the purpose of carrying out the provisions of this Act. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States.

"AUTHORIZATION OF SECRETARY TO INSURE EQUIPMENT OBLIGATIONS

"SEC. 604. (a) **INSURANCE.**—The Secretary, upon application by the obligor, is authorized to insure as hereinafter provided the interest on and the unpaid balance of the principal of, any equipment obligation offered to him which is eligible for insurance as hereinafter provided and, upon such terms as the Secretary may prescribe, is authorized to make commitments to insure any such obligation prior to the date of execution or disbursement thereon.

"(b) **BENEFICIARY OF INSURANCE CONTRACTS.**—Each insurance contract made under this section shall run to and be for the benefit of the holder of the equipment obligation.

"(c) **PLEDGE OF UNITED STATES.**—The faith of the United States is solemnly pledged to the payment of interest on and the unpaid balance of the principal amount of each equipment obligation insured under this Act.

"(d) **LIMIT ON OUTSTANDING AMOUNT.**—The aggregate unpaid principal amount of the equipment obligations insured under this section and outstanding at any one time shall not exceed \$3,000,000,000.

"CONDITIONS AND LIMITATIONS

"SEC. 605. (a) No equipment obligation shall be insured under section 604 of this Act unless—

"(1) the equipment obligation is secured by rolling stock to be financed or refinanced by such obligation;

"(2) the terms of such obligation require full payment within thirty years from the date thereof.

"(b) **PREMIUM CHARGES.**—The Secretary is authorized to fix a premium charge for the insurance of obligations under this Act at not exceeding one-quarter of 1 per centum per annum of the principal amount of the equipment obligation outstanding. Premium payments shall be made when moneys are first advanced under the obligation and on each anniversary date thereafter. All such premium charges shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe.

"(d) **DISPOSITION OF MONEYS.**—All moneys received under the provisions of sections 601–608 of this Act shall be deposited in the fund.

"DEFAULTS

"SEC. 606. (a) **RIGHTS OF HOLDER.**—

"(1) In the event of any act or failure to act which gives the holder the right to accelerate the maturity of an equipment obligation, any such events being herein called defaults, and failure on the part of

the obligor to remove and remedy the default within thirty days, the holder shall have the right (i) in the case of a default in respect of the payment of principal or interest or the payment of any amount to provide for the payment of premium charges for obligated insurance, to demand at or before the expiration of sixty days after any such default, and (ii) in the case of any other default, to demand at any time during the continuance of such default, payment by the Secretary of the unpaid principal amount of such obligation and of the unpaid interest thereon to the date of payment: *Provided*, That an assignment of the obligation be tendered to the Secretary at the time such demand is made. The Secretary may at any time during the continuance of any default notify the holder in writing, specifying the default, that by reason of such default the Secretary intends to terminate the insurance contract sixty days after such notice is received by the holder, and the holder shall be entitled to demand payment by the Secretary as above provided at any time during such sixty-day period, whether or not the default is removed and remedied, and if the holder shall fail to make such demand, the insurance contract may be terminated by the Secretary on or after the expiration of such period. Within a period of thirty days from the date of any such demand, the Secretary shall accept the assignment and promptly pay to the holder the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment: *Provided*, That, except in any case in which the Secretary has given notice of intention to terminate the insurance contract pursuant to the foregoing provisions, the Secretary shall not be required to accept such assignment if prior to the expiration of said thirty-day period he shall find that there was no default or that such default was removed and remedied prior to any such demand.

"(b) PAYMENTS; ISSUANCE OF NOTES OR OBLIGATIONS.—Any amount required to be paid by the Secretary pursuant to subsection (a) of this section shall be paid in cash. If at any time the moneys in the Federal Railroad Equipment Obligation Insurance Fund authorized by section 603 of this Act are not sufficient to pay any amount the Secretary is required to pay by subsection (a) of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the Federal Railroad Equipment Obligation Insurance Fund and redemptions

of such notes and obligations shall be made by the Secretary from such fund.

"(c) FORECLOSURE PROCEEDINGS; ACTION AGAINST OBLIGOR.—In the event the Secretary shall accept the assignment of an equipment obligation upon the default of the obligor pursuant to subsection (a) (1) of this section, he may institute foreclosure proceedings and in connection therewith repossess the rolling stock forthwith and take such other action against the obligor as, in his discretion, may be required to protect the interests of the United States or of the holder, as they may appear. Any suit may be brought in the name of the United States or in the name of the holder and the holder shall make available to the United States all records and evidence necessary to prosecute any such suit. If the Secretary shall determine that the interests of the United States do not require foreclosure of the obligations, he may make such agreement with the obligor as in the opinion of the Secretary will result in remedying the defaults. The Secretary shall have the right in his discretion to accept a conveyance of title to and possession of the rolling stock from the obligor, and in the event of a sale under foreclosure proceedings, may purchase the rolling stock for an amount not greater than the unpaid principal amount of such obligation and unpaid interest thereon. In the event the Secretary shall receive through the sale of the rolling stock an amount of cash in excess of any payment made to the holder under subsection (a) (1) of this section, and the expenses of collection of such amount, he shall pay such excess to the obligor.

"(d) SECRETARY TO COMPLETE AND SELL PROPERTY.—Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in his discretion to complete, recondition, renovate, repair, maintain, and sell any property acquired by him pursuant to the assignment as provided in this section.

"(e) TERMINATION OR CANCELLATION OF INSURANCE CONTRACT; CONCLUSIVE EVIDENCE.—Any contract or commitment of insurance entered into by the Secretary under the provisions of this Act shall not be terminated, canceled, or otherwise revoked for any reason, except as provided in this section of this Act, and shall be conclusive evidence that the obligation complies fully with the provisions of this Act and of the approval of the principal amount, interest rate, and all other terms of the obligation and of the holder or borrower and of the obligor or lender; and any contract on commitment of insurance so entered into shall be incontestable from the date as of which such contract of commitment is entered into, except for fraud, duress, or mutual mistake of fact.

"MODIFICATIONS

"Sec. 607. The Secretary may consent to the modification of the provisions of an equipment obligation as to rate of interest, time of payment of interest or principal, security, or the terms and conditions of any contract or commitment of insurance which he shall have entered into pursuant to this part, or the renewal or extension of any such contract or commitment of insurance, whenever the Secretary shall determine it to be equitable to do so: *Provided, however*, That such consent shall not be given unless any consent of the holder, which may be required pursuant to the provisions of an equipment obligation, shall have first been obtained.

"APPROPRIATIONS

"Sec. 608. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter."

By Mr. BAYH:

S. 1732. A bill to amend title 18 of the United States Code relating to the Federal Juvenile Delinquency Act and to extend the provisions of the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary.

THE JUVENILE DELINQUENCY AMENDMENTS OF 1971

Mr. BAYH. Mr. President, the problem of juvenile crime seems to grow more disquieting every time we look at it. And while we hear a lot about the ambitious new Federal programs to combat juvenile delinquency, in fact these programs have been fragmented, uncoordinated, and highly ineffective. Today I am announcing the introduction of a bill—the Juvenile Delinquency Amendments of 1971—which I believe will start improving the Federal Government's woefully inadequate performance in this area. My bill is the first step in a program I am undertaking—as chairman of the Senate Subcommittee to Investigate Juvenile Delinquency—to evaluate, coordinate, and—if necessary—rethink and restructure the Federal role in the prevention and control of juvenile delinquency, to cut down the alarming rate of juvenile crime, while at the same time guaranteeing to every accused juvenile handled in the Federal court system the absolute right to a speedy and fair system of justice and rehabilitation.

Last month the subcommittee held hearings to see why the Federal effort has been such a complete and total failure. And the subcommittee is continuing in attempting to evaluate the effectiveness of each of the existing Federal programs which deal with the myriad problems of juvenile delinquency.

What we have already found in a relatively short time is alarming. Congress has given attention to the problem. Hearings have been held. Laws have been passed. Yet, viewing the problem on a statistical basis, we are not even holding our own.

Juvenile crime takes an enormous toll each year. Last year alone, the material cost was more than \$4 billion. Even more costly was the immeasurable losses in human terms by both the victims of juvenile crime and by the juveniles themselves. The intangible effects in terms of public fear and private despair are even greater.

Despite all the efforts being made to curtail delinquency, the recidivism rate for offenders under the age of 20 is 74 percent. While children between the age of 10 and 17 make up only 16 percent of the national population, they account for more than 48 percent of all arrests for major serious crimes. This was the largest percentage of any age group in the entire country. It is not difficult to envision what these statistics mean in terms of wasted lives and resources.

Juvenile crime in this country has skyrocketed in the past decade. During the 1960's violent crime by children under 18 has increased by 148 percent. Property crimes, such as burglary, larceny, and auto theft, have increased by 85 percent. According to the most recent

arrest statistics, persons under 25 account for 59 percent of the crimes of violence and for 81 percent of the property crimes each year.

Juvenile correctional institutions usually do not rehabilitate their delinquent populations; rather, they often train the child to become a more sophisticated criminal. The recidivism rate of institutionalized delinquents ranges from 50 to 80 percent. Despite the demonstrated failure to rehabilitate their inmates, there are now over 52,000 juveniles being held in such institutions.

All these problems continue to grow at an alarming rate, despite a growing Federal involvement in the field. More than \$100 million in Federal funds was appropriated for various Federal agencies to deal with juvenile delinquency prevention and control last year alone. Money was spent on research to discover the causes of delinquency, to develop new, more effective methods of rehabilitation, and to establish programs within juvenile institutions to provide educational, social, and vocational rehabilitation. But with what results? It is evident that these efforts have either fallen painfully short or have merely been money down the drain.

One of the prime examples of well-intentioned programs that have failed is the Juvenile Delinquency Prevention and Control Act. This statute was enacted by the Congress in 1968 to help States and local communities strengthen their juvenile justice programs, but it has produced almost no discernible results.

The problem, I believe, does not lie in the act's conception, but in its administration. Only a small proportion of the amounts authorized by Congress has ever been appropriated or for that matter even been requested by the Department of Health, Education, and Welfare which is charged with the responsibility of administering the act.

Even a layman can see that coordination between Federal, State, and local programs to combat juvenile delinquency is absolutely essential. And yet, despite the act's explicit statement that it was enacted to assist in "coordinating the efforts of agencies in the field," there has been no effort to perform this function.

And there has been no leadership on the part of those charged with carrying out this act in the absolutely necessary effort to establish a priority structure among the major programs dealing with delinquency. The annual report of the Youth Development and Delinquency Prevention Administration explicitly concedes these failings. The act expires June 30, but the Nixon administration—incredible as it may seem—has yet to make any proposal for extending or replacing this act.

Mr. President, the Congress has a responsibility to see that the act is made to work as it was intended, and to take whatever steps are necessary to insure that it operates successfully in the future. Allowing this program to be extended for a long term would be in derogation of our duty. As chairman of the Juvenile Delinquency Subcommittee, I

could not propose such an extension in good conscience.

But we cannot simply allow the Federal effort in this area to end summarily. My subcommittee is now in the process of reviewing these programs thoroughly. We will be making specific, constructive proposals in the coming months, proposals which I hope the Congress will decide to adopt. However, this act will expire in less than two months, and it will be impossible to finish formulating these proposals and get final legislative action before the end of June. Therefore, I am proposing today a compromise package to carry on and at the same time to strengthen this vitally needed effort to coordinate our badly fragmented approaches to the problems of juvenile delinquency.

First, I am proposing a limited extension of the Juvenile Delinquency Prevention and Control Act, for 1 year only. This limited extension will serve two purposes. It will allow the subcommittee to complete its overview of this program, to pinpoint the reasons for the act's failure, and to formulate solutions to the difficulties, once they have been isolated and exposed. As I said before, I believe this is basically a well designed piece of legislation. It should be effective with more money and better administration. I believe that a one year extension will put the administrators on notice that their performance is being evaluated. Such an extension will serve notice that we are not going to continue funding this type of effort forever. Unless we are able to see positive results—for example, some real leadership exercised in the drive to coordinate our efforts and reorder our priorities in this area—we will refuse to continue the program. Further extensions will depend on actual performance, and not on mere promises and potential.

The second part of this program is a series of specific amendments to existing Federal law dealing with minors, designed to guarantee a speedy and just determination of their cases.

I would require that, whenever possible, juveniles be processed through State and local juvenile courts and correction systems, and not in the Federal courts. Under the Federal Juvenile Delinquency Act a district court is authorized to sit as a juvenile court to judge minors who are charged with Federal offenses not punishable by death or life imprisonment. Unfortunately, neither the Federal courts nor the Federal correctional system has ever been properly equipped to handle large numbers of juveniles. The result has been that great numbers of juveniles have been shipped away from their home communities, especially for the purpose of institutionalization. This dislocation has been repeatedly criticized, for one of the most important factors in the success of efforts at rehabilitation is the access the juvenile has to the stabilizing influences of the community he knows and has grown up in. And this dislocation makes very difficult—or totally prevents—contact of the juvenile with members of his immediate family.

By their very nature, State courts are more likely to be community based. I would require the Federal courts to defer to State courts, as long as the State court had jurisdiction over the offense and had rehabilitation programs certified by the Attorney General to be adequate.

This bill contains an absolute prohibition against the detention or confinement of any juvenile alleged or found to be delinquent in any institution in which adults—whether convicted or merely awaiting trial—are confined.

We have heard a lot of unpleasant evidence about the conditions in all our prisons, whether they deal with adults or juveniles. We need to alleviate these conditions. But, in the meantime, allowing adult and juvenile offenders to be confined together only exacerbates an already difficult problem. Juveniles who are incarcerated with hardened criminals are much less likely to be rehabilitated. The older criminals become the teachers of graduate seminars in crime. In addition, we have heard repeated charges about the homosexual attacks that take place in adult institutions, and confining juveniles in such institutions only increases the likelihood of such attacks. There is no reason to allow adults and juveniles to be imprisoned together. Only harm can come from such a policy. I would forbid it completely.

Under present law it is possible to treat a juvenile either in juvenile proceedings or in criminal proceedings. Juvenile proceedings are designed to rehabilitate a youthful offender and to avoid the stigma of having a criminal conviction on a young man's record. If at all possible, therefore, no one eligible for juvenile treatment should be made to face criminal charges, as if he were an adult. Of course, there are cases in which referral to the juvenile courts would be pointless. This bill would require a hearing before a Federal district judge before referring an eligible juvenile to a criminal trial. Only if the Federal judge found, after hearing all of the evidence, that there are no reasonable prospects for rehabilitating the juvenile before he reaches the age of maturity could the criminal prosecution take place. In all other cases he would be treated as a juvenile.

The right to trial by jury is one of the basic tenets of our system of justice. Yet, if they are tried as juveniles in Federal district courts, youthful offenders are deprived of this basic right. I propose to end this inequity by guaranteeing to juveniles the same right to trial by jury now guaranteed to adult defendants.

I have heard too many stories of juveniles being detained for long periods of time without having the nature of the charges against them precisely stated, and without sufficient evidence against them to make their detention legal. I propose to include an explicit statement in the Federal statutes dealing with the treatment of juveniles, requiring that each juvenile be brought before a magistrate—at which time the charges against him and the nature of the Government's evidence would have to be detailed—immediately after arrest.

The bill would also implement recent Supreme Court decisions dealing with the right to counsel. The arresting officer and the court would be required to inform the juvenile that he "has the right to be represented by legal counsel at all stages in the proceedings." And if the juvenile does not retain counsel, "legal counsel shall be appointed by the court for such juvenile."

Finally, the proposed amendment would also establish safeguards for juveniles in Federal courts, preventing self-incrimination and the use of illegally obtained evidence in proceedings brought against them.

Mr. President, as I have already pointed out, we have come to a point of crisis in our juvenile corrections system. While we have enacted programs in the past, we have failed to follow up on their actual performance. We have allowed the Federal approach to juvenile delinquency prevention and control to become so fragmented as to be almost totally useless. The time has come to call a halt to this. We need an in-depth reassessment of our past approaches. We cannot simply continue to give rubber stamp approval to programs which have produced no positive results. The amendments I am introducing today are the first step in the long process of finally coming to grips with the problem we have let slide for far too long.

I ask unanimous consent that a section-by-section analysis and the complete text of my bill, the "Juvenile Delinquency Amendments of 1971," be printed in the RECORD.

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

S. 1732

A bill to amend title 18 of the United States Code relating to the Federal Juvenile Delinquency Act and to extend the provisions of the Juvenile Delinquency Prevention and Control Act of 1968

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 "Juvenile Delinquency Amendments of 1971".

AMENDMENTS TO FEDERAL JUVENILE DELINQUENCY ACT

SEC. 2. (a) Section 5032 of title 18, United States Code, is amended to read as follows: "§ 5032. Proceeding Against Juvenile Delinquent

"(a) A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any Court of the United States unless the Attorney General, after investigation, certifies to an appropriate District Court of the United States that the juvenile or other appropriate court of a State (1) does not have jurisdiction over said juvenile with respect to such act of juvenile delinquency, or (2) there is not available to such State court the rehabilitation and treatment services which would be needed by such juvenile.

"(b) If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State for such action as they may deem legally warranted.

"(c) If the Attorney General does so certify, the Attorney General shall proceed against such juvenile as a juvenile delinquent by information and no criminal prosecution

shall be instituted for the alleged act of juvenile delinquency except that with respect to a juvenile who is alleged to have committed an act which if committed by an adult would be a felony, criminal prosecution may be begun against such juvenile with respect to such act if the Attorney General moves in the appropriate District Court of the United States that such criminal prosecution be undertaken and such Court finds, after hearing, that there are no reasonable prospects for rehabilitating such juvenile before his majority."

(b) Section 5033 of such title is amended by striking out all matter after the second sentence thereof.

(c) Section 5034 of such title is amended by adding at the end of the third paragraph the following new sentence: "The Attorney General shall not cause any juvenile alleged or found to be delinquent to be detained or confined in any institution in which persons convicted of a crime or awaiting trial on criminal charges are confined."

(d) Section 5035 of such title is amended to read as follows:

"§ 5035. Detention of Alleged Juvenile Delinquent

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the officer taking such juvenile into custody shall advise such juvenile of his legal rights, immediately notify the Attorney General, and forthwith take such juvenile before a committing magistrate.

"Such juvenile may be detained only in a juvenile home or such other suitable place as the Attorney General may designate by the officer taking such juvenile into custody but not for a longer period of time than is necessary to produce the juvenile before a committing magistrate.

"The committing magistrate shall, with all reasonable speed, release the juvenile to his parents, guardian, or custodian upon their promise to bring such juvenile before the appropriate court when requested by such court unless the committing magistrate determines, after hearing, that the detention of such juvenile is required:

"(1) to protect the person or property of others or of the juvenile; or,

"(2) because the juvenile has no parent, guardian, custodian or other person able to provide supervision and care for such juvenile; or,

"(3) to secure the timely presence of such juvenile before the appropriate court.

"Any child ordered to be detained by a committing magistrate shall be detained only in such juvenile home or other suitable place as the Attorney General may designate.

"No juvenile shall be detained in a jail, prison, or other similar place of confinement.

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, such juvenile and his parents, guardian, or custodian shall be advised by the officer or by any court before which such juvenile may be brought that such juvenile has the right to be represented by legal counsel at all stages of all proceedings. If legal counsel is not retained for such juvenile, or if it appears that legal counsel will not be retained, legal counsel shall be appointed by the court for such juvenile.

"Unless advised by legal counsel, the statements of a juvenile, while in custody, made to the officer taking such juvenile into custody, to any officer having custody of such juvenile, or to any court or court official shall not be used against such juvenile prior to the determination by the court that the juvenile did commit an act of juvenile delinquency.

"A juvenile charged with an act of juvenile delinquency shall be accorded the privilege against self-incrimination. Any extra-judi-

cial statement which would be constitutionally inadmissible in a criminal proceeding against such juvenile shall not be received in evidence over objection made by or on behalf of such juvenile.

"Evidence with respect to such juvenile illegally seized or obtained shall not be received in evidence over objection made by or on behalf of such juvenile in order to establish that such juvenile committed the alleged act of juvenile delinquency.

"An extra-judicial admission or confession made by the juvenile shall be insufficient to support a finding that the juvenile committed the alleged act of delinquency unless such admission or confession is corroborated by other credible evidence.

"Criminal proceedings based upon an alleged act of juvenile delinquency shall be barred where the court has begun taking evidence with respect to such act or where the juvenile has in open court admitted that he committed the alleged act of delinquency."

(e) Item 5035 of the analysis of chapter 403 of title 18 of the United States Code is amended to read as follows:

1535. Detention of Juvenile Delinquent.

EXTENSION OF THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT OF 1968

SEC. 3. Section 402 of the Juvenile Delinquency Prevention and Control Act of 1968 (42 U.S.C. 3882) is amended by inserting before the period a comma and the following: "\$75,000,000 for the fiscal year ending June 30, 1972."

SECTION-BY-SECTION ANALYSIS

SECTION 1. This act may be cited as the "Juvenile Delinquency Amendments of 1971."

SEC. 2. Amends sections of title 18 of the United States Code, which deal with proceedings in Federal Courts against juvenile delinquents, to provide that:

1. Juveniles otherwise eligible to be treated as juveniles in Federal Courts shall be tried in state courts unless (a) the state court does not have jurisdiction, or (b) the state courts do not have adequate rehabilitation and treatment services;

2. Adult criminal prosecutions of those eligible for treatment as juveniles may only be commenced if a Federal judge finds, after a hearing, that "there are no reasonable prospects for rehabilitating" the juvenile before he reaches the age of majority;

3. Each juvenile tried in Federal courts has the right to a trial by jury;

4. No juvenile may be detained in any institution in which adults are confined;

5. Juveniles must be advised of their rights and taken before a committing magistrate immediately upon arrest;

6. Juveniles must be advised of their right to counsel, and if they do not obtain counsel the court must appoint counsel for them;

7. Juveniles shall be accorded protection against self-incrimination and the use of illegally seized evidence.

SEC. 3. Extends the Juvenile Delinquency Prevention and Control Act of 1968 for one additional year, with an authorization of \$75,000,000 for the fiscal year ending June 30, 1972.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1733. A bill to amend the act of September 26, 1970 (84 Stat. 884). Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, for myself and the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT), by request, I introduce for appropriate reference a bill to amend the Act of September 26, 1970 (84 Stat. 884).

This measure was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the letter requesting that this proposed legislation be introduced, together with the text of the bill, be printed at this point in the RECORD.

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

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "To authorize the Secretaries of Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other United States territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs", approved September 26, 1970 (84 Stat. 884), is amended by striking out "Secretary of the Interior" where it twice appears and inserting in lieu thereof "Secretary of Commerce."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 26, 1971.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend the Act of September 26, 1970 (84 Stat. 884)".

We recommend that the bill be referred to the appropriate Committee for consideration, and that it be enacted.

As enacted by the Congress and approved by the President on September 26, 1970, the Act entitled "To authorize the Secretaries of the Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other United States territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs" provides for joint administration by the Secretaries of the Interior and the Smithsonian Institution of a four-year program in areas of the tropical Pacific whose ecology is threatened by the seastar "Crown of Thorns." This new Act authorizes the appropriation of \$4.5 million for the period ending June 30, 1975, and provides for cooperation with and assistance to the State of Hawaii and the territories and possessions of the United States in their study and control of the Crown of Thorns starfish. We had supported enactment of this legislation as a means to assist in preservation of those coral reefs now endangered by the voracious Crown of Thorns.

On October 4, and subsequent to final approval of Public Law 91-427, there was established in the Department of Commerce the National Oceanic and Atmospheric Administration. Reorganization Plan No. 4 of 1970 was intended to provide for coordination of the Nation's oceanic activities, and for this reason, we believe that joint responsibility for administration of Public Law 91-427 should be vested in NOAA through the Secretary of Commerce. Although it might be argued that the Plan itself would effect this transfer of responsibility, we are concerned that no question of interpretation be allowed to diminish the prospects for this important program. Accordingly, the draft bill submitted herewith would simply amend the Act of September 26, 1970 by substituting the words "Secretary of Commerce" for the words "Secretary of the Interior" wherever they appear.

The enactment for this legislation would in

no way affect our authority to participate fully in any program of control that involves Guam, the Trust Territory or other territories and possessions for which we have responsibility. As we noted in supporting S. 3153, the Department had commenced work on the problem in 1968 because of our responsibility and concern for the citizens of Guam and the Trust Territory. The problem is widespread, however, and has already attracted the attention of others, including the State of Hawaii, the National Science Foundation, the Smithsonian Institution, the University of Guam, the Office of Naval Research, and the United States Coast Guard. Enactment of our draft legislation would facilitate coordination of these various research activities by NOAA, which has been charged by the President with "achieving a more comprehensive understanding of oceanic and atmospheric phenomena", and the Smithsonian Institution.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

JAMES R. SMITH,
Assistant Secretary of the Interior.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 428 AND S. 429

At the request of Mr. HRUSKA, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor to S. 428, a bill to prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising; and S. 429, a bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors.

S. 632

NATIONAL LAND USE POLICY ACT OF 1971

Mr. METCALF. Mr. President, I ask unanimous consent that the senior Senator from New Mexico (Mr. ANDERSON), the junior Senator from South Carolina (Mr. HOLLINGS), and I may be added as cosponsors of S. 632, the National Land Use Policy Act of 1971.

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

S. 1087

At the request of Mr. HRUSKA, the Senator from Michigan (Mr. GRIFFIN), the Senator from Tennessee (Mr. BROCK), and the Senator from Idaho (Mr. JORDAN) were added as cosponsors of S. 1087, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

S. 1116

At the request of Mr. JACKSON, the Senator from Texas (Mr. TOWER), the Senators from Illinois (Mr. PERCY and Mr. STEVENSON), the Senator from Colorado (Mr. DOMINICK), the Senator from Rhode Island (Mr. PELL), and the Senators from Indiana (Mr. HARTKE and Mr. BAYH) were added as cosponsors of S. 1116, to require the protection, management, and control of wild free-roaming horses and burros on public lands.

S. 1401

At the request of Mr. JACKSON, the Senator from Washington (Mr. MAGNUSON) and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 1401, a bill to establish a national

Indian education program by creating a National Board of Regents for Indian Education, and for other purposes.

S. 1532

At the request of Mr. BAYH, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1532, a bill restating the generally accepted rule that a deduction for depreciation must be based on the useful life of the asset to the taxpayer.

S. 1608

At the request of Mr. SPARKMAN, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 1608, to designate certain lands on the Bankhead National Forest in Alabama as wilderness under the Wilderness Act of 1964.

S. 1614

At the request of Mr. JAVITS, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 1614, the Nursing Education Act of 1971.

SENATE JOINT RESOLUTION 80

Mr. BYRD of West Virginia. Mr. President, on behalf of my distinguished colleague from West Virginia (Mr. RANDOLPH), I ask unanimous consent that the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. CASE), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of Senate Joint Resolution 80, expressing the support of Congress that the United States should convene in 1971 an International Conference on Ocean Dumping.

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

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. STEVENSON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 17, relating to the forthcoming South Vietnamese elections.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. CASE, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of Senate Concurrent Resolution 21, calling for suspension of military assistance to Pakistan.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 98

At the request of Mr. BAYH, the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of Senate Resolution 98, expressing the sense of the Senate that the Treasury Department's proposed changes in depreciation require congressional authorization.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO 32

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY) was

added as a cosponsor of amendment No. 32, intended to be proposed to the bill H.R. 6531, to amend the Military Selective Service Act of 1967.

ADDITIONAL STATEMENTS

"LAND BETWEEN THE LAKES," BY FRANK E. SMITH

Mr. METCALF. Mr. President, we Montanans are proud of the beauty of our State. We also realize that there is beauty across America.

I have recently read with pleasure a new book by Frank E. Smith, Director of the Tennessee Valley Authority. Entitled "Land Between the Lakes," it is the fascinating story of an area of Kentucky and Tennessee in the heart of TVA country, rich in history.

During his service in the House of Representatives, Frank earned a reputation as a solid, constructive worker in the public interest. He came to Congress with a well-deserved reputation as a writer. Since he has been with TVA he has continued writing—first as the author of "The Politics of Conservation" and now with "Land Between the Lakes."

STOL SUBSIDY NEEDED

Mr. SYMINGTON. Mr. President, recently there has been considerable discussion with respect to the importance of STOL aircraft—and the relationship of that type plane to the problems of our cities and the overall problem of environment.

A thoughtful letter by Kurt Hohenemser of the Department of Mechanical and Aerospace Engineering of Washington University printed in the St. Louis Post Dispatch of Sunday, April 25, states in part:

Transportation systems in our technological age are too costly, too complex and too large for development by private industry alone. Our present commercial air transportation system would not exist if the Government had not spent large funds on the prior development and production of military aircraft.

The present system is even now in some areas on the verge of breakdown and it is incapable of handling the passenger and cargo traffic growth expected for the coming decades without drastic changes in equipment and/or ground facilities.

One solution is to retain the present type of airplane with its large demand on real estate and air traffic control and to build larger and larger airports further and further out from the urban centers. The other solution is to develop new flight equipment capable of efficiently and safely operating from small airports located inside urban or suburban areas without causing unacceptable environmental disturbances.

I ask unanimous consent that this entire letter, entitled "STOL Subsidy Needed," be printed in the RECORD.

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

[From the St. Louis Post Dispatch, Apr. 25, 1971]

LETTERS FROM THE PEOPLE:

STOL SUBSIDY NEEDED

In your April 11 editorial you recommend against Congress authorizing the National

Aeronautics and Space Administration to get into the development of short-takeoff-and-landing aircraft, which in your opinion should be undertaken as a commercial venture by private industry. I disagree for the following reasons:

Transportation systems in our technological age are too costly, too complex and too large for development by private industry alone. Our present commercial air transportation system would not exist if the Government had not spent large funds on the prior development and production of military aircraft.

The present system is even now in some areas on the verge of breakdown and it is incapable of handling the passenger and cargo traffic growth expected for the coming decades without drastic changes in equipment and/or ground facilities.

One solution is to retain the present type of airplane with its large demand on real estate and air traffic control and to build larger and larger airports further and further out from the urban centers. The other solution is to develop new flight equipment capable of efficiently and safely operating from small airports located inside urban or suburban areas without causing unacceptable environmental disturbances.

This latter approach is obviously the better one and in densely populated regions the only possible solution, though technologically very difficult to achieve. Because of the risk involved, private industry alone will not fund such a development and Government help is needed to achieve progress in this field. The ill-fated SST approach where the Government became a business partner of private industry in a high risk commercial enterprise need not be repeated. However, the building and testing of Government-funded research aircraft with subsequent public dissemination of all data acquired appears to be a legitimate and necessary approach toward initiating a better air transportation system than we have at present. Once the solution methods have been successfully tested in research aircraft of reasonable similarity to the future commercial STOL air vehicle, private industry can develop and produce such craft with relatively small risk.

KURT H. HOHENEMSER,
Washington University Department of
Mechanical and Aerospace Engineering.

COPYRIGHTS OF SOUND RECORDINGS

Mr. SCOTT. Mr. President, I am gratified that the Senate has taken favorable action on S. 646, which would vest in record companies a copyright in sound recordings which they produce.

The need for this legislation is compelling—the recording industry, artists, musicians, performers, and record distributors are all facing a massive economic challenge from record pirates. Record pirates take "hit" records and, without permission or authorization, duplicate them and put them on the market at depressed prices. Record piracy is a rapidly increasing phenomenon—from \$30 million in business in 1968 to an estimated \$100 million in business in 1970. It is estimated that one out of every four tapes produced is a pirated tape. The recording industry should be protected against such unjustified thievery of their production.

I believe that the granting of a copyright to record companies is the most appropriate and prompt method of meeting the problem of record piracy. This is

a matter that has been before Congress for many years. The experts all concur that there is no serious doubt that the act of creating a record is an act of "authorship" which qualifies a record for copyright protection. The House of Representatives recognized that principle in 1967 when it passed the general copyright revision bill. The Senate Copyright Subcommittee, the full Senate Judiciary Committee, and now the full Senate have recognized this same principle. The Copyright Office, the objective expert in this field, recognizes that producing a record is a creative act which is entitled to copyright protection.

I urge early action by the House of Representatives on this needed legislation.

LAWSUIT CHALLENGES U.S. FARM LABOR SERVICE

Mr. STEVENSON. Mr. President, as the new chairman of the Subcommittee on Migratory Labor, I have received some disappointing reports on the role of the U.S. Department of Labor Farm Labor Service, which operates as a part of the Farm Labor and Rural Manpower Service of the Manpower Administration.

In April 1970, the subcommittee conducted intensive hearings on migrant and seasonal farmworker manpower and economic problems. During those hearings, it was alleged that the Farm Labor Service had failed to fulfill its statutory obligations, abandoned the farmworker it is mandated to serve, and maintained an employer bias that often conflicts with the best interest of farmworkers.

Today, a 1,500-page complaint including verified exhibits was filed against the Secretary of Labor. The complaint seeks to close the nationwide Farm Labor Service and is brought by 16 prominent organizations as well as 398 farmworkers from across the Nation. Activities of the Farm Labor Service in the Nation generally, and in 15 States specifically, are challenged in the suit.

Numerous affidavits filed as part of the law suit are claimed to document not only the Farm Labor Service's refusal to enforce the minimum wage, housing, toilet, and drinking water requirements, but also the Service's active assistance to growers who violate State and Federal law and the dignity of the migrant. Other affidavits allege that more than 300,000 foreign workers were placed by the Farm Labor Service in competition with unemployed local workers. Depositions of prominent Farm Labor Service officials allegedly show an employment policy of the pre-"Grapes of Wrath" era. Counseling, testing, and upgrading of migrant employment skills is nonexistent or only minimally effective.

In the complaint, the farmworkers contend that they would be better off without any Farm Labor Service at all, since its grower-oriented staff often refers them to the worst paying jobs which offer the poorest working conditions. It is estimated that this policy costs the migrants approximately \$100 million a year in lost income. In the alternative, they say that since the Farm Labor Service has failed for 30 years to protect, much less advance, the cause of the

farmworker, that farmworkers should be given an opportunity to operate their own program with a minimal amount of employer or bureaucratic control.

Although the Labor Department has made some effort to extend manpower services to rural areas, and although some States have performed their statutory obligations and legislative mandate admirably, it is significant that the complaint extends to Farm Labor Service activities of at least 15 States, and with the exception of several experimental programs, manpower programs for farmworkers are practically nonexistent.

We have failed the migrant and we will continue to fail the migrant until we give him an opportunity to develop dignity and self-sufficiency. It appears that farmworkers desire to either eliminate the program or alternatively to have an effective voice in the operations of the program. I hope that the Secretary of Labor will take a hard look at the present Farm Labor Service operation.

FUTURE ROLE FOR UNITED STATES IN MIDDLE EAST

Mr. AIKEN. Mr. President, there has been a consistent voice in the Senate for an even-handed policy in the Middle East, and that has been the wise counsel of the senior Senator from Oregon (Mr. HATFIELD).

It is for that reason I should like to invite the attention of the Senate to a statement on the Middle East delivered by the Senator from Oregon on Thursday, April 22, at Western Carolina State University, in Cullowee, N.C.

The Senator outlined the conditions which led the United States to get so very involved in the Middle East.

He also offered four suggestions on how the United States could improve its position in that troubled part of the world.

One of the more interesting recommendations of the Senator from Oregon is that the United States rescind portions of the Foreign Assistance Act which specifically prohibit aid of any sort from the United States to the United Arab Republic.

This is certainly a suggestion which should be carefully looked at when the Senate Foreign Relations Committee reviews the new foreign aid legislation.

It is necessary to maintain correct relations in the Middle East because a conflict there could destroy much of the rest of the world.

I ask unanimous consent that the address by the senior Senator from Oregon be printed in the RECORD.

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

A FUTURE ROLE FOR THE UNITED STATES IN THE MIDDLE EAST

(By Senator MARK O. HATFIELD)

The Middle East has been in turmoil for nearly a quarter of a century. The conflict between the countries to the East and South of the Mediterranean has stemmed from various sources.

The first factor in this conflict was the creation of Israel in 1948. Numerous reactions coalesced over this. The Israelis felt that they

had a right to the land. The Arabs believed that their land had been given away by countries to whom Palestine did not belong. The Palestinians believed that they had been forced out of their homes and made refugees. The major powers felt that the Jews had a right to a homeland in Palestine.

The second factor in the Middle East turmoil was the rising feeling of nationalism among the Arab people. The end of the World War saw most of the countries of the Middle East emerging from colonial domination. This increased dissension between and within the Arab countries, which in some cases surpasses their feelings about Israel. Nationalism has now become an issue with the Palestinians, particularly since the 6 Day War in June, 1967.

There is a third factor that has, in many instances, been the greatest contributor to the hatred and fear in the Middle East. This has been the policies of the Big Powers, most notably the United States. Since World War II, the policy of the United States toward the Middle East has been, at best, self-defeating. I do not question the right of those living within Israel to determine their own future, let alone their right to exist. But I do question a policy that has helped create and perpetuate the wrongs done to the Palestinians, to the people and their subsequent generations who lived in what is now Israel.

In 1917, President Wilson agreed to the provisions of the Balfour Declaration. This stated that the Jews were entitled to a homeland in Palestine. In 1922, Congress agreed to the provisions of the Declaration. In 1948, the United States supported, as did the Soviet Union and other major powers, the creation of the nation of Israel.

However, with the creation of a national homeland for Jews, the roots of Palestinian nationalism, the fedayeen, two wars between Arabs and Israelis, 2.5 million Palestinian refugees, a civil war in Jordan, and potential nuclear confrontation between the Soviet Union and the United States were sown as well. The United States bears a major responsibility for these tragic events because of its schizophrenic policy toward the Middle East over the past 22 years.

With Israel, we have developed perhaps the most unique relationship with a country in our history. Between 1948 and 1968, U.S. economic aid equaled \$1.1 billion. Dollar transfers from private sources equaled \$2.5 billion, with the total of these two being \$3.6 billion. Israel receives \$1400 per capita. This exceeds our assistance to any ally (including Vietnam, which received \$556/capita between its founding and 1968), and compared to \$35 per capita to the peoples of the 13 countries neighboring Israel.

Since 1968, our assistance to Israel has increased. In 1970, dollar transfers were \$800 million, and in 1971 dollar transfers will approximate \$1.6 billion which is more than double the per capita which would be granted to our 50 states under the Administration's proposed Revenue Sharing plans.

We have supplied Israel with military equipment of greater sophistication than we have our NATO and SEATO allies. Last year, for the first time in our history, the House of Representatives passed an amendment to the Military Procurement Act which gave the President "open-ended" authority to transfer military equipment to Israel without total cost limitation. Later in the year, during the debate on the Defense Appropriations bill, the Senate rejected by a vote of 60 to 20 to even debate an amendment which would have forbidden U.S. troops to be sent into combat in the Middle East without Congressional approval. What makes this so unique is that it was the same amendment that the Senate and the House of Representatives had passed earlier but with respect to Cambodia—the Cooper-Church Amendment.

The dilemma in the Middle East is manifold and is said to be between the Arabs and Israelis. More accurately, it is between the Israelis and the Palestinians. This is not to say that the other Arab countries neighboring Israel have no points of contention, but the Palestinian-Israeli problem is the hub around which all others revolve. Without a resolution to this problem, peace will not be forthcoming in the Middle East.

In 1948, the Palestinians were made the "Jews of the Arabs," as they refer to themselves. They were forced from their homeland. Today of the 2½ million Palestinians, approximately 1.5 million live in refugee camps. Their health, housing, sanitation, and educational needs are provided for by the United Nations Relief and Works Agency (UNRWA). They have been made the pawns by most of the parties to the conflict and live in virtually subhuman conditions. When I last visited the area approximately one year ago, each refugee was receiving a total of 10¢ per day, including food, medical care, technical training, and sanitation.

Since the June War in 1967, UNRWA has faced increasing financial difficulties, and the United States bears a major responsibility. Prior to the June War, the United States contributed 70% of UNRWA's funds. Since that time, however, the percentage has dropped to 56%, and last year UNRWA has a \$5 million deficit. To increase our funding last year to the pre-1967 ratio would have meant an additional expenditure of \$1.5 million—or 0.15% of the \$1 billion supplemental appropriation requested by the Administration for military aid to Southeast Asia and Israel last year. It is policies like these and then consequences in human frustration that further alienate and polarize the peoples of the Middle East.

Why should the United States try to help solve this problem? What are the United States interests in the Middle East? Some assert that our interests lie in stopping Communist expansion, but that assertion does not bear out the facts. Our policies may well have been geared to stopping potential Soviet expansionism, beginning with the Truman Doctrine in the early '50's, but our policies toward the Arab countries and Israel created the void and the need for the Arabs to turn to the Soviets for both military and economic aid.

With one or two exceptions, none of the Arab countries have Communist leanings. In the United Arab Republic, for example, the Communist Party is outlawed and Communists are jailed.

Another frequently heard position is that the United States has strategic-military interests in the Middle East: the United States must help provide protection for the soft underbelly of Europe. However, in the age of nuclear weapons and jet aircraft, the entire world is a soft underbelly. World War II and the military realities of that period are gone and we should not continue to make the mistake of adapting World War II perspectives to modern warfare.

The economic interests of the United States in oil and the Suez Canal is an argument that carries more weight. When one is looking at the economic picture, at Arab oil and the Suez Canal of the United Arab Republic, logic would conclude that the United States interests lie with the Arabs.

U.S. economic interests, however, are essentially indirect. It is Western Europe and Japan that greatly depend on the oil from the Middle East. And whereas, the United States would profit from the reopening of the Suez Canal, many other countries around the world have a much larger stake in it. Be that as it may, United States economic interests in the Middle East are not sufficient to warrant vital attention to the area.

Our essential interests in the Middle East lie in humanitarian and moral considerations. One might disagree as to how best accomplish these moral ends, but humanitarian interests are only feasible justification for the magnitude of our involvement in the Middle East over the past 22 years. Obviously, our goal is a just peace between the parties to the conflict. Until recently, however, our policy has not shown any sign of moving toward peace. It has, rather, been the contrary.

Current U.S. policy has brought some signs of hope. The diplomatic initiative by the Nixon Administration is one of the few bright spots in recent U.S.-Middle East history. The Administration has stressed the importance of U.N. mediated talks and the return to pre-1967 borders. It has also attempted to assure the Israelis of this country's continued support while emphasizing the importance of multilateral efforts to sustain a peace. These initiatives by the Administration are highly laudable and in the best interests of all of the parties concerned.

The United States can undertake numerous initiatives to help reach this goal. It can continue to stress the importance of United Nations mediated talks. Within this context, we should press for the inclusion of representatives of the Palestinians. I realize that there would be some practical problems in this, but the effort should be made. The Palestinians must be a full party to the talks if there is to be any realistic hope for a long-term settlement. It might be argued that the Palestinians do not represent a geographical entity. This is true, but there is ample precedent for such representation, most notably in the Paris Peace talks.

Secondly, the United States should use its full influence with the parties to the conflict to reach a settlement. We can play a meaningful role by helping eliminate conditions that contribute to continuing conflict in the area.

Through our aid program, funding for UNRWA should be increased to at least pre-1967 levels. Legislation was introduced in the Senate last year to accomplish this end and will be re-introduced during this session, if necessary. The refugees must be provided with not only food and medical attention, but they must have hope in their future capacity as productive human beings, irrespective of political aspirations. Sufficient technical training and education must be forthcoming for the refugees to give them this hope and dignity.

Thirdly, the United States government should recognize the basic injustice perpetuated against the Palestinians in 1948. This would not only help set the record straight, but it would be a sign to the Palestinians and to other Middle Eastern peoples that we intend to try to right the wrongs of the past.

Fourth, the United States should take moves to stress economic rather than military assistance to the countries of the Middle East. One step in this direction would be to rescind portions of the Foreign Assistance Act which specifically prohibit aid of any sort from the United States going to the United Arab Republic. In a second section of the same Act, foreign assistance is prohibited from any country with whom the United States does not have formal diplomatic relations. The present situation in the Middle East is one example of the lack of wisdom of these provisions. The Arab countries with whom we do not have formal diplomatic relations represent 80% of the total Arab population in the Middle East. Consequently, they are prevented from the potential positive benefits of our economic assistance. It is policies of this sort which are not only highly prejudicial against one people, but also defeat our stated goals. The above sug-

gestions are but a few of the initiatives that the United States could and should take.

The future role of our country in the Middle East could be one of peacemaker. The United States has a moral obligation to make the best of a tragic situation it had a major hand in creating. We have alienated past allies and friends in the Arabs. We have failed to deal effectively with 1.5 million refugees living in camps—camps which demean the human spirit and turn their inhabitants toward hatred and violence toward us, the Arabs and the Israelis. We have virtually forced the Arab countries into the arms of the Soviet Union, and we have had no small hand in threatening the economics of major European and Asian allies as a result of our Middle East policies.

The United States no longer has the influence in that part of the world that it once had with any of the peoples. We do have a great deal of potential which can be utilized. Within our country we must educate ourselves to the realities and the needs of the people of the Middle East. In the past, a number of myths have guided our public opinion and our foreign policy. These myths must be dispelled if we are to help make substantive progress toward peace.

The Nixon Administration has taken a good initial step toward reconciling the various protagonists, but much more needs to be done. The United Nations is the only body that can serve as a catalyst toward peace, and we should continue to firmly stress this in public and private circles. The Administration should make it clear that it will neither condone nor support intransigence by any of the parties to the conflict, and it should be prepared to follow through with action by way of the United Nations and in its foreign aid programs.

We are at a crossroads, perhaps the last, in the Middle East. There is a rare opportunity today to take significant strides toward a meaningful, just settlement to the decades of hatred and violence that have characterized the state of relations between Middle Eastern countries. Now is not a time for waiting. It is a time for action. It is not merely the future of Israel, the Arab countries and the Palestinians that lies in the balance, because there are increasing signs of potential Soviet-U.S. confrontation.

I view the situation in the Middle East as significantly more dangerous to our country than the morass we have created in Southeast Asia. It may already be too late, but we must try to mollify and subdue the causes of the conflict if there is to be any hope for peace at all.

AMTRAK IS A MOVE IN THE RIGHT DIRECTION

Mr. SCOTT. Mr. President, I ask unanimous consent that a news release issued by me today be printed in the RECORD.

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

AMTRAK IS MOVE IN RIGHT DIRECTION

"Getting the new rail corporation off the ground is a move in the right direction," U.S. Senator Hugh Scott (R-Pa.) said today.

The Republican Leader of the Senate said he believed frequency of service and equipment used must be improved "if rails are again to move large numbers of people."

Senator Scott endorsed the move by the Senate Commerce Committee to authorize an additional \$100,000 study to determine if services could be improved.

The study results from considerable concern in the Senate for more services to certain cities and states adversely affected by

the decision to cut nearly in half the number of passenger trains serving the country. Under the proposal of AMTRAK, the corporation created by the Congress, 184 trains will be authorized in comparison with the 350 now in operation.

Senator Scott two weeks ago wrote to David Kendall, Chairman of the National Railroad Passenger Corporation, urging him to reappraise the total system proposed. At that time he asked Kendall to present a plan where additional monies could be used if unappropriated by the Congress.

"Looking at Pennsylvania," Senator Scott said, "I would like to see services to Erie, Allentown, York, Johnstown, Bethlehem, Scranton, and Wilkes-Barre and other major cities, but am realistic enough to recognize that we first must get Amtrak off the ground in the right direction." Senator Scott said he also hoped early additions to the system could be extended to commuter rail services.

SOCIAL SECURITY-WELFARE REFORM

Mr. CHURCH. Mr. President, a week ago I introduced a comprehensive social security-welfare reform proposal, S. 1645, which could help to eliminate poverty for nearly 5 million older Americans.

In this year—the year of the White House Conference on Aging—it seems to me that this goal should be among our Nation's highest priorities.

Recent statistics, however, clearly show that piecemeal, stopgap measures are just not going to solve the retirement income crisis which now threatens millions of older Americans. From 1968 to 1969 poverty among persons 65 and older increased by nearly 200,000—reversing a longstanding trend. In sharp contrast, the number of younger poor persons declined by 1.2 million during this same period.

The net impact of these statistics is that older Americans are more than twice as likely to be poor as younger Americans. One out of every four persons 65 and older—in contrast to one in nine for younger individuals—lives in poverty. Many of these persons, I might add, did not become poor until they became old.

Quite clearly, a comprehensive approach on several fronts—as urged in S. 1645—is needed to meet the retirement income problems of the elderly.

The response to this proposal, I am pleased to say, has been favorable and enthusiastic. Many persons have already requested further information about this measure.

For these reasons, I ask unanimous consent that a question and answer summary on this bill be printed at this point in the RECORD.

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

QUESTION AND ANSWER SUMMARY

1. How could this bill eliminate poverty for 5 million older Americans?

This would be achieved principally in two ways. First, the bill would provide for significant increases in Social Security benefits to raise them to a more realistic level. Secondly, this proposal would abolish the old age assistance system and replace it with a new income supplement program, which would be administered by the Social Security Administration and financed with general revenues.

2. How would Social Security benefits be improved?

S. 1645 would provide for a benefit increase for all Social Security recipients. But the raises would be weighted to provide for larger percentage increases for those who need them the most—individuals receiving inadequate benefits because of low lifetime earnings. For example, a beneficiary who now receives \$141 a month in Social Security payments would be entitled to \$169 under S. 1645, for about a 20 percent increase. For individuals receiving \$185 per month, their Social Security benefits would be raised to \$210, nearly a 14 percent increase. Additionally, the minimum monthly benefit would be raised from \$70.40 to \$120 for persons with 20 years of covered employment.

3. What is the advantage of this particular approach?

It would enable large numbers of elderly persons to be lifted out of poverty without the necessity of resorting to welfare.

4. Isn't this unfair to persons receiving higher benefits?

It must be recognized that persons receiving low Social Security benefits are less likely to have other resources than higher income beneficiaries. Under the usual procedure of an across-the-board raise, persons with higher benefits receive a larger dollar increase. For instance, with a 10 percent benefit increase, an individual who was only receiving \$100 a month would have a \$10 monthly raise in his benefits. But a person receiving \$200 a month would be entitled to a \$20 raise.

5. Won't inflation eventually erode away what the bill attempts to achieve?

The bill provides a safeguard for the elderly from the harmful effects of inflation. Benefits would be adjusted automatically with rises in the cost-of-living to help protect the aged from long delays in enacting Social Security increases.

6. Won't this mean an increase in Social Security taxes?

No. These proposed increases can be financed from the existing surplus in the Social Security trust fund.

7. But what about individuals who must live in poverty because they have low or no Social Security benefits?

For these persons, the bill would establish an income supplement program. Under this system, aged persons would be entitled to a supplemental payment which would be sufficient to raise them out of poverty.

8. How would these supplemental payments be received?

Simply by going down to your Social Security office and affirming that your income is below the poverty index. If you receive Social Security benefits, your supplemental payment could be included with your monthly Social Security check.

9. Can you provide an example?

Under the bill a single person would be assured of approximately \$150 a month, and a married couple \$185. For instance, an elderly widow lives alone and has a total monthly income from all sources of \$95. She would be entitled to a \$55 supplemental payment from her Social Security office.

10. But what about inflation?

The income supplement program also has an automatic escalator clause to keep these payments current with rising prices.

11. Why does the bill use the Social Security system for administering this program?

Because there are more than 700 such offices which are conveniently located throughout the country. People in these offices know and understand the problems of the elderly. Social Security is also a universal income insurance system, covering more than 90 percent of all older Americans. Perhaps most important, the Social Security office does not carry the same stigma which is now attached to the welfare offices.

12. Are there any other advantages to this approach?

For the 1.2 million persons who now receive old age assistance and Social Security benefits, this new system could provide an efficient, one-step service. Another advantage is that the measure would provide a form of revenue sharing for the states. Placing the income supplement program under the Social Security system could free nearly \$700 million in additional revenue for state and local governments, which they now pay out for welfare.

VIETNAM AND SELECTIVE SERVICE

Mr. JAVITS. Mr. President, Monday night I had the privilege of addressing the student body of Wooster College in Wooster, Ohio, on the subject of our involvement in Vietnam and the upcoming Senate vote on extension of the Selective Service Act. I ask unanimous consent that the text of my speech be printed in the RECORD.

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

THE DRAFT AND THE VIETNAM WAR

(An address by Senator JAVITS, a member of the Foreign Relations Committee, delivered at Wooster College, Wooster, Ohio, Monday, April 26, 1971)

The failure of President Nixon to establish a definite date for withdrawal of all American troops from Indochina has been a bitter disappointment to those millions of Americans—now probably a majority—who believe that the time has come for us to end, once and for all, our involvement in this tragic conflict. I do not doubt that the President sincerely believes that by following his course we shall, in fact, be out of Indochina by election day, 1972. But, by the principle of Vietnamization, he has left it up to Saigon and Hanoi to have the final word as to whether—and when—we finally do get out.

I came to the conclusion several years ago that we should not give either Hanoi or Saigon a veto over our Indochina policy. Our first and foremost objective at this point ought to be the withdrawal of American fighting men from Vietnam, as soon as possible, and at all events by June 30, 1972, whether or not the South Vietnamese can or cannot "hack it."

Under our Constitution, the President does not have unlimited power to keep us in Vietnam indefinitely. Congress has the power, if it can be convinced to exercise it, to fix a date for our withdrawal from Indochina—just as my War Powers Bill assumes that the war power is not for the President to exercise alone, but with the Congress jointly. So far it has been difficult to convince a majority of the Congress to impose its will on the President in this fashion. But, the tragic waste of our precious resources—human and material—and the bitter divisiveness which the war has spawned in our own country—have resulted in an agonizing reappraisal of the proper Constitutional role of the President and the Congress in the formulation and implementation of our war making powers.

I believe we have now reached the point where the Congress is ready to take appropriate steps to limit the steady expansion of Presidential power in the war making area which has occurred during the past three decades, and reassert its own Constitutional prerogatives in this area. Several steps have already been taken in that direction which have very fundamental Constitutional significance, and which have laid the groundwork for further action to be taken this year.

Thus, a national commitments resolution was adopted in the Senate last year defining a national commitment as one resulting exclusively from both legislative and executive action. Second, the adoption last year of the Cooper-Church amendment prohibiting the use of American ground forces in Laos and Cambodia was a clear expression of Congressional will that the war in Indochina should not be widened. Third, additions to the group favoring legislative action to end the war, together with the 40 who voted last year in the Senate for the Hatfield-McGovern amendment—to require withdrawal of all American troops from Indochina by the end of the year—indicates that the votes to pass such a proposal this year may well be found in the Congress.

This year, there are already a number of measures pending before the Senate which will have a material effect on ending our involvement in Indochina—and preventing the President from involving us in future Indochinas, at least without full informed consent of the Congress. Among these are my own War Powers proposal to prescribe the conditions under which the President can commit American troops to military hostilities, and to require the cessation of any such American involvement after 30 days unless Congress has affirmatively acted to authorize its continuation. Hearings already have begun on this measure as well as on proposals similar to the Hatfield-McGovern amendment of last year, designed to establish a specific termination date for our involvement in Indochina. I am confident that more proposals will be reported out by the Senate Foreign Relations Committee and that the Senate will vote on this matter early this summer.

Within a week or two the Senate will be considering proposals to extend the draft and to fix a total limit on military-force levels. For reasons which I will explain in a moment, I have been and continue to be opposed to the idea that we should rely solely on volunteers to fight our military battles. If we are fighting a wrong war—that war should be opposed and stopped. It is not satisfactory to say that it should only be stopped for those who do not want to fight in it. We have a national tradition of civilian armies—not professional armies. It is important to our basic national values and liberties that this should continue to be so. We have a stake in assuring that a good proportion of our soldiers have a civilian mentality, rather than a professional military mentality.

However, in my judgment, the time has come for Congress to limit the President's heretofore virtually unrestricted authority to induct men into the armed services as one way of indicating Congressional will that we get out of Indochina by June 30, 1972 at the latest. Therefore, I shall join in the effort to limit extension of the present draft authority to one year, rather than the two years proposal by the Administration and recently approved by the Senate Armed Services Committee. For the same reason, I shall support the proposal of Senator Kennedy to limit the number of men who may be drafted during this coming year to the order of magnitude of 150,000 or if we can justify it, a lesser figure. In view of the fact that over 500,000 men will be discharged next year, such a restriction as the number of men who can be drafted will, when coupled with an overall limit on troop levels, practically assure that we will continue to withdraw men from Indochina at no less than the current rates throughout the coming year.

One of the most deliberative acts of the Founding Fathers at the Constitutional Convention in 1787 was to vest exclusively in the Congress the powers "to raise and support armies" and "to make rules for the

government and regulation of the land and naval forces." It is the duty of the Congress, in my judgment, to ensure that it—and not the Executive Branch—exercise the authority to establish force levels for our military services.

One of the most commendable moves the Nixon Administration has made has been to lower our overall military force level from a high of 3.5-million men in 1968 to less than 2.8-million men today, moving toward an estimated 2.5-million men by June, 1973. I am, however, not convinced that we cannot achieve faster reductions in our total force levels without undercutting our commitments around the world. This is an area in which up to now the Pentagon's judgment has gone unchallenged. It should not go unchallenged any longer. The Congress can and must face up to its responsibilities in formulating national defense policy.

The issue is of critical importance from both an economic and political standpoint. From the economic standpoint, our military manpower requirements now take up over 50 per cent of the defense budget, and planned increases in military pay—which I support on grounds of equity alone—will increase this percentage in the future. That means that for every 100,000 men by which we can reduce our force levels we will save over \$1-billion in the defense budget. I do not think I have to remind you of how sorely needed that kind of money is for civilian purposes—purposes which are vital to our national security in the overall sense of being a healthy and viable society.

As the Vietnam war winds down, the United States and the world will move into a new era of international security relationships and requirements. Vietnam has taught us the bitter lessons of trying to be the world's policeman—always ready to participate in struggles which claimed the mantle of "anti-communism." One of the greatest fears of the Founding Fathers was a standing army, which they viewed as a great temptation to rulers to get involved in military adventures. We cannot go back to the days when the United States had no standing army or only token forces; the world situation and our status in the world would not permit us such idyllic existence.

But we can seek to ensure that this level of strength is no more than what is really necessary for our legitimate security interests and that in the dreadful event that any kind of substantial, long-term military actions prove to be necessary, the President will have to come to Congress for authority to raise the manpower to support them. The struggle here is not primarily with the President but rather a struggle for the mind of Congress. The authority which the President has, was legislated to him—too prodigally in my judgment—by Congress. Congress must now reclaim its authority and exercise its responsibility. It can no longer turn the whole thing over to the President, and then criticize from the sidelines.

Basic U.S. defense policy is currently under revision and will be scrutinized and debated in the Congress. The trend is for significantly reduced force levels. In the future Congress will require fuller and more convincing justifications for military budget requests. The days of *carte blanche* for the Pentagon are over.

In my judgment, this kind of reassertion of Congressional responsibility is a more meaningful and direct way of insuring the end of the Indochina conflict, and preventing future Indochinas, while at the same time meeting our legitimate security needs, than would be abolishing the draft completely in favor of an all-volunteer army.

If we do limit the President's power to induct and succeed in reducing our total force levels substantially, we will have to get out of Indochina—and we will have, in fact, what

amounts to a peacetime volunteer army. But so long as this war—or any war—continues, we cannot avoid the moral and political responsibility for it by shrugging our shoulders and letting those who have had cause to volunteer to bear the brunt of the conflict. A large, wartime volunteer army may not be all-black or all-poor, but no one has yet convinced me that it will represent a true cross-section of America.

The draft has played a major role in awakening our people to the mistakes and tragedy of the Vietnam war. If the war had been fought exclusively by volunteer, professional soldiers, the country at large may never have become aware of all the brutal and demoralizing dimensions and impact of that struggle—not only upon the Vietnamese people, but upon our own men and our own society.

Nor could we be sure that an army made up solely of careerists would have had enlisted men in it with the courage or inclination to expose the My Lai incident. I am not one of those who thinks Lieutenant Calley is a hero; he and the others responsible for the massacre ought to be held fully accountable for their deeds. And we need to know that there will be men in the armed forces who can be depended upon to expose any similar barbaric incidents.

It is said that had we not had the draft during the last years, enough men would not have volunteered to enable the war to continue. Perhaps. And perhaps so few would have volunteered that our military force levels would have dropped below even our barest security needs.

I do not believe we can afford the luxury of simply assuming that "bad" wars will not attract volunteers and "good" wars will. In World War II, 60 per cent of our troops had to be drafted. Even the Gates Commission, therefore, recognizes that our security requires that we maintain a stand-by draft. On the other hand, even if we abolished the draft now, it is quite possible that, given present levels of unemployment—particularly among teenagers—that the military pay raises now contemplated would attract enough volunteers to permit our continued involvement in Indochina at a reduced, but still sizable level, indefinitely, with reduced public pressure to force us to withdraw. Either way, I do not believe we should base our foreign policy on such gambles.

The draft, in short, cannot be made the scapegoat for Indochina, nor is it the key to our getting out as soon as possible. It is, however, quite possible to utilize the draft as one important means of maintaining Congressional control over our involvement in such military adventures. Congress can and should act now to limit the President's power to induct; and to reduce our overall military force levels to the minimum required by our security.

Finally, I do not believe that there is anything inherently "undemocratic" about the draft. On the contrary, insofar as the draft imposes the risk of sacrifice equally upon all, it is clearly more in keeping with fundamental democratic principles than a system which depends primarily on "mercenaries," drawn largely from those who have been unable to fit into the domestic mainstream of America.

If we are to retain the draft, what kind of draft shall it be? Despite improvements made by the Nixon Administration, the present draft remains in many respects archaic, unjust, and inefficient.

The draft should be based on certain fundamental principles, foremost among which is that the risk of service must be assigned with the most rigorous equality possible. A lottery is perhaps the fairest process of selection, but the question of who is in the pool on which the lottery operates is even more critical. Our present system leaves many classification and deferment decisions

entirely to the discretion of thousands of local draft boards. If we are to make the draft as equitable as possible, this system must be changed to a system of uniform national standards, and the major criteria for decisions must be related to the principles of equal service and equal opportunity.

In wartime, when we speak not merely of inconvenience, but of life and death, I believe, with a majority of the Marshall Commission, that all student deferments should be eliminated if there is a substantial risk that a potential draftee be exposed to armed conflict. So long as we are enacted in a tragic conflict in Vietnam, we must all bear the burden of that conflict. Such deferments as are required by the national interest for college or graduate students should stand the same test as employment essential to the national interests as a basis for deferment.

Of course, education is vital to our long-range national interest. But student deferments are just too inherently discriminatory to override the need for rigorous equality of treatment under the draft. How seriously can a young man take our protestations of freedom and democracy when he is obliged to serve in Vietnam because his whole background—of financial capability, of home necessity, of previous education, or even of choice—precludes attendance at a four-year college? One young man serves because of this deprivation; the other escapes that service without regard necessarily to the contribution to the national interest attributable to his college education.

Another principle which must be better recognized in the draft is conscientious objection. I certainly believe that it is not inconsistent with the need for equality in the assignment of risk to accord special treatment to those with deeply held scruples against war in any form, whether or not these scruples stem from orthodox religious belief.

I cannot, however, accept the principle of conscientious objection to particular wars—i.e., Vietnam. In reaching this conclusion I have not ignored the responsibility of every citizen to make a moral judgment on our country's participation in any military venture. That judgment was made by Thoreau, and it must be made by you. Many have already made it, with personally tragic consequences.

But the hard fact of the matter is that no workable system can be established to differentiate the merely political from the truly conscientious objection to a particular war. Conscientious objection to a particular war must by its very nature be politically bound.

A draft system which recognizes conscientious objection to a particular war would, in actual operation, become a travesty. It would, in fact, have more resemblance to a volunteer army system than a draft. Furthermore, we would also be faced with the insuperable problem of dealing with conscientious objection to particular military ventures by those in the armed forces before the venture commenced. No one has yet suggested how intelligent military planning could take place under such circumstances.

Let me, in conclusion, reiterate my understanding of how deeply and sincerely many of you feel about the need to end this war and the opposition many of you have to the draft for very personal reasons.

I have devoted the lion's share of my time and effort this year to laying the groundwork for Congressional action to end this sad chapter in our history—the Vietnam war. I wish that I could find some way to relieve those of you who have the most personal stake of all in this effort from the burden of facing military service at this juncture. Yet I am convinced the only way to insure that we do in fact get out of Vietnam is to guarantee that all of the people in this country, not just

the concerned minority, face up to this issue squarely. Abolishing the draft simply begs the question; reforming and limiting the draft, coupled with action specifically designed to get us out of Indochina, is a direct answer, and one which finally has become politically possible.

ADAIR AIR FORCE STATION

Mr. BAYH. Mr. President, I was happy to learn that the U.S. International University has withdrawn from the award of Adair Air Force Station by the Department of Health, Education, and Welfare. It is a happy result for the people of Oregon who will now have an opportunity to develop their own ideas for the best possible use of this property.

Whenever a military facility is closed down it creates a severe economic hardship on the local community in which it is located. Not only does it mean that a lot of its residents will be left without jobs, but the loss of the payroll, which in most cases is very substantial, causes a severe depression on the economy of that community that lasts for many years.

That is why it is so important that the Federal Government quickly find another Federal agency to make good use of the property, or turn it over to responsible local agencies for use in the economic and social rebuilding of their community. In the past, this system has helped to give birth to many community colleges, hospitals, vocational schools, and other institutions dispensing necessary public services. But the experience I have gained in inquiring about the disposal of Adair Air Force Station has raised serious questions in my mind about the procedures used by HEW to determine how it will dispose of surplus property.

I first learned of the Adair controversy during a visit to Oregon in which I spoke at the Poor Peoples Conference in October of last year. Subsequently, I received numerous letters from interested parties who complained that they had not received adequate opportunity and assistance to formulate uses for the property that would meet HEW requirements.

In response to these complaints, I exchanged communications with HEW Secretary Richardson, who confirmed that only one approvable application had been submitted. I ask unanimous consent that my letter and the response from Secretary Richardson be printed at this point in the RECORD.

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

FEBRUARY 25, 1971.

ELLIOT RICHARDSON,
Secretary, Department of Health, Education,
and Welfare, Washington, D.C.

DEAR SECRETARY RICHARDSON: I am writing in reference to the decision made by the Federal government to turn Adair Air Force Base in Oregon over to the United States International University. It has come to my attention that questions have been raised as to the status of this university and also to the procedures developed by HEW and GSA concerning the transfer of surplus government property.

Of particular concern is my desire to see surplus government land be put to the best use, possibly for the benefit of the poor. I have been informed that the Oregon Council

of the Poor has developed a project which would provide for positive use of this land in the area of utilizing human resources. I would hope that these types of programs would be given every consideration before decisions are made.

Any information that you have regarding this particular issue would be most helpful. I will be looking forward to your response.

With warmest regards,
Sincerely,

BIRCH BAYH,
U.S. Senator.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, April 2, 1971.

HON. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: Thank you for your letter of February 25, concerning our conveyance of the former Adair Air Force Station in Oregon to the United States International University, and expressing your interest in surplus property procedures of the Department and the General Services Administration.

The only approvable application for the surplus property at Adair was submitted by USIU. Our review revealed that the USIU programs and potentials are outstanding in the field of education today. The multicampus concepts of separate but closely related and cooperating institutions is sound from both an administrative and development point of view. Students may enter on any one of its campuses and travel to others while meeting their graduation requirements. Students are not drawn primarily from the State in which the campus is located, but from a large geographic area encompassing many States. Also, the financial status of the University did not appear to be a serious obstacle to its carrying out the programs at Adair. It was for these reasons we determined that to proceed with this conveyance was in the highest public interest.

We share your concern about using surplus government property for the benefit of the poor. When such proposals are made, we attempt to assist the pertinent organizations in every way possible. The Oregon Council of the Poor submitted a program to our Regional Office in Seattle, Washington. However, the Federal Property and Administrative Services Act of 1949, as amended, authorizing the Department's surplus real property program, is specific in establishing organizational and program eligibility. The Oregon Council of the Poor did not meet these eligibility requirements. Surplus real and related personal property may be acquired by States and their political subdivisions, tax-supported institutions, and by non-profit institutions which have been held exempt from taxation under Section 501(c)(3) of the 1954 Internal Revenue Code. Institutions meeting this organizational eligibility must have programs which are clearly health or educational within the language of the Law and establish financial ability to carry out the proposed programs.

Our Seattle Regional Office will be glad to discuss specific requirements of our real property program with representatives of the Oregon Council, and provide any assistance possible in keeping with the Law and our regulations and procedures.

With kindest regards,
Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. BAYH. Mr. President, the result was that HEW awarded one of the most valuable pieces of public land in the Willamette Valley to a university which had never maintained a presence in the community and offered at best a faint

hope of gradual development. The crowning blow was that most of these students would not even be from Oregon. There was a great public outcry. Several agencies proposed alternative uses for the property which they claimed would result in better utilization for the benefit of local residents and improve the economic status of the area. But HEW would not be moved, and the antagonism grew, until officials of the U.S. International University realized that they were about to inherit a hostile environment and withdrew.

The sad lesson that we must learn from all of this is that none of this needed to happen.

The Federal Government should recognize a foremost responsibility to assist the local community to restore its economic balance whenever a decision is made to close down a military installation. It should not be sufficient excuse to admit that only one approvable application was received. Every possible form of assistance should be given to local governments and other pertinent institutions to prepare proposals for the best utilization of the surplus property and to become eligible if their proposals have merit. In order to avoid similar happenings in the future HEW should make a comprehensive investigation of all applicants and applications and make the information that is obtained available to residents of the local community. HEW regulations should also provide for a hearing in the local community before final disposition is made. When public land is being given away to a State or local government or to a nonprofit institution the transfer must be able to stand light of day, particularly in the community that is most affected.

THE VETERANS WHO DID NOT COME

Mr. SCOTT. Mr. President, a recent edition of the Washington Evening Star included an article by Richard Wilson that may be of interest to Senators. I ask unanimous consent that the article be printed in the RECORD.

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

THE 2.5 MILLION VETERANS WHO DIDN'T COME

(By Richard Wilson)

At the end of 1970, according to official Defense Department figures, approximately 3 million Americans had served in Southeast Asia, 2.5 million in Vietnam alone. The thousand or so of them who demonstrated in Washington were a minute fraction of the total who have served in Vietnam. This certainly could not be considered an abnormal proportion of disillusioned and embittered veterans emerging from any war in any country.

In fact, the discontented and alienated veterans of war have in some countries and for different reasons represented a far more serious challenge to governments in power, Germany being the most dramatic illustration.

Yet there is an element of disappointed expectations in the attitudes being adopted by the veterans of Vietnam. Anyone who visited Vietnam in the early part of our heaviest involvement had difficulty stifling

a sense of pride in American behavior and performance in this far-off and difficult battlefield.

The ranking officers, from Gen. Westmoreland on down, all felt it. Many of them, including Westmoreland, believed that the rotation of manpower on the basis of one-year service would continually send back to the United States men who in due course would create an important reservoir of support for American operations in Vietnam.

In the beginning this did seem to be the case. The Vietnam veterans in large number felt that they had been participating in an action which was both necessary and worthwhile. And it was on this basis that one observer, at least, departed from his usual detachment in writing for the news columns to assert that the Vietnam operation was worthwhile.

The expectation that the hundreds of thousands of returning veterans would create a solid base of support for continuing on the road toward American objectives has not materialized in any concrete way. Perhaps it exists and underlies the patience of the American people with the slow and painful process of disengagement.

But those who contend that this has been an ignoble war and unworthy of American standards and ideals have gotten the upper hand so far as public attention is concerned. They are making the most of the presence in Washington of crippled and wounded medal winners and scoffing at President Nixon for his forbearance in avoiding evicting them from the public grounds of a nation they have served.

Nothing that the veterans did here brought the end of the war one hour closer but their encampment did serve as a political backdrop for various Democratic presidential candidates who are trying to make the way out of the war as hard as possible for Nixon on the pretext that his commitments can't be relied upon.

What the vast majority of 2.5 million men who have served in Vietnam may think of all this is unknown but they have endured it in silence and without the affront many of them evidently felt over the conviction of Lt. Calley.

The ugly possibility presents itself that one of the legacies of the Vietnam war will not be men who returned strengthened or ennobled by service to their country but the fewer who are permanently estranged and distrustful of all higher authority.

If there was any point at all in the Vietnam veterans visitation it was to persuade Nixon of the expediency of declaring a fixed date for the completion of a total withdrawal from Vietnam.

This is not in the cards and it is hard to believe that it would actually become the program of any president elected as Nixon's successor whatever he might say or pledge during a presidential campaign.

Total and hurried withdrawal from Vietnam carries with it the imminent and real danger of terrible consequences for the people of South Vietnam to say nothing of American integrity.

Presidential candidates and aspirants who create the impression they would totally withdraw now, and exploit a veterans' protest to reinforce that impression, are living and talking in a make-believe world. They do not know they could lead the American people that way if they got the chance.

The 2.5 million veterans of Vietnam who did not come to Washington may have something to say about that.

INDIA'S WAR ON POVERTY AND SOCIAL INJUSTICE

Mr. CHURCH. Mr. President, events in the Indian subcontinent over the last 2

months are of immense historical importance. Tragedy has befallen the people of East Bengal and Ceylon, marked by insurrection, violence, and martial law. In India, on the other hand, the most impressive expression of electoral politics took place when Indira Gandhi and her new Congress Party won a nationwide landslide victory. Via the polls, the Indian people, of all persuasions, gave Mrs. Gandhi a clear mandate, for the first time, to work for improved living conditions in the world's most populous and impoverished democracy. Providing jobs, better education, land reform, rural electrification, housing, and social dignity are, by far, her greatest challenges. As she said after being sworn in as Prime Minister, a long difficult journey remains to accomplish these goals:

Our common aim shall be the lessening of disparities and poverty and of taking the country on a path that can solve the real problems of the people.

The President of India, Mr. V. V. Giri, in an address to a joint session of both houses of the new Parliament in New Delhi on March 23, outlined the course of this journey, presenting the Government's program to end poverty and social injustice. We in America know that these pressing problems are not easy to tackle or to solve, but begin—all of us—we must. A national commitment by a country's leaders is the necessary first step both in India and here. I hope that India's correct ordering of its national priorities will not be upset by unproductive military spending or by military clashes with Pakistan or China, dangerously potential possibilities.

In order to share with Senators President Giri's blueprint to build a better India, I ask unanimous consent that his address to the Indian Parliament be printed in the RECORD.

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

WAR ON POVERTY AND SOCIAL INJUSTICE (An address by the President of India to Parliament)

It gives me pleasure to address this joint session of the Fifth Parliament of our Republic and summon you to new endeavors.

General election has once again demonstrated that durable political power in a democracy has only one source—people. It has proved the people's confidence in themselves and their faith in the processes of democracy.

Our people have made their choice. They have asserted their sovereignty through the ballot box. And theirs is a massive mandate for change—peaceful change—that must swiftly and visibly alter the picture of poverty and alienation in our land.

We have begun this work. But now we have to address ourselves afresh to evolving perspectives, politics and practices even more closely and concretely related to the needs of our people and our times.

ABOLITION OF POVERTY

My Government has returned to office a clear pledge that the central objective of our policy must be the abolition of poverty. To achieve this my Government is firmly committed to implementing economic and social transformation outlined in the manifesto which has received such overwhelming support of the electorate.

UNEMPLOYMENT PROBLEM

The Government will soon frame specific policies and programs arising out of the mandate of the electorate. A mid-term appraisal of the Fourth Plan will be made. This appraisal will enable us to review and re-orient the Plan in order to increase pace and effective use of investment in the economy. As a part of this exercise, the government will also identify specific directions in which the developmental programs could be further reinforced in a determined effort to deal with the problem of unemployment. Crash scheme for rural employment, which is to be implemented from the commencement of the next financial year, will form the nucleus of a comprehensive program for the expansion of employment. This program will be linked to schemes for raising productivity of agriculture. Construction and renovation of minor irrigation sources and provision of basic amenities such as drinking water supply and link roads will form a part of this program. The problem of educated unemployed will receive special attention.

LAND REFORMS

My Government are convinced that land reforms are vital for the promotion of an egalitarian social order and for maximizing agricultural production. In recent months various issues relating to land reforms have received special attention of my Government. A Central Land Reforms Committee under the chairmanship of the Union Minister of Food and Agriculture has been set up. As a result of the lead provided by the Indian Government, the States in which intermediary tenures have not been completely abolished have taken steps to do so. Further legislation has been introduced in some States to give security of tenure, to reduce rents and ceilings and to restrict exemptions.

While recognizing that land reforms come within the legislative competence of the State, my Government will continue to press the State Governments for further action in promoting a more equitable agrarian structure. Simultaneously the Government will pursue the objective of imposing a ceiling on urban property.

CREDIT FACILITIES

The extension of credit facilities for productive purposes to areas and classes hitherto neglected is one of the important objectives of my Government. A comprehensive credit guarantee scheme has been launched recently. A Credit Guarantee Corporation has been set up under the auspices of the Reserve Bank of India. As from April 1, 1971, small loans given by commercial and cooperative bank offices will be eligible for guarantee by the Corporation to the extent of about 75 percent of the loans advanced. Increasing attention paid by the banks to the genuine needs of productive enterprises, including those of agriculturists whose main resort earlier was to the moneylenders, is one of the striking new developments which have served to concretize benefits of the nationalization for the small man.

RURAL ELECTRIFICATION

The Government also attach high priority to the extension of electricity to rural areas and in particular to the utilization of electricity for lift irrigation. The implementation of rural electrification programs has been appreciably accelerated. Two hundred sixty thousand pumpsets were energized in the first year of the Plan and this tempo has been stepped up in the current year. The rural electrification Corporation has begun well with the sanction of schemes of value of about Rs. 700 million (\$93.34 million). This program will be pursued with an increasing vigor.

HOUSING FACILITIES

My Government are keenly aware of the intolerable living conditions of the urban

poor. Clearance and improvement of slums and rehabilitation of slum-dwellers will figure prominently in the agenda of economic and social reforms which my Government have in view and larger resources will be canalized for this purpose. Housing and Urban Development Finance Corporation has been set up recently and will become an important agency for the augmentation of housing facilities in metropolitan centers and urban areas.

Simultaneously efforts to improve rural housing conditions will be given fuller consideration. The aim is to allot building sites to landless workers on a larger scale, to legislate for the conferment of homestead rights and to assist in the construction of decent liveable houses for the rural population. This will necessarily have to be a joint program of the State and Central Governments.

INCREASED PRODUCTIVITY

My Government also propose to:

(A) Appoint task forces to remove obstacles that come in the way of speedy implementation of investment programs in public and private sectors of our industry and to step up the rate of industrial production;

(B) Extend new technology in agriculture to dry farming, to new crops and to new areas which have not been covered so far. Research and extension programs for faster growth in output of fibres and oil seeds which are the articles of mass consumption will be intensified;

(C) Consult leaders of trade unions and managements in order to evolve sound industrial relations and to secure increased productivity consistent with a fair deal for labor. Improvement in industrial relations is as vital as capital and technology for increasing output;

(D) Accelerate changes in the structure and functioning of administrative apparatus, expedite decision-making, ensure effective delegation of powers and responsibilities and streamline financial procedures and;

(E) Devote special attention to the building up of a well-equipped managerial cadre for public and private sectors.

ECONOMIC GROWTH

Economy recorded growth almost at the planned rate in 1969-70 and it is likely to repeat this performance in the current year. A good harvest for the fourth year in succession is expected, raising the foodgrain output to 105 million tons—5.5 million tons more than the last year. Wheat revolution is by now an accomplished fact. Our agricultural sciences have released a number of higher yielding varieties of rice. The response of farmers to the new technology is limited only by our capacity to reach them effectively.

FAMILY PLANNING

However, improvement in food situation will at best be a reprieve. The results of the new census will be a grave reminder that family planning program has to be pushed forward with much greater vigor. This program can only be fulfilled if it becomes a movement. A small family must speedily become the accepted social norm. Indeed family planning should be regarded as a vital element in the gigantic task of social transformation that lies ahead.

PRICE INDEX

While general outlook for the economy is hopeful, my Government are aware that the level of prices in recent months has caused some concern. Wholesale price index is now approximately 3.4 percent higher than the level about a year ago. But it is important to note that amidst this pressure on prices, foodgrain prices have declined by about 6.5 percent. The Government have, therefore, sought to keep the rise in prices in check by

arranging larger imports of commodities in short supply while taking steps to increase their internal production.

SCIENCE AND TECHNOLOGY

My Government intend to draw up and execute a National Plan for the application of science and technology to development. This Plan will be intimately related to an indeed largely derived from our socio-economic Plan. The important feature of such a Plan will be the preparation of detailed programs in a few high-priority areas of national endeavor in which science and technology play an important part.

The Government have set-up an Electronics Commission to ensure a balanced development of the electronics industry. The Commission will concern itself with the research, development and industrial operations in the field of electronics.

My Government are anxious that rapid economic development should not lead to the pollution of air, water and soil. There should be a rational management of our natural resources, taking care not to upset ecological balance in nature.

The persistence of communal tension in some parts of the country and occasional flaring up of violence constitute a threat to our secularism and democracy and to basic values of civilized life which we cherish. The Government are determined to overcome this danger. This problem needs to be treated as a national task to ensure national survival.

VIOLENCE IN WEST BENGAL

In the recent past violence has grown in West Bengal. The murder of Hemanta Kumar Basu, one of our oldest and most dedicated colleagues in the freedom movement and of other political workers, has shocked us all. Nevertheless the conduct and the results of recent elections in West Bengal clearly indicate a re-affirmation by people of their faith in democracy.

My Government reiterate their unqualified determination to root out lawlessness and to eliminate "politics" of murder and assault. Simultaneously my Government intend to accelerate a program for the improvement of Greater Calcutta with the help of public and private investment.

The Calcutta Metropolitan Development Authority has begun its work. The Industrial Reconstruction Corporation is about to be launched. Other development works are also being undertaken in West Bengal.

West Bengal Land Reforms (Amendment) Act was passed in July 1970 whereby bargadar's share of the crop was increased and his right to cultivate the land made secure and heritable. A Presidential Act has been enacted recently to reduce the ceiling and fix it in terms of the family as a unit.

ABOLITION OF PRIVY PURSES

You are aware that the orders for the de-recognition of rulers of former Indian States were declared in-operative by a majority judgment of the Supreme Court. However, the Government's resolve to abolish, by appropriate Constitutional measures, privy purses and privileges of the rulers remain unaltered.

Hope and despair continue to co-exist in the larger world around us. There has been a relaxation of the tensions between Western and Eastern Europe. We welcome the signing of an agreement between the Federal Republic of Germany and the Governments of the U.S.S.R. and Poland. But the situation in South East Asia and West Asia has worsened.

PEACEFUL AND NEGOTIATED SETTLEMENT

The situation in Indo-China has deteriorated further. Ever-widening areas are engulfed in war embracing Cambodia and Laos. This is inconsistent with the interests of peace. We have urged restraint and pressed

our view that the only solution lies in a peaceful and negotiated settlement within the broad framework of the Geneva Accords. It is our belief that the best solution will be an International Agreement or a Convention signed by all the great powers and others interested in the region.

There is an uneasy truce in West Asia. My Government hope that a positive response would be made to the series of initiatives recently taken by the U.A.R., showing its earnest desire to implement the Resolution of the Security Council of November 22, 1967.

INDIAN OCEAN

We are concerned at the setting up of military bases by the outside powers in the Indian Ocean and the proposed sale of arms to South Africa. As mentioned in the Lusaka Declaration, we should like the Indian Ocean to be a zone of peace, free from military confrontation and the rivalries of great powers.

HIJACKING

The attitude of the Government of Pakistan during the recent hijacking of an Indian Airlines plane and its eventual destruction was deeply resented by the Government and the people of India. Friendship and understanding which we seek cannot be achieved by such provocations.

NONALIGNMENT

My Government will steadfastly pursue its policy of non-alignment. It will raise its voice whenever peace is threatened, wherever the independence of sovereign nations is eroded. It stands firmly against colonialism whether in its old shape or in any new guise.

Your present session will be a short one, confined to the transaction of essential financial and budgetary business. You will be meeting again shortly to consider further business, statement of estimated receipts and expenditure of the Government of India for the financial year 1971-72 will be laid before you. Bills will also be introduced for replacing the State of Himachal Pradesh (Amendment) Ordinance, 1971 and the Labor Provident Fund Law (Amendment) Ordinance 1971. A bill for continuing the Imports and Exports (Control) Act, 1947, will be introduced in the current session of the Parliament.

SUSTAINED AND DEDICATED EFFORTS

Honorable Members, people of India have given their verdict in unmistakable terms. With that verdict the period of political uncertainty and of the politics of maneuver ends. After the din of election battle we must bend ourselves to the service of our people. We can take pride that political democracy and parliamentary institutions have grown and have taken deep roots in the hearts and minds of our people. We must serve the cause of democracy by respecting the will of the people. The massive majority given to my Government is only the first step on a long and a difficult road ahead. To achieve victory in war against poverty and social injustice requires sustained and dedicated efforts of millions of our people. I am confident that the Members of Parliament and the people of India as a whole will respond in abundant measure to the challenge of our times.

WAR POWER BILL

Mr. JAVITS, Mr. President, during the Senate Foreign Relations Committee hearings on warmaking powers last Friday, the committee was privileged to hear from our distinguished colleague in the House, Representative FRANK HORTON.

Because I feel Mr. HORTON made a valuable contribution to our deliberations on the role of Congress in deciding when

and whether to send American troops into hostilities overseas, I ask unanimous consent that the text of his testimony be printed in the RECORD.

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

TESTIMONY OF CONGRESSMAN FRANK HORTON

Mr. Chairman and members of this distinguished Committee, I am honored to have the opportunity to testify before you on a subject which may have more potential than any other single legislative action for healing the divisiveness and the diminished credibility our nation has suffered over foreign policies of the 1960's.

The challenge to the 92nd Congress to take responsible action in the arena of Presidential and Congressional war powers is to me, the most serious foreign policy challenge we face.

I am deeply indebted, as I believe our country is, to the senior Senator from my own State of New York for taking the thoughtful initiative he has taken, and for focusing national attention on the war powers issue by his sponsorship of S. 731.

Senator Javits and this Committee under your able leadership, Mr. Chairman, deserve commendation for seeking an approach which would codify the provisions and the guidance of the Constitution in delineating those war powers to be exercised only with the approval and participation of the Congress.

This Committee has already compiled an impressive record of testimony and questioning on Senator Javits' bill as well as other proposals with similar goals. My purpose here is to praise and to supplement the 400-plus pages of legislative history you have already compiled. I shall not seek to rehash the excellent statements you have received from renowned, constitutional experts, professors and from other Members of the Senate and House.

I come here, rather as one Congressman, who, like all the rest of us, has felt the pressure, the temptation and the frustration of being asked by large segments of the public to call signals during an on-going war from the sidelines, participating in what, at best, have been back-handed and ineffective legislative efforts to bring some Congressional influence to bear on the era of national tragedy and distrust which has evolved since the passage of the Gulf of Tonkin resolution seven years ago.

I cite the Tonkin Gulf resolution as a starting point of this era because that event, inadvertently or not, led to an abandonment by the Congress of any proper exercise of Constitutional responsibility we would or should have had in determining the course of America's march into the quicksand of Southeast Asia. In the statement I made on the House floor on April 6 (which is included in the Appendix of my testimony) when I introduced my own version of Senator Javits' bill, I cited what I saw as a Constitutional crisis between the legislative and Executive Branches of our Government. But I hasten to agree with the view that Senator Cooper of this Committee has expressed, that this Constitutional crisis really has its roots in a policy crisis which may never have come to a head without the Gulf of Tonkin resolution and the subsequent Vietnam era.

Mr. Chairman, an exchange you had last weekend with former Undersecretary of State Katzenbach during a panel discussion quickly got to the point of this whole issue. That point is precisely whether Congress, or Congressmen and Senators individually, want to forsake the luxury of sideline criticism of foreign policy and Monday-morning quarterbacking and take on a role which I see as being dictated by the Constitution,

a role which would forge a partnership in responsibility with the Executive over the commitment of U.S. troops abroad.

Mr. Katzenbach said he seriously doubted Congress would prefer responsibility to Monday morning signal calling—at the same time he said that the passage of the Tonkin Gulf resolution was "one of the most unhappy things from the point of view of the President," because it precluded his having to return to Congress to win a continuing mandate on the war.

While Mr. Katzenbach may be correct in his assessment that at least some Members and Senators would prefer the politically safer course of criticizing military actions which are solely a result of Presidential orders, I don't believe the safety of our political skins is a justifiable factor in considering this legislation. As I see it, and as Senators Javits, Eagleton and others who have testified here have seen it, we in Congress have a duty, a responsibility like it or not, under the Constitution to play a major role in any decision to involve American troops in hostilities. Congress, in effect, abandoned this responsibility in 1964 when it accepted President Johnson's determination to retaliate against the North Vietnamese by enacting the Gulf of Tonkin resolution. The power gap we created was quickly filled, and has been filled to this day by exclusively Presidential decisions as to the extent of our commitment of troops to hostilities in the nations of Indochina.

I, like many members of this Committee, supported the Tonkin Gulf resolution in 1964, and I supported its repeal last year, as did the President. But, particularly in terms of future possibilities for involvement of U.S. military personnel in hostilities abroad the power gap created by the Tonkin Gulf action is still there, and it will remain unless this Congress will act to apply, through legislation, the procedures for our exercise of Legislative powers delineated under Article I, Section 8 of the Constitution.

The bill I sponsored in the House on April 6, is identical in all but two significant respects to the carefully-forged language of the Javits bill.

One relatively minor deviation is my omission of the word "property" from Section A (3) of the Javits bill, which is Section 101 (a) of H.R. 7290. The issue of protection of property as a legitimate cause for Presidential commitment of American troops was discussed in your hearings on March 24. I note that Senator Javits said he would be prepared to delete the term "property" because of the potential for misinterpretation of its intent.

The major difference between S. 731 and H.R. 7290 and the major thrust of my testimony this morning is the attention my bill gives to the actual mechanics of the exercise of Congressional responsibility in war-making decisions.

I am one who believes that while the powers assigned to Congress under Article I, Section 8 are intended to provide a thorough and workable system of checks by Congress over Presidential authority, the actual exercise of these powers does not require the Congress and the President to pair off in an adversary role whenever a decision involving national security is called for. Over the nearly 200 years of our history, our foreign policy has been more successful when Congress and the President have acted in an atmosphere of trust and of partnership, rather than in one of distrust and sniping over foreign policy issues. To a major extent, Presidential decisions during the Vietnam era, and the failure of Congress to affirmatively carry out its duties in this period, have eroded that desirable atmosphere of trust and partnership.

I feel that any legislation we adopt must be drafted with an eye to reestablishing, in

the long run, a working partnership between the Executive and Legislative Branches where war decisions are concerned.

Thus, in H.R. 7290, I have sought to establish a procedure whereby psychologically as well as substantively, the fostering of such a partnership would be encouraged.

Title II of my bill would create a Joint Committee on National Security.

The Joint Committee on National Security would bring together authoritative Members of Congress in foreign and military affairs. Its membership would include the majority and minority leaders of both Houses and the chairmen and ranking minority members of Congressional Committees concerned directly with foreign and military policy. The President of the Senate, the Speaker of the House, and the minority leaders in the House and Senate would each appoint one additional member. (A detailed listing of the Joint Committee's membership is contained in the appendix.) This new committee would be designated by Congress as the panel authorized to consult with the President and his national security advisers in situations where congressional powers are involved and where congressional ratification of military actions is required as described in the Javits bill and in my own proposal.

The joint committee must transmit reports it receives pursuant to the provisions of this bill to the appropriate committees of both Houses, which would be responsible for drafting and reporting to the House and Senate legislation to ratify or change the President's actions. While the joint committee has no direct legislative responsibility, it must transmit the President's report, together with its recommendation for action.

I cannot overemphasize, Mr. Chairman, that the need for this Joint Committee does not arise from any demonstrated inadequacy or ineffectiveness of the existing legislative committees of the House and Senate which have responsibility for foreign and military affairs. It is precisely the importance of these committees and the role they would play in the actual carrying out of Congressional powers under the Javits bill which prompted me to assemble the leadership of these committees, together with the leadership of both parties in the House and Senate on a single panel—a panel which would be officially and formally designated by the Congress to receive Presidential communications required under this legislation, and to be available to consult privately with the President or his national security advisers in international emergencies.

You will note, Mr. Chairman, that my bill assigns absolutely no legislative power or jurisdiction to the Joint Committee on National Security. Any legislative measures short of or including a declaration of war must first be considered and reported out by the appropriate committees of the House and Senate.

Despite its lack of a direct procedural role in formulating legislation which would approve, change or reject Presidential action to dispatch U.S. troops into hostile areas, I feel very strongly that the creation of such a Committee has distinct advantages.

During the Cuban missile crisis, President Kennedy hurriedly summoned 20 Congressional leaders to the White House at 5 o'clock on the afternoon of October 22, 1962, to lay out the reasons for his impending announcement that evening of a naval quarantine in the waters surrounding Cuba. This consultation, despite the fact that the action was not preceded by any affirming Congressional resolution, did much to unite the American Government and the American people and our allies behind the necessary but risky course that was followed in October, 1962. It also left no doubts in the minds of our adversaries as to American unity and resolve. The atmosphere of partnership and

unity that was forged in that crisis is one which I feel we could in the future encourage by designating a Joint Committee on National Security which the President, at his option, could consult with, prior to taking military action under the terms of the Javits bill, and which he *must* consult with within 24 hours after taking such action.

The prestigious and bi-partisan nature of the Joint Committee's membership would, I feel, help to set the stage for an atmosphere of partnership and unity in such decisions, without risking a reluctant rubber-stamp of Presidential actions in situations where the Congress does not feel his decisions are in the national interest.

I have also included in H.R. 7290, a provision requiring the Joint Committee to transmit the President's report on his actions to the appropriate committees of the House and Senate together with a recommendation for Congressional action. Far from impeding the legislative process which is to take place within the 30-day period following a military action under the President's emergency powers, I feel that a prompt and authoritative recommendation from this prestigious panel would fulfill a great psychological need for the Congress and the nation during what would inevitably be a moment of crisis and uncertainty.

While the Joint Committee's recommendation, even if it were unanimous, would not preclude individual Congressmen and Senators from publicizing differing points of view on the President's action, it would provide a prompt focal point of national and international attention as to the stance of the Congress on the matter, as a backdrop to the legislative deliberation and debate that would follow.

In short, I feel the establishment of a Joint Committee on National Security would acknowledge the roles of both the Senate and House in the exercise of legislative powers delineated under the Constitution and in the Javits bill. More importantly, I feel it would encourage the creation of a working partnership between the Congress and the Executive in moments of international crisis. I do not feel that the Joint Committee would be an impediment to prompt action or mere excess baggage because of its lack of legislative jurisdiction, but think its very existence would enhance the role of Congress in decisions whether or not to dispatch U.S. troops into hostile action.

Mr. Chairman, I do not come before you to profess pride of authorship in the detailed make-up or functions of the Joint Committee. My bill presents one way, and I feel a responsible way to constitute and utilize such a Committee. However, I can appreciate that in its expertise your committee may decide to alter the membership or structure of the committee in some way. For example, since drafting the bill, I have come to prefer a rotating chairmanship between the President Pro Tempore of the Senate and the Speaker of the House, rather than the permanent designation of the Speaker as Chairman which my bill contains. Also, my bill provides for the Chairman and Ranking Minority Member of the Joint Committee on Atomic Energy to serve on the National Security Committee. Perhaps the best way to work this out would be to designate the Chairman of the Atomic Energy Committee as a member. If, in a particular Congress the Chairman is a Senator, then the ranking minority House member serving on the Atomic Energy Committee should fill the other seat. When a House member is Chairman, the ranking minority Senator should serve.

These are merely two examples I have considered of changes you may want to make, should you decide that the concept of a Joint Committee on National Security is a worthy one.

There is one general point in support of the language of the Javits bill, as adopted in H.R. 7290 that I would like to make. I do not feel that the legislation we enact should be an attempt to write an exhaustive "service manual" for national emergencies. We cannot possibly predict every sort of eventuality, and then seek to describe in detail the roles of Congress and the President in each possible occurrence. Whatever the language of the bill we enact, its effectiveness will depend to a great extent on an atmosphere of trust between the two branches of government. Without this atmosphere, Presidents will tend to opt for their interpretations of foreign policy history and Constitutional provisions in justifying their actions, and Congress could again largely be left with the role of Monday morning quarterback.

I feel that the language of the Javits bill is firm enough to define the proper war power roles of the Congress and the Executive, without succumbing to the serious charge that the bill ties the President's hands, or seeks to limit his legitimate powers.

There is no question that legislation is needed to apply the meaning of legislative war powers in Article I, Section 8, to the present day world of rapid communications, instantaneous weapons of war, and American leadership of the free world. A bill is needed which accomplishes this without hamstringing legitimate Presidential powers to respond to emergency situations. I strongly feel that the provisions of the Javits bill meet this standard.

Also, I feel that my proposal for a Joint Committee on National Security, while it would not substantively change the balance of war powers between the White House and Capitol Hill, would add to the stature of the legitimate role of Congress, and would encourage an atmosphere of partnership and trust in the functioning of both branches of government in an emergency.

The war powers of Congress are not fully understood by the American people, Mr. Chairman, and there are indications that the Congress itself does not understand its legitimate role in this vital area.

As a result of the lack of an affirmative Congressional role in the Vietnam era, Congressional opposition to the Vietnam war has been cluttered with diverse motivations, a clutter which is confusing to our allies and misleading to our adversaries. Some oppose the war on moral grounds, others on political or geo-political grounds, others for tactical reasons, others for constitutional or legal reasons.

This is the burden that Congress, the nation—indeed, our foreign policy—have had to bear amid confusion as to the proper role of Congress, in the absence of a procedural arrangement for Congressional participation in the war-making activity. I need hardly add that this uncertainty has encouraged a variety of responses, ranging from the most Olympian scholarship to the most adolescent hysteria.

As my distinguished New York colleague in the Senate so brilliantly stated in his testimony here on March 24th, if we act to correct this situation "The President will know where he stands. The Congress and the people will know where they stand. And the world will know where America stands."

I think the world needs to know where America stands in these situations, and this legislation would be of immense value in resolving doubts among our own armed forces, among our adversaries, and among our allies.

Congress is not the Commander-in-Chief, nor is it an adjunct of the military structure. Congress, as spokesman for the people, has an independent responsibility involving questioning, evaluation and judgment.

My bill is addressed to the fulfillment of

this responsibility, and I hope that my testimony here this morning will be a constructive addition to the commendable attention your Committee is already giving to this subject, which lies at the very heart of our democratic system of government.

MEMBERSHIP OF THE PROPOSED JOINT COMMITTEE ON NATIONAL SECURITY

Chairman: The Speaker of the House.
Vice-Chairman: The President pro tempore of the Senate.

Members:
The Majority Leader of the House.
The Majority Leader of the Senate.
The Minority Leader of the House.
The Minority Leader of the Senate.
The Chairman and ranking minority member of each of the following committees:
Senate Foreign Relations Committee.
Senate Armed Services Committee.
Senate Judiciary Committee.
House Foreign Affairs Committee.
House Armed Services Committee.
House Judiciary Committee.
Joint Committee on Atomic Energy.

One Member of the House who is not a member of any of the aforementioned Committees to be appointed by the Speaker of the House.

One Member of the Senate who is not a member of any of the aforementioned Committees to be appointed by the President pro tempore of the Senate.

One Member of the House who is not a member of any of the aforementioned Committees to be appointed by the Minority Leader of the House.

One Member of the Senate who is not a member of any of the aforementioned Committees to be appointed by the Minority Leader of the Senate.

VIETNAMESE ELECTIONS

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the RECORD two articles by Chester L. Cooper, Director of the Institute for Defense Analysis, which appeared in the New York Times last week. These articles emphasize the importance of truly free and open elections in South Vietnam this year. They underline the urgency with which the Congress should consider Senate Concurrent Resolution 17, the Stevenson resolution, of which I am a cosponsor.

That resolution urges the President to assure the utter neutrality of the U.S. Government in those elections. Beyond that, it would deny U.S. assistance to any South Vietnamese Government that acquired or retained power through coup, corruption or coercion. It would establish a congressional commission, staffed with people fluent in Vietnamese, to monitor U.S. involvement in those elections and report regularly to the Congress throughout the South Vietnamese election period.

Dr. Cooper's articles indicate how truly free and open elections might begin a process of accommodation among the contending elements within South Vietnam. They explain that such a process might leave the South Vietnamese people with at least a chance to live in peace, whereas Vietnamization has the result of handing over to a war-weary people a war they do not want. They indicate how a truly honest election in South Vietnam—whether it results in the re-election of the Thieu government or the establishment of a different government

willing to seek a compromise settlement—could make our own process of disengagement more rapid and less subject to future recriminations.

It is deeply disquieting to see it suggested in this Chamber that the U.S. Government ought to actively help arrange the outcome of the South Vietnamese election so that the Thieu government will win. It is perhaps a sign of how this terrible war has unhinged our sense of decency that such an idea is seriously discussed in the U.S. Senate.

We have said we went into Vietnam to defend the South Vietnamese people's right of self-determination. We have sacrificed much while we have been there. Would not all those sacrifices be utterly meaningless if, as we leave, we ourselves abridge the very right we said we fought to defend?

I ask unanimous consent that Dr. Cooper's articles and two other articles be printed in the RECORD.

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

[From the New York Times, Apr. 19, 1971]

THE ELECTORAL OPTION IN VIETNAM—I

(By Chester L. Cooper)

WASHINGTON.—For more than two decades American officials have provided a vast range of rationales for our involvement in South Vietnam. But only one consistent theme emerges: to permit the South Vietnamese freely to choose their government. President Nixon has reiterated this American objective. As recently as April 7 he reminded us that Americans are fighting in Vietnam so that the people there can "choose the kind of government they want." If the South Vietnamese are able to exercise a free choice, we will have achieved an honorable, albeit costly, victory.

Early in the Paris talks there was hope that serious propositions could eventually be advanced and explored. Thought was given to conducting elections in South Vietnam under a joint non-Communist/Communist electoral commission. The proposal was suffocated by Communist insistence that the Saigon Government should be replaced by a "caretaker" coalition and that that government should then appoint a joint electoral commission. Washington and Saigon were rightly skeptical that any caretaker government endorsed by the National Liberation Front and Hanoi would conduct a genuinely free election.

The months have ground into years, and an important date on South Vietnam's political calendar which seemed remote, even hypothetical then, now looms large: early next October the people of South Vietnam will vote for a new government. Our stake in that election is very high. If it is fair, and known to be so, we will have accomplished the one American objective consistently endorsed by every President since Eisenhower. Clearly, if the election is fraudulent, we will have lost the war, however many more Communists may be added to the body count.

A genuinely free election is a large order. But it is more palatable and more easily achieved than virtually any other objective which, at one time or another, we have set for ourselves in Vietnam. A credible demonstration of free choice will be neither inevitable nor automatic. There is much to be done and one despairs that it may be already too late. The election laws of South Vietnam should be revised to embrace all who choose to run or vote; the government should be chosen by a majority rather than a plurality of the voters; the election cam-

paigns, the voting process and the counting of ballots must be under the cognizance of an impeccably impartial body; military forces should be confined to their bases during the election. The press must not remain the private preserve of the Government's candidate; opposition candidates and their supporters must be free from potential or actual imprisonment. These steps will require careful leverage and skillful diplomacy with the Saigon Government.

It is a bitter irony that the vital objective of free choice is within our reach, but may be beyond our grasp. It is all the more ironic that our allies in Saigon, whom many believe are American "puppets," present formidable obstacles. One wonders whether we would actually use our bargaining power in Saigon to insure a genuinely free election. An even more difficult problem will be to persuade the Communists to cooperate. The National Liberation Front has vehemently opposed any election conducted by the Saigon Government. If the Communists do decide to run candidates in October or to allow the people under their control to vote, it will not be because they wish to help Washington achieve a "victory."

But suppose the Communists agreed to run and vote? And suppose they won? If that should happen, we clearly have been bucking the political tide in South Vietnam. Sadder but wiser for this discovery, we would have little choice but to withdraw completely and immediately.

Suppose they ran and, as is more likely, scored a modest vote? Under these circumstances, the National Liberation Front and other political parties which performed well, should be represented in Saigon. This would recognize the realities of the Vietnamese political scene.

Now suppose, as seems most likely, that the National Liberation Front boycotts the election. If Saigon had made the offer, and if the modalities of the election would pass muster among fair-minded judges, the onus for denying a choice to the people under Communist control would be on the National Liberation Front rather than on the Government. Even so, the vast majority of South Vietnamese would have participated in the political process. In the maligned 1967 election, more than 4.7 million votes were cast. Approximately 7 million South Vietnamese were of voting age in 1967 and 68 per cent of the theoretically eligible voters exercised their choice. (Only 61 per cent of Americans of voting age cast their ballots in 1968.) If, indeed, Saigon's control now extends over much more of South Vietnam than in 1967, voter turnout, even without Communist participation, should be larger than it was four years ago. The government chosen next October should be able to make a credible claim that it represented a clear preponderance of the people of South Vietnam.

[From the New York Times, Apr. 20, 1971]

THE ELECTORAL OPTION IN VIETNAM—II

(By Chester L. Cooper)

WASHINGTON.—It is difficult for an American to second-guess an election in the United States. All the more so when he tries to predict one abroad. But, based on what one can glean from the mood of the South Vietnamese in the 1967 election and what one can divine of their present mood, a consequential, non-Communist, pro-peace opponent to President Thieu might have at least an even chance.

Duong Van "Big" Minh, hero of the anti-Diem coup and first of a bewildering series of general who took over the government after the death of Diem, was prevented from running for election in 1967, but apparently intends to campaign in 1971. A vigorous race (which may be expecting too much from that amiable and popular, but not very energetic

man) and a fair election (we go back to Square One again) would increase the odds against Thieu's re-election. But, unless Thieu wins, one pillar of President Nixon's Vietnam policy may crumble.

An important factor determining the rate of American withdrawal is the demonstrated readiness and capability of the South Vietnamese to carry on the war. But this depends on variables beyond American control. Among these is the extent to which the Saigon government is committed to continue the war. The future of the Administration's Vietnam policy could ultimately be decided by a development that may not have entered into Washington's original calculations—the replacement, midway in the Vietnamization program, of the Thieu-Ky Government by one elected on a platform to end the war. While Minh, himself, is more of a hawk than a dove, a government headed by him would have a hefty peace constituency and would probably move toward ending the fighting. This may be a key to the Administration's apparent diffidence about the modalities of the election.

A highly motivated, popular, non-Communist successor to Thieu who would seek to end the fighting through bilateral negotiations or *de facto* arrangements would represent a truly "Vietnamized" solution to the war. Under these circumstances, we could withdraw our remaining forces after the October election without the haggling that would inevitably take place with a Thieu government. One hopes that Washington planners are examining the implications and consequences of this salubrious contingency.

An American military withdrawal from Vietnam within the next twelve months would be widely regarded with relief and enthusiasm. But this reaction will, by no means, be universal; millions of Americans could easily be convinced, indeed if they are not already convinced, that President Nguyen Van Thieu (like President Kai-shek of yesteryear) was the victim of a Washington sell-out; that "politicians" and soft-headed civilians in Washington conspired to dump him just when Hanoi was on the verge of defeat. "Who lost Vietnam?" The exploitation of this issue in 1972 by unscrupulous politicians is a possibility to worry responsible people of all political persuasions.

President Nixon has an urgent task ahead during the coming months—and there is, thus far at least, no evidence that it is being tackled. It is curious, for example, that the recent State of the World message ignores the forthcoming election in Vietnam. And it is unfortunate that in the President's April 7 speech there was no specific reference to the October election. The United States must be prepared to accept a political rather than a military one. Americans must be reminded, not every several months or so, but constantly, that our objectives in Vietnam, now and tomorrow, are limited. And that they were limited from the very beginning of our military involvement a decade ago.

We do not now have and we never did have the goal of destroying the Communist regime in Hanoi, killing all Communists in South Vietnam or transforming that country into a bastion of Free World democracy, economic power and military might. Our goal has always been political, not military or even economic.

An accident of timing will present President Nixon with a historic opportunity. If he firmly seizes it, the rewards for him and for all of us may be incalculable; if he makes but a deficient and half-hearted effort, he and we may have had our last chance to retrieve something of value for all our sacrifices. Given a fair election in South Vietnam next October and a bit of luck and some prudence in Laos and Cambodia, virtually all American troops could be home by this time next year. President Nixon could face

his own campaign in 1972, even if the talks in Paris get nowhere, with Vietnam pretty much behind him. No small achievement in an election year. And no small comfort to Americans for whom 1971 marks a decade of our military involvement in Vietnam.

[From the Washington Post, Apr. 17, 1971]

FORMER AID ADVISERS SEEK 'FAIR' VIET
VOTE

(By Murrey Marder)

U.S. policy in South Vietnam is so heavily committed to Saigon's present leaders that "fair elections" are impossible unless the United States demonstrates it wants them, it was charged yesterday.

A campaign to require genuine U.S. "neutrality" in South Vietnam's assembly election in August, and the presidential election in October, has been launched by a group of young former American advisers in Vietnam.

All were Vietnamese-speaking specialists committed to work for "self-determination" of the Vietnamese people and "an honorable peace." They left U.S. government service disillusioned about the prospects of achieving either goal under current American policy.

Under the existing policy of overt and covert U.S. support for the government of President Thieu, said Theodaore Jacqueney, the government returned to power in a South Vietnamese election "will be determined to seek a military solution of the war—against the overwhelming desire of the Vietnamese people."

"The South Vietnamese people," he said, "believe that the coming elections will be a fraud, and that fraud will be American support for a military government."

"We don't think they (the South Vietnamese people) by any means favor the National Liberation Front, but they favor peace in an open and honest election."

Jacqueney, who is 27, is coordinator of a group formed here last month, called the Vietnam Elections Project. He served in Vietnam during 1969 and 1970 as a community development and political officer for the Agency for International Development (AID), assigned to Civil Operations and Rural Development (CORDS). Jacqueney resigned from AID last February, after the Laos incursion.

Another leader in the Vietnam Elections Project is Oliver Davidson, 30, who held a post similar to Jacqueney's in South Vietnam from 1966 to 1969, and left AID the latter year.

A third, Richard Winslow, 28, a former Peace Corps worker in Peru, worked for CORDS in Vietnam in 1970.

Jerald Roback, 27, a fourth leader of the project, was in Vietnam the same years and accompanied U.S. troops who penetrated Cambodia last year, where he is credited with leading many Cambodians to safety through the battle zones.

By themselves, or even with considerable others who share their views, these young men would have insignificant weight to influence U.S. policy. That is why they say they abandoned attempts to shift U.S. policy from "the inside," and organized to arouse public and congressional action.

Many of their goals are contained in a Senate resolution by Sen. Adlai E. Stevenson III (D-Ill.), co-sponsored by Sens. Mike Mansfield (D-Mont.), Daniel K. Inouye (D-Hawaii), Edmund S. Muskie (D-Maine), George McGovern (D-S.D.), Harold E. Hughes (D-Iowa), Alan Cranston (D-Calif.), Mike Gravel (D-Alaska), Hubert Humphrey (D-Minn.) and Edward M. Kennedy (D-Mass.).

A somewhat similar resolution in the House, to assure "freedom of choice" in South Vietnam's elections, with Rep. Lester

L. Wolff (D-N.Y.) as principal sponsor, also has several Republican backers.

The Senate resolution would send a 10-member commission to South Vietnam, accompanied by a staff of Vietnamese-speaking personnel, to observe the elections and assure that the United States "maintains strict neutrality" in it. Senate Republican Leader Hugh Scott (Pa.) immediately challenged the resolution when it was introduced April 5, on grounds that it would be interpreted either as "a covert move to undermine the (Saigon) government, or maintain it," according to the composition of the U.S. delegation.

Members of the Vietnam Elections Project maintain, however, that the United States is inescapably involved in the election process in any event—already heavily influencing it.

Winslow has said he was informed by friends still in South Vietnam that President Thieu last November asked Ambassador William Colby, U.S. CORDS director in South Vietnam, to survey popular attitudes about the presidential election so Thieu "would know where his strong points were" and could shape his actions to enhance his election.

A U.S. survey reportedly was carried out in South Vietnam in November, 1970, which solicited views about prospective presidential candidates and key issues. A CORDS spokesman later denied that any questions were selected by Thieu or the South Vietnamese government. But questions were asked, the spokesman acknowledged, to give the U.S. mission indications of public attitudes on "an important upcoming event which could have an impact on the pacification and development program . . ."

Colby is scheduled to testify Wednesday before a Senate Judiciary subcommittee headed by Kennedy.

Davidson said yesterday that attempts to report to U.S. mission chiefs widespread support for "peace" candidates were "laughed at in Saigon." Superiors, he said, would respond that "you are quite isolated and don't understand the over-all problem." Said Winslow: "Whatever reports I made would be passed to Ambassador (Ellsworth) Bunker's garbage pail.

All the Vietnam Elections Project members said that there is no danger whatever that the National Liberation Front, which is referred to as the Vietcong, "could ever win an open and fair election."

"There are three reasons why the front has any support," said Davidson. In order of importance, he said, "they are: fighting the foreigners—Americans—and a military and corrupt government; third and least, a small minority favors them because they are fighting for Communists."

"If the American soldiers were out of Vietnam and if Vietnam had a quasi-civilian or a true civilian government, the Vietcong would lose their two main rallying points," he said.

Now, said Jacqueney, "The United States is solving its Vietnam problem by withdrawal. The Vietnamese, however, do not see American withdrawal alone as the solution to their Vietnam problem." The government now most likely to remain in power, he said, will fight on to seek a military solution, "contrary to the views of most Vietnamese, who feel that a compromise settlement is the only way to end the war quickly."

McGEE CALLS FOR UNITED STATES TO AID
THIEU ELECTION

A Senate supporter of President Nixon's Southeast Asia policy says that it is too early for self-determination in Vietnam, and that the United States should aid in the reelection efforts of President Nguyen Van Thieu.

"It is evident that under present circumstances, self-determination and Vietnamiza-

tion do not go hand in hand," said Sen. Gale W. McGee (D-Wyo.).

"Hypocrisy," replied Sen. Frank Church (D-Idaho), who has proposed legislation to prevent the U.S. Information Agency from engaging in propaganda on behalf of a foreign government. Church, who contends the United States should stay out of Vietnamese politics, has accused the USIA of selling the present Saigon government "like a bar of soap."

The Vietnamese presidential election is scheduled for October. Vice President Nguyen Cao Ky and Gen. Van "Big" Minh are expected to be Thieu's major rivals.

In a statement in the Congressional Record, McGee said, "We have to continue lending all the support within our capabilities to insure that Thieu's position is continually strengthened. It is only in this way that we can continue withdrawing from the conflict."

Such an argument, Church said in an interview, "exposes the hypocrisy of the claim that our purpose is freedom of choice. If it's self-determination we're there for, the time has come to start observing it."

BRAIN DRAIN

Mr. ROTH. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Colorado (Mr. DOMINICK) and an insertion.

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

STATEMENT BY SENATOR DOMINICK

For years, the professional men, scientists and engineers of many Asian countries have been emigrating from those countries to more prosperous and technically advanced countries of Europe and to the United States, creating what is generally called a "brain drain" on the countries of Asia to the detriment of technical progress in that part of the world.

I am proud to report that a fellow Coloradan has been working for the past eight years to reverse that brain drain. Dr. Milton E. Bender, Jr., formerly has headed a group of American business and professional men who founded the Asia Institute of Technology at Bangkok, Thailand. Here, the brain-power of the western world is being put to work to encourage students of Asian nations to develop the engineering skills so badly needed in these countries. I was most impressed by what I saw when I visited the Institute in 1967 and recently I received a letter from Dr. Bender indicating that the school has been enjoying even greater success in recent years.

I believe that efforts such as this by individual Americans helping the peoples of Asia to help themselves have an enormous bearing on the future development of Southeast Asia and deserve the attention of my colleagues here and the people of the United States as well. I therefore ask unanimous consent that pertinent portions of the letter from Dr. Bender be included in the RECORD.

EXCERPT FROM LETTER BY DR. BENDER

I am still in Bangkok and the Asian Institute of Technology is prospering beyond my fondest expectations. Our enrollment has grown to 215 graduate students from 18 countries of Asia and we have outgrown the small campus you saw when you were out here. The Thai Government has given us 400 acres of land and we are in the process of building a completely residential campus. The first stage of constructions will be completed so that we can move in August 1972. Plans call for our offerings then to expand

to cover all fields of engineering and allied sciences by the end of this decade and at that time we would have about 1,000 graduate students.

We have worked out rather novel ways of financing this Institute. The most novel is that the user must pay a reasonable part of the cost of education and we have set the tuition and fees at \$6,500 for the 21 months Master's program. This has been very well accepted. We are also building a contract and grant research program to do research on the many engineering problems of Asia which is badly needed out here. This will also go a long way towards financing parts of our operation. . . .

I will stay on here as President until January 1973 and then turn it over to someone else. I will have been here then about 10 years and the Institute will be well established including being well financed. I will probably return to CSU.

SERIOUS UNEMPLOYMENT AMONG SKILLED WORKERS

Mr. ALLEN. Mr. President, for more than 2 years I have spoken out here on the floor of the Senate and elsewhere and have written about the need for the Federal Government to help find solutions to the increasingly serious unemployment and underemployment among the highly skilled scientists, engineers, technicians, and other workers in the Nation's aerospace industry. Their almost untenable position has come about as a result of cutbacks in Federal funding of NASA and Army aerospace programs and, consequently, are rightly a concern and responsibility of the administration and Congress.

As far back as early 1969, I urged the administration to make every effort to find a place for those displaced men and women in other agencies seeking solutions to national problems such as environment and transportation.

I have just received a letter from Alpha Institute, created by unemployed aerospace workers in Huntsville, Ala., who have joined their efforts and resources in seeking to help solve their own plight. The work, hopes, and aspirations of Alpha Institute were the subject of a recent news story that appeared in the Birmingham Post-Herald.

Because this is a problem that exists throughout the Nation, I ask unanimous consent that the news story and the letter be printed in the RECORD, so that Senators and others may know that the will to overcome adversity is deeply imbedded in the American spirit.

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

JOBLESS IN HUNTSVILLE ORGANIZE INSTITUTE TO TRY AND FIND WORK

HUNTSVILLE.—After months of trying to land jobs on their own, jobless aerospace professionals in the Huntsville area are making an organized effort to help themselves and others get back to work.

They have established Alpha Institute, chartered as a non-profit corporation, to attack joblessness among engineers, scientists and other professionals "surplused" when the space program was trimmed.

Cutbacks cost thousands of jobs at government installations and in supporting private industries throughout the nation. William Ragsdale, 46, of Huntsville, was among

those who lost their jobs. The institute is his brain child, conceived after mailing more than 1,000 résumés which failed to attract a single job offer.

Ragsdale, who lost his \$24,000-a-year job with Chrysler's space division a year ago, mailed out an Alpha Institute prospectus last week saying that this is basically a do-it-ourselves project.

"The critical need to gainfully employ this resource of talent is a national goal," he said.

Ragsdale, who is now trying to secure foundation funds to back the fledgling institute, says he is the type professional the institute might be able to help through career workshops, educational programs and job-hunting help.

He estimates that in the Huntsville area alone, 1,000 former aerospace professionals are either out of work or under-employed in jobs ranging from driving a cab, to selling real estate. About 2,500 jobs were lost at the space installations in the Huntsville area, with a corresponding loss in contracting industries.

The area has attracted a number of new industries but, by all accounts, there is a surplus of engineering and scientific skills.

"I think Huntsville might be typical of other space centers around the country," said Ragsdale, who lives off savings, unemployment checks and his wife's earnings as a teacher's aide. "The jobs just aren't there. The economy can't absorb us."

Alpha Institute, he says, is a unique venture. If money can be obtained, it would hold career workshops where information could be exchanged about fields in which engineering, scientific and managerial talent will be needed.

The institute also plans to coordinate university-level educational programs that might help the unemployed qualify for positions in such nonaerospace fields as environmental control and transportation.

The latter plan would be in line with a congressional subcommittee's recommendation last fall that ways be found to put the surplus aerospace talent to work in the battle to clean up the environment. Ragsdale says, however, that an engineer must obtain supplemental education if he is to make that transition.

Meanwhile, he said, the institute plans to begin publishing a newsletter that would communicate employment opportunities to the jobless and provide space for them to present their résumés.

"Part of the problem at the moment," said Ragsdale, "is that there is no coordinated effort in this regard—no clearing house of available jobs and available talent. The newsletter could accomplish this."

Ragsdale says the institute in only part of the effort the unemployed space professionals are making to put themselves back on the job. With two other jobless aerospace workers, Ragsdale has established an engineering firm which would draw upon the talents of other out-of-work professionals.

The firm landed one small contract, which provided money for an office and secretary, but there can be no salaries until a large contract is obtained.

"What it comes down to," said Ragsdale, "is that we're going to have to help ourselves. We've seen that nobody is going to do it for us."

ALPHA INSTITUTE,
Huntsville, Ala., April 23, 1971.

Senator JAMES B. ALLEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: Perhaps by now you have heard about Alpha Institute. This letter is intended to give you a few more details of our activities.

The attached Associated Press article tells the story of the creation of Alpha Institute.

Our primary objective is to improve economic conditions throughout the State of Alabama by utilizing the available skills and talents of the 1400-plus local unemployed and underemployed engineers, scientists, and managers. Alpha Institute has two major approaches to this unemployment problem: (1) education and communications, and (2) public service projects. We work in cooperation with the Department of Labor and the State Employment Service, serving as an extension of their activities.

We are cooperating with the Alabama State Employment Service for the implementation of such programs as the \$1.2 million HUD/DOL pilot project to train and place aerospace workers in urban planning positions and the \$42 million Executive Order to assist in the reemployment of aerospace engineers and scientists. In addition, we have proposed to the Department of Labor to conduct other educational and communications activities. These activities include (1) presenting a series of Employment Opportunities Forums (our first and only one drew 300 people); (2) publishing a newsletter for unemployed and underemployed professionals bringing information about job opportunities, federal programs, Alpha Institute projects, etc.; (3) conducting one-week workshops on career re-direction (assist professionals in identifying new career fields); (4) planning and coordinating concentrated supplementary educational programs, using the universities, to help professionals qualify for careers in new fields; and (5) providing general coordination and liaison between these local surplus professionals and the various local, State, and Federal agencies and universities involved.

Another project which we are currently pursuing can be funded through a grant from the Economic Development Administration under the Public Works and Economic Development Act of 1965. It calls for organizations such as Alpha Institute to make available technical and management assistance to existing and potential small businessmen who are socially or economically disadvantaged, or who are located in areas of high concentration of unemployment. The main thrust of this EDA program is directed through those organizations which, by reason of their rapport with the target communities and their special resources, can best identify and assist in establishing or expanding businesses, thus increasing employment and aiding the development of the community.

We are also preparing a grant application to the Small Business Administration under Section 406 of the Economic Opportunity Act of 1964, as amended, to render technical and managerial assistance to small business firms.

We believe that the professional talent available in the Huntsville area can provide an outstanding public service. Alpha Institute proposes to identify, organize, employ, and manage this professional capability, financed by grants, for the benefit of the State of Alabama. It is our intent to gainfully employ some of the currently available professional people.

A group of us formed Alpha Institute initially with our own funds. To sustain our activities we are seeking contributions from local businessmen, aerospace contractors, and foundations. Eventually, we intend to become self-sustaining through grants and contracts to carry out various public service projects.

A letter of recognition and encouragement from you would be certainly appreciated. Of course, any assistance your office can provide in our pursuit of projects would be very welcome.

Sincerely,

W. C. RAGSDALE,
President.

LEGALITY OF PHILADELPHIA PLAN UPHOLD BY U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

Mr. JAVITS. Mr. President, one of the controversial issues which came before us during the last Congress was the validity of the Philadelphia plan, promulgated by the Department of Labor to require construction contractors to undertake affirmative action to meet reasonable goals for minority employment within certain trades on federally assisted construction projects. The Comptroller General originally ruled that the Philadelphia plan violated title 7 of the Civil Rights Act of 1964; the Attorney General, however, ruled that the plan was valid.

Last Thursday the U.S. Court of Appeals for the Third Circuit held that the Philadelphia plan was legal in all respects, and that Executive Order 11246, pursuant to which it was promulgated, was a valid exercise of Presidential power. Those of us who voted to support the Philadelphia plan when the issue came before us in the 91st Congress have thus been vindicated.

The opinion of the court is noteworthy not only because it sustains the Philadelphia plan against the attacks made upon it, but also because it demonstrates quite well the distinct legal and functional bases underlying Executive Order 11246 on the one hand, and title 7 of the Civil Rights Act of 1964, on the other. One of the points stressed in the opinion is that the affirmative action requirement of the Executive order is not limited to situations in which actual discrimination has occurred and must be remedied; it also serves and may be justified as a means of assuring the "maximum availability of construction tradesmen for the projects in which the Federal Government has a cost and completion interest." Thus, the court concluded that—

A finding as to the historical reason for exclusion of available tradesmen from the labor pool is not essential for Federal contractual and remedial action.

Under this approach, gross underrepresentation of minority groups in specific types of employment is reason enough to justify the Federal Government in requiring its contractors to take affirmative action to insure that the manpower pool available for work on Federal projects is broadened to include all groups within a given community. This is quite different from the approach under title 7, which deals only with actual discrimination, rather than underutilization, and is but one of the reasons why I believe the administration of the Executive order should be left in the Labor Department, and not transferred to the Equal Employment Opportunity Commission, as some have suggested.

I ask unanimous consent that the text of the decision of the Third Circuit Court of Appeals be printed in the RECORD.

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

OPINION OF THE COURT, FILED APRIL 22, 1971

(Argued March 1, 1971, before Hastie, Chief Judge, and McLaughlin and Gibbons, Circuit Judges)

GIBBONS, Circuit Judge.

The original plaintiff, the Contractors Association of Eastern Pennsylvania (the Association) and the intervening plaintiffs, construction contractors doing business in the Philadelphia area (the Contractors), appeal from an order of the district court which denied their motion for summary judgment, granted the motion of the federal defendants² to dismiss the Association complaint for lack of standing, and granted the cross-motion of the federal defendants for summary judgment.³ When deciding these motions, the district court had before it the Association's verified complaint, a substantially identical complaint of the contractors, the affidavits of Vincent G. Macaluso and Ward McCreedy on behalf of the federal defendants which identified certain relevant documents, a stipulation by the parties as to certain facts, and two affidavits of Howard G. Minckler on behalf of the plaintiffs.

The complaint challenges the validity of the Philadelphia Plan, promulgated by the federal defendants under the authority of Executive Order No. 11246.⁴ That Plan is embodied in two orders issued by officials of the United States Department of Labor, dated June 27, 1969 and September 23, 1969, respectively. Copies of these orders were annexed to the verified complaint as exhibits 1 and 2, respectively, and to the Macaluso affidavit as appendices B and C respectively. In summary, they require that bidders on any federal or federally assisted construction contracts for projects in a five-county area around Philadelphia,⁵ the estimated total cost of which exceeds \$500,000, shall submit an acceptable affirmative action program which includes specific goals for the utilization of minority manpower in six skilled crafts: ironworkers, plumbers and pipefitters, steamfitters, sheetmetal workers, electrical workers, and elevator construction workers.

Executive Order No. 11246 requires all applicants for federal assistance to include in their construction contracts specific provisions respecting fair employment practices, including the provision:

"The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin."⁶

The Executive Order empowers the Secretary of Labor to issue rules and regulations necessary and appropriate to achieve its purpose. On June 27, 1969 Assistant Secretary of Labor Fletcher issued an order implementing the Executive Order in the five-county Philadelphia area. The order required bidders prior to the award of contracts, to submit "acceptable affirmative action" programs "which shall include specific goals of minority manpower utilization." The order contained a finding that enforcement of the "affirmative action" requirement of Executive Order No. 11246 had posed special problems in the construction trades.⁷ Contractors and subcontractors must hire a new employee complement for each job, and they rely on craft unions as their prime or sole source for labor. The craft unions operate hiring halls. "Because of the exclusionary practices of labor organizations," the order finds "there traditionally has been only a small number of Negroes employed in these seven trades."⁸ The June 27, 1969 order provided that the Area Coordinator of the Office of Federal Contract Compliance, in conjunction with

the federal contracting and administering agencies in the Philadelphia area, would determine definite standards for specific goals in a contractor's affirmative action program. After such standards were determined, each bidder would be required to commit itself to specific goals for minority manpower utilization. The order set forth factors to be considered in determining definite standards, including:

"(1) The current extent of minority group participation in the trade.

"(2) The availability of minority group persons for employment in such trade.

"(3) The need for training programs in the area and/or the need to assure demand for those in or from existing training programs.

"(4) The impact of the program upon the existing labor force."

Acting pursuant to the June 29, 1969 order, representatives of the Department of Labor held public hearings in Philadelphia on August 26, 27 and 28, 1969. On September 23, 1969, Assistant Secretary Fletcher made findings with respect to each of the listed factors and ordered that the following ranges be established as the standards for minority manpower utilization for each of the designated trades in the Philadelphia area for the following four years:

Identification of trade	[In percent]			
	Range of minority group employment			
	Until Dec. 31, 1970	For 1971	For 1972	For 1973
Ironworkers.....	5-9	11-15	16-20	22-26
Plumbers and pipefitters...	5-8	10-14	15-19	20-24
Steamfitters.....	5-8	11-15	15-19	20-24
Sheet-metal workers.....	4-8	9-13	14-18	19-23
Electrical workers.....	4-8	9-13	14-18	19-23
Elevator construction workers.....	4-8	9-13	14-18	19-23

The order of September 23, 1969 specified that on each invitation to bid each bidder would be required to submit an affirmative action program. The order further provided:

"4. No bidder will be awarded a contract unless his affirmative action program contains goals falling within the range set forth... above ...

"6. The purpose of the contractor's commitment to specific goals as to minority manpower utilization is to meet his affirmative action obligations under the equal opportunity clause of the contract. This commitment is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's attention that the goals are being used in a discriminatory manner, he must report it to the Area Coordinator of the Office of Federal Contract Compliance of the U.S. Department of Labor in order that appropriate sanction proceedings may be instituted.

"8. The bidder agrees to keep such records and file such reports relating to the provisions of this order as shall be required by the contracting or administering agency."

In November, 1969, the General State Authority of the Commonwealth of Pennsylvania issued invitations to bid for the construction of an earth dam on Marsh Creek in Chester County, Pennsylvania. Although this dam is a Commonwealth project, part of the construction cost, estimated at over \$3,000,000 is to be funded by federal monies under a program administered by the Department of Agriculture.⁹ The Secretary of Agriculture, one of the federal defendants, as a condition for payment of federal financial assistance for the project, required the inclusion in

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each bid of a Philadelphia Plan Commitment in compliance with the order of September 23, 1969. On November 14, 1969, the General State Authority issued an addendum to the original invitation for bids requiring all bidders to include such a commitment in their bids. It is alleged and not denied that except for the requirement by the Secretary of Agriculture that the Philadelphia Plan Commitment be included, the General State Authority would not have imposed such a requirement on bidders.

The Association consists of more than eighty contractors in the five-county Philadelphia area who regularly employ workers in the six specified crafts, and who collectively perform more than \$150,000,000 of federal and federally assisted construction in that area annually. Each of the contractor plaintiffs is a regular bidder on federal and federally assisted construction projects. The complaint was filed prior to the opening of bids on the Marsh Creek dam. It sought injunctive relief against the inclusion of a Philadelphia Plan Commitment requirement in the invitation for bids. By virtue of a stipulation that the General State Authority would issue a new and superseding invitation for bids if the district court held the Plan to be unlawful, the parties agreed that bids could be received without affecting the justiciability of the controversy. Bids were received on January 7, 1970. One of the intervening contractor plaintiffs submitted a low bid and appeared at the time of the district court decision to be entitled to an award of the contract.

The complaints of the Association and the contractors refer to the fact that the Comptroller General of the United States has opined that the Philadelphia Plan Commitment is illegal and that disbursement of federal funds for the performance of a contract containing such a promise will be treated as unlawful.¹⁰ The plaintiffs point out that the withholding of funds after a contractor has commenced performance would have catastrophic consequences, since contractors depend upon progress payments, and are in no position to complete their contracts without payments. They allege that the Philadelphia Plan is illegal and void for the following reasons:

1. It is action by the Executive branch not authorized by the constitution or any statute and beyond Executive power.
2. It is inconsistent with Title VII of the Civil Rights Act of 1964.¹¹
3. It is inconsistent with Title VI of the Civil Rights Act of 1964.¹²
4. It is inconsistent with the National Labor Relations Act.¹³
5. It is substantively inconsistent with and was not adopted in procedural accordance with Executive Order No. 11246.
6. It violates the process because
 - (a) it requires contradictory conduct impossible of consistent attainment;
 - (b) it unreasonably requires contractors to undertake to remedy an evil for which the craft unions, not they, are responsible;
 - (c) it arbitrarily and without basis in fact singles out the five-county Philadelphia area for discriminatory treatment without adequate basis in fact or law; and
 - (d) it requires quota hiring in violation of the Fifth Amendment.

The federal defendants moved both to dismiss the complaint under Rule 12(b)(1), Fed. R. Civ. P. and for summary judgment under Rule 56(b) Fed. R. Civ. P. They asserted that the plaintiffs lacked standing and that they were entitled to judgment as a matter of law. The plaintiffs moved for summary judgment. The district court held that the Association lacked standing to maintain the suit, that the Contractors had such standing,

and that the Plan was valid. It granted summary judgment for the federal defendants, and the plaintiffs appeal.

STANDING

The district court's holding that the Association lacked standing to sue was handed down prior to that of the Supreme Court in *Association of Data Processing Service Orgs., Inc. v. Camp*, 397 U.S. 150 (1970), and in the light of that decision and the more recent decision in *Citizens to Preserve Overton Park, Inc. v. Volpe*, 39 U.S.L.W. 4287 (U.S. March 2, 1971), is at least doubtful. We need not reach this issue, however, since the Contractor plaintiffs who as bidders are directly impacted by the requirement that they agree in their bid to comply with the Plan, clearly have standing. *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967). All plaintiffs have been represented by the same attorney, and the presence of absence of the Association as a plaintiff has no practical significance.

EXECUTIVE POWER

The plaintiffs contend that the Philadelphia Plan is social legislation of local application enacted by the Executive without the benefit of statutory or constitutional authority. They point out, probably correctly, that the Plan imposes on the successful bidder on a project of the Commonwealth of Pennsylvania record keeping and hiring practices which violate Pennsylvania law.¹⁴ If the Plan was adopted pursuant to a valid exercise of Presidential power its provisions would, of course, control over local law. See *United States v. City of Chester*, 144 F.2d 415, 420 (3d Cir. 1944); cf. *United States v. Allegheny County*, 322 U.S. 174, 183 (1944); *Panhandle Oil Co. v. Knox*, 277 U.S. 218, 221 (1928). But, say the plaintiffs, where there is neither statutory authorization nor constitutional authority for the Executive action, no substantive federal requirements may be imposed upon a contract between the Commonwealth and its contractor.

The district court's answer is that the federal government "has the unrestricted power to fix the terms, conditions and those with whom it will deal."¹⁵ For this proposition it cites *Perkins v. Lukens Steel Co.*, 310 U.S. 113 (1940) and *King v. Smith*, 392 U.S. 309, 333 (1968). Neither case is in point, however on the issue of Executive as distinguished from federal power. *King v. Smith* held that the Alabama substitute father regulation was inconsistent with the Social Security Act, 42 U.S.C. § 606(a), and points out that the federal government may impose the terms and conditions upon which its money allotments may be disbursed. The conditions referred to were imposed by Congress, not by the Executive branch. *Perkins v. Lukens Steel Co.* interprets the Public Contracts Act of June 30, 1936¹⁶ which requires that sellers to the federal government pay prevailing minimum wages. It holds that an administrative determination of prevailing wages in a given industry made by the Secretary of Labor is not subject to judicial review on behalf of a potential seller.¹⁷ The opinion contains the language:

"Like private individuals and businesses, the Government enjoys the unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases."¹⁸

The quoted language refers to federal power exercised pursuant to a statutory mandate. The case is not in point on the issue of Executive power absent such a mandate.

The federal defendants and several amici¹⁹ contend that Executive power to impose fair employment conditions incident to the power to contract has been upheld in this Circuit and in the Fifth Circuit. They cite *Farmer v.*

Philadelphia Electric Company, 329 F.2d 3 (3d Cir. 1964) and *Farkas v. Texas Instrument, Inc.*, 375 F.2d 629 (5th Cir.), cert. denied, 389 U.S. 977 (1967). Both cases discussed the Executive Order program for achieving fair employment in the context of Government contracts rather than federally assisted state contracts, and both assumed the validity of the Executive Order then application.²⁰ Both cases held that even assuming the validity of the Executive Order, it did not give rise to a private cause of action for damages by a party subjected to discrimination. Discussion of the validity of the Executive Order was in each case dictum. Moreover, both *Farmer* and *Farkas* refer to 40 U.S.C. § 486(a) as the source of the Executive power to issue the order. That subsection authorizes the President to prescribe such policies and directives as he deems necessary to effectuate the provision of Chapter 10 of Title 40²¹ and Chapter 4 of Title 41.²² These chapters deal with procurement of Government property and services, not with federal assistance programs. Thus even if *Farmer* and *Farkas* were holdings rather than dicta as to Executive power, the holdings would not reach the instant case. The validity of the Executive Order program as applied to the construction industry in state government contracts by virtue of federal assistance has not been litigated, so far as we have been able to determine, in any case reaching the courts of appeals.²³ Certainly no case has arisen which considers Executive power to impose, by virtue of federal assistance, contract terms in a state construction contract which are at variance with state law.

The limitations of Executive power have rarely been considered by the courts. One of those rare instances is *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). From the six concurring opinions and one dissenting opinion in that case, the most significant guidance for present purposes may be found in that of Justice Jackson:

"We may well begin by a somewhat oversimplified grouping of practical situations in which a President may doubt, or others may challenge, his powers, and by distinguishing roughly the legal consequences of this factor of relativity.

"1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate. In these circumstances, and in these only, may he be said (for what it may be worth) to personify the federal sovereignty. If his act is held unconstitutional under these circumstances, it usually means that the Federal Government as an undivided whole lacks power. A seizure executed by the President pursuant to an Act of Congress would be supported by the strongest of presumptions and the widest latitude of judicial interpretation, and the burden of persuasion would rest heavily on any who might attack it.

"2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight on which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.

"3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his

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own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system."²⁴

Plaintiffs contend that the Philadelphia Plan is inconsistent with the will of Congress expressed in several statutes. We deal with these statutory contentions hereinafter. Thus for the moment we may set to one side consideration of Justice Jackson's third category, and turn to category (1), action expressly or impliedly authorized, and category (2), action in which the President has implied power to act in the absence of congressional preemption. To determine into which category the Philadelphia Plan falls a review of Executive Orders in the field of fair employment practices is helpful.

The first such order, Executive Order No. 8802²⁵ was signed by President Roosevelt on June 25, 1941. It established in the Office of Production Management a Committee on Fair Employment Practice, and it required that all Government contracting agencies include in all defense contracts a covenant not to discriminate against any worker because of race, creed, color, or national origin. The order contained no specific statutory reference, and describes the action "as a prerequisite to the successful conduct of our national defense production effort." In December 1941 Congress enacted "An Act to Expedite the Prosecution of the War Effort,"²⁶ and on December 27, 1941, pursuant to that Act the President issued Executive Order No. 9001²⁷ which granted to the War and Navy Department and the Maritime Commission broad contracting authority. This order among other provisions stated that a non-discrimination clause would be deemed incorporated by reference in all such contracts. On May 27, 1943, Executive Order No. 8802 was amended by Executive Order No. 9346²⁸ which established in the Office for Emergency Management of the Executive Office of the President a Committee on Fair Employment Practice. This order required the anti-discrimination clause in all government contracts rather than in defense contracts only. Still, the order was quite clearly bottomed on the President's war mobilization powers and was by its terms directed toward enhancing the pool of workers available for defense production.

On December 18, 1945, President Truman signed Executive Order No. 9664,²⁹ which continued the Committee established by Executive Orders Nos. 8802 and 9346 "for the periods and subject to the conditions stated in the National War Agencies Appropriation Act, 1946 (Public Law 156, 79th Cong., 1st Sess., approved July 17, 1945)." On February 2, 1951, the President signed Executive Order No. 10210,³⁰ which transferred to the Department of Defense the contracting powers referred to in Executive Order No. 9001. The order continued the provision that a non-discrimination clause would be deemed incorporated by reference in all defense contracts. It referenced the First War Powers Act, 1941, as amended. By a subsequent series of Executive Orders Executive Order No. 10210 was extended to other government agencies engaged in defense related procurement.³¹ On December 3, 1951 the President signed Executive Order No. 10308,³² creating the Committee on Government Contract Compliance, which was charged with the duty of obtaining compliance with the non-discrimination contract provisions. The statutory authorities referenced in Executive Order No. 10308 are the Defense Production Act of 1950³³ and 31 U.S.C. § 691.³⁴ Reference to the Defense Pro-

duction Act of 1950 shows that the President was still acting, pursuant to his national defense powers, to assure maximum utilization of available manpower.

President Eisenhower on August 13, 1953, by Executive Order No. 10479³⁵ revoked Executive Order No. 10308 and transferred the compliance functions of the Committee on Government Contract Compliance to the Government Contract Committee.³⁶ In this order for the first time there is no mention of defense production. For the first time the Committee is authorized to receive complaints of violations,³⁷ and to conduct activities not directly related to federal procurement.³⁸ On September 3, 1954, by Executive Order No. 10557³⁹ the required form of Government contract provision was revised. The new provision was much more specific, required the imposition of the contractor's obligation on his subcontractors, and required the posting of appropriate notices. The Eisenhower orders, while they did not refer to defense production and did authorize the Compliance Committee to encourage non-discrimination outside the field of Government contracts, were still restricted in direct application to federal government procurement. While the orders do not contain any specific statutory reference other than the appropriations statute, 31 U.S.C. § 690, they would seem to be authorized by the broad grant of procurement authority with respect to Titles 40 and 41.⁴⁰ No less than in the case of defense procurement it is in the interest of the United States in all procurement to see that its suppliers are not over the long run increasing its costs and delaying its programs by excluding from the labor pool available minority workmen. In the area of Government procurement Executive authority to impose non-discrimination contract provisions falls in Justice Jackson's first category: action pursuant to the express or implied authorization of Congress.

Exec. Order No. 10925⁴¹ signed by President Kennedy on March 6, 1961, among other things enlarged the notice requirements and specified that the President's Committee on Equal Employment Opportunity could by rule, regulation or order impose sanctions for violation. Coverage still extended only to federal government contracts. Significantly for purposes of this case, however, the required contract language was amended to add the provision:

"The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."⁴²

The Philadelphia Plan is simply a refined approach to this "affirmative action" mandate. Applied to federal procurement the affirmative action clause is supported by the same Presidential procurement authority that supports the non-discrimination clause generally.

The most significant change in the Executive Order program for present purposes occurred on June 22, 1963 when the President signed Executive Order No. 11114,⁴³ which amended Executive Order No. 10925 by providing that the same non-discrimination contract provisions heretofore required in all federal procurement contracts must also be included in all federally assisted construction contracts. By way of Executive Order No. 11246⁴⁴ issued in 1965, President Johnson transferred to the Secretary of Labor the functions formerly specified in Executive Order Nos. 10925 and 11114, and he continued both the affirmative action requirement and the coverage of federally assisted construction contracts.

While all federal procurement contracts must include an affirmative action covenant,⁴⁵ the coverage on federally assisted contracts has been extended to construction contracts only. This choice is significant, for it demonstrates that the Presidents were not

attempting by the Executive Order program merely to impose their notions of desirable social legislation on the states wholesale. Rather, they acted in the one area in which discrimination in employment was most likely to affect the cost and the progress of projects in which the federal government had both financial and completion interests. In direct procurement the federal government has a vital interest in assuring that the largest possible pool of qualified manpower be available for the accomplishment of its projects. It has the identical interest with respect to federally assisted construction projects. When the Congress authorizes an appropriation for a program of federal assistance, and authorizes the Executive branch to implement the program by arranging for assistance to specific projects, in the absence of specific statutory regulations it must be deemed to have granted to the President a general authority to act for the protection of federal interests. In the case of Executive Order Nos. 11246 and 11114 three Presidents have acted by analogizing federally assisted construction to direct federal procurement. If such action has not been authorized by Congress (Justice Jackson's first category), at the least it falls within the second category. If no congressional enactments prohibit what has been done, the Executive action is valid. Particularly is this so when Congress, aware of Presidential action with respect to federally assisted construction projects since June of 1963, has continued to make appropriations for such projects. We conclude, therefore, that unless the Philadelphia Plan is prohibited by some other congressional enactment, its inclusion as a pre-condition for federal assistance was within the implied authority of the President and his designees. We turn, then to a consideration of the statutes on which plaintiffs rely.

THE CIVIL RIGHTS ACT OF 1964

Plaintiffs suggest that by enacting Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. which deals comprehensively with discrimination in employment, Congress occupied the field. The express reference in that statute to Executive Order No. 10925 or any other Executive Order prescribing fair employment practices for Government contractors, 42 U.S.C. § 2000e-8(d), indicates, however, that Congress contemplated continuance of the Executive Order program. Moreover we have held that the remedies established by Title VII are not exclusive. *Young v. International Telephone & Telegraph Co.*, — F.2d — (3d Cir. 1971).

But while Congress has not prohibited Presidential action in the area of fair employment on federal or federally assisted contracts, the Executive is bound by the express prohibitions of Title VII. The argument most strenuously advanced against the Philadelphia Plan is that it requires action by employers which violates the Act. Plaintiffs point to § 703(j), 42 U.S.C. § 2000e-2(j):

"Nothing contained in this subchapter shall be interpreted to require any employer . . . [or] labor organization . . . to grant preferential treatment to any individual or to any group because of the race . . . of such individual or groups on account of an imbalance which may exist with respect to the total number or percentage of persons of any race . . . employed . . . in comparison with the total number or percentage of persons of such race . . . in the available work force in any community . . . or other area."

The Plan requires that the contractor establish specific goals for utilization of available minority manpower in six trades in the five-country area. Possibly an employer could not be compelled, under the authority of Title VII, to embrace such a program, although § 703(j) refers to percentages of minorities in an area work force rather than

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percentages of minority tradesmen in an available trade work force. We do not meet that issue here, however, for the source of the required contract provision is Executive Order No. 11246. Section 703(j) is a limitation only upon Title VII, not upon any other remedies, state or federal.

Plaintiffs, and more particularly the union amici, contend that the Plan violates Title VII because it interferes with a bona fide seniority system. Section 703(h), 42 U.S.C. § 2000(e)-2(h), provides:

"Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to employ different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system . . ."

The unions, it is said, refer men from the hiring halls on the basis of seniority, and the Philadelphia Plan interferes with this arrangement since few minority tradesmen have high seniority. Just as with § 703(j), however, § 703(h) is a limitation only upon Title VII, not upon any other remedies.⁴⁵

Plaintiffs contend that the Plan, by imposing remedial quotas, requires them to violate the basic prohibitions of Section 703(a), 42 U.S.C. § 2000(e)-2(a):

"It shall be an unlawful employment practice for an employer—

"(1) to fail or refuse to hire . . . any individual . . . because of such individual's race . . . or

"(2) to . . . classify his employees in any way which would deprive . . . any individual of employment opportunities . . . because of such individual's race . . ."

Because the Plan requires that the contractor agree to specific goals for minority employment in each of the six trades and requires a good faith effort to achieve those goals, they argue, it requires (1) that they refuse to hire some white tradesmen, and (2) that they classify their employees by race, in violation of § 703(a). This argument rests on an overly simple reading both of the Plan and of the findings which led to its adoption.

The order of September 23, 1969 contained findings that although overall minority group representation in the construction industry in the five-county Philadelphia area was thirty per cent, in the six trades representation was approximately one per cent. It found, moreover, that this obvious underrepresentation was due to the exclusionary practices of the unions representing the six trades. It is the practice of building contractors to rely on union hiring halls as the prime source for employees. The order made further findings as to the availability of qualified minority tradesmen for employment in each trade, and as to the impact of an affirmative action program with specific goals upon the existing labor force. The Department of Labor found that contractors could commit to the specific employment goals "without adverse impact on the existing labor force." Some minority tradesmen could be recruited, in other words, without eliminating job opportunities for white tradesmen.

To read Section 703(a) in the manner suggested by the plaintiffs we would have to attribute to Congress the intention to freeze the status quo and to foreclose remedial action under other authority designed to overcome existing evils. We discern no such intention either from the language of the statute or from its legislative history. Clearly the Philadelphia Plan is color-conscious. Indeed the only meaning which can be attributed to the "affirmative action" language which since March of 1961 has been included in successive Executive Orders is that Government contractors must be color-conscious. Since 1941 the Executive Order program has

recognized that discriminatory practices exclude available minority manpower from the labor pool. In other contexts color-consciousness has been deemed to be an appropriate remedial posture. *Porcelli v. Titus*, 302 F. Supp. 726 (D.N.J. 1969) aff'd, 431 F. 2d 1254 (3d Cir. 1970); *Norwalk CORE v. Norwalk Redevelopment Agency*, 395 F. 2d 920, 981 (2d Cir. 1968); *Offermann v. Nitkowski*, 378 F. 2d 22, 24 (2d Cir. 1967). It has been said respecting Title VII that "Congress did not intend to freeze an entire generation of Negro employees into discriminatory patterns that existed before the Act." *Quarles v. Philip Morris, Inc.*, supra, 279 F. Supp. at 514. The *Quarles* case rejected the contention that existing, nondiscriminatory seniority arrangements were so sanctified by Title VII that the effects of past discrimination in job assignments could not be overcome.⁴⁷ We reject the contention that Title VII prevents the President acting through the Executive Order program from attempting to remedy the absence from the Philadelphia construction labor or minority tradesmen in key trades.

What we have said about Title VII applies with equal force to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) et seq. That Title prohibits racial and other discrimination in any program or activity receiving federal financial assistance.⁴⁸ This general prohibition against discrimination cannot be construed as limiting Executive authority in defining appropriate affirmative action on the part of a contractor.

We hold that the Philadelphia Plan does not violate the Civil Rights Act of 1964.

THE NATIONAL LABOR RELATIONS ACT

The June 27, 1969 order, par. 8(b) provides:

"It is no excuse that the union with which the contractor has a collective bargaining agreement failed to refer minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act and the Civil Rights Act of 1964. It is the longstanding uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations and orders."

The union amici vigorously contend that the Plan violates the National Labor Relations Act by interfering with the exclusive union referral systems to which the contractors have in collective bargaining agreements bound themselves. Exclusive hiring hall contracts in the building and construction industry are validated by Section 8(f) of the National Labor Relations Act, 29 U.S.C. § 158(f). In *Teamsters Local 357 v. NLRB*, 365 U.S. 667 (1961), the Supreme Court held that the National Labor Relations Board could not proscribe exclusive hiring hall agreements as illegal per se since Congress had not chosen to prohibit hiring halls. It is argued that the President is attempting to do what the Supreme Court said the National Labor Relations Board could not do—prohibit a valid hiring hall agreement. Of course collective bargaining agreements which perpetuate the effects of past discrimination are unlawful under Title VII. *Local 189, United Papermakers & Paperworkers v. United States*, supra; *United States v. Sheet Metal Workers, Local 36*, 416 F.2d 123, 132 (8th Cir. 1969). The findings of past discrimination which justified remedial action in these cases were made in judicial proceedings, however. See 42 U.S.C. § 2000e-5(g). The amici contend that the Assistant Secretary's nonjudi-

cial finding of prior exclusionary practices is insufficient to support the Plan's implied requirement that the contractor look to other sources for employees if the unions fail to refer sufficient minority group members.

It is clear that while hiring hall arrangements are permitted by federal law they are not required. Nothing in the National Labor Relations Act purports to place any limitation upon the contracting power of the federal government. We have said hereinabove that in imposing the affirmative action requirement on federally assisted construction contracts the President acted within his implied contracting authority. The assisted agency may either agree to do business with contractors who will comply with the affirmative action covenant, or forego assistance. The prospective contractors may either agree to undertake the affirmative action covenant, or forego bidding on federally assisted work. If the Plan violates neither the Constitution nor federal law, the fact that its contractual provisions may be at variance with other contractual undertakings of the contractor is legally irrelevant. Factually, of course, that variance is quite relevant. Factually it is entirely likely that the economics of the marketplace will produce an accommodation between the contract provisions desired by the unions and those desired by the source of the funds. Such an accommodation will be no violation of the National Labor Relations Act.

The absence of a judicial finding of past discrimination is also legally irrelevant. The Assistant Secretary acted not pursuant to Title VII but pursuant to the Executive Order. Regardless of the cause, exclusion from the available labor pool of minority tradesmen is likely to have an adverse effect upon the cost and completion of construction projects in which the federal government is interested. Even absent a finding that the situation found to exist in the five-county area was the result of deliberate past discrimination, the federal interest in improving the availability of key tradesmen in the labor pool would be the same. While a court must find intentional past discrimination before it can require affirmative action under 42 U.S.C. § 2000e-5(g), that section imposes no restraint upon the measures which the President may require of the beneficiaries of federal assistance. The decision of his designees as to the specific affirmative action which would satisfy the local situation did not violate the National Labor Relations Act and was not prohibited by 42 U.S.C. § 2000e-5(g).

CONSISTENCY WITH EXECUTIVE ORDER NO. 11246

The plaintiffs argue that the affirmative action mandate of § 202 of Executive Order No. 11246 is limited by the more general requirement in the same section, "The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin." They contend that properly construed the affirmative action referred to means only policing against actual present discrimination, not action looking toward the employment of specific numbers of minority tradesmen.

Section 201 of the Executive Order provides:

"The Secretary of Labor shall be responsible for the administration of Parts II [government contracts] and III [Federal assistance] of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof."

Acting under this broad delegation of authority the Labor Department in a series of orders of local application made it clear that it interpreted "affirmative action" to require more than mere policing against actual present discrimination.⁴⁹ Administrative action pursuant to an Executive Order is invalid and subject to judicial review if beyond the

⁴⁵Footnotes at end of article.

scope of the Executive Order, *Peters v. Hobby*, 349 U.S. 331 (1955). But the courts should give more than ordinary deference to an administrative agency's interpretation of an Executive Order or regulation which it is charged to administer. *Udall v. Tallman*, 380 U.S. 1 (1965); *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 413 (1945). The Attorney General has issued an opinion that the Philadelphia Plan is valid,¹⁰ and the President has continued to acquiesce in the interpretation of the Executive Order made by his designee. The Labor Department interpretation of the affirmative action clause must, therefore, be deferred to by the courts.

Plaintiffs also contend that the signing of the June 27, 1969 and September 23, 1969 orders by an assistant secretary rather than by the Secretary of Labor makes those orders procedurally invalid. Here they rely on § 401 which provides:

"The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order, except authority to promulgate rules and regulations of a general nature."

The Plan, they say, is a rule or regulation of a general nature, and could have been issued only by the Secretary. In the first place the Plan is not general. It is based upon findings as to the available construction manpower in a specific labor market. Moreover, the interpretation of § 401 made by the administrator requires the same deference from the courts as it required toward his other interpretations of the order. We will not second guess his delegation to the Assistant Secretary of the duty of enforcing the affirmative action covenant.

The Due Process Contentions

Plaintiffs urge that the Plan violates the Due Process Clause of the Fifth Amendment in several ways.

First, they allege that it imposes on the contractors contradictory duties impossible of attainment. This impossibility arises, they say, because the Plan requires both an undertaking to seek achievement of specific goals of minority employment and an undertaking not to discriminate against any qualified applicant or employee, and because a decision to hire any black employee necessarily involves a decision not to hire a qualified white employee. This is pure sophistry. The findings in the September 23, 1969 order disclose that the specific goals may be met, considering normal employee attrition and anticipated growth in the industry, without adverse effects on the existing labor force. According to the order the construction industry has an essentially transitional labor force and is often in short supply in key trades. The complaint does not allege that these findings misstate the underlying facts.

Next the plaintiffs urge that the Plan is arbitrary and capricious administrative action, in that it singles out the contractors and makes them take action to remedy the situation created by acts of past discrimination by the craft unions. They point to the absence of any proceedings under Title VII against the offending unions, and urge that they are being discriminated against. This argument misconceives the source of the authority for the affirmative action program. Plaintiffs are not being discriminated against. They are merely being invited to bid on a contract with terms imposed by the source of the funds. The affirmative action covenant is no different in kind than other covenants specified in the invitation to bid. The Plan does not impose a punishment for past misconduct. It exacts a covenant for present performance.

Some amici urge that selection of the five-county Philadelphia area was arbitrary and capricious and without basis in fact. The

complaint contains a conclusive allegation to this effect. No supporting facts are alleged. It is not alleged, for example, that the specific goals for minority manpower utilization would be different if more or fewer counties were to be included in the September 23, 1969 order. The union amici do question the findings made by the Assistant Secretary of Labor, but the complaint, fairly read, does not put these findings in issue. We read the allegation with respect to the five-county area as putting in issue the legal authority of the Secretary to impose a specific affirmative action requirement in any separate geographic area. The simple answer to this contention is that federally assisted construction contracts are performed at specific times and in specific places. What is appropriate affirmative action will vary according to the local manpower conditions prevailing at the time.

Finally, the plaintiffs urge that the specific goals specified by the Plan are racial quotas prohibited by the equal protection aspect of the Fifth Amendment. See *Shapiro v. Thompson*, 394 U.S. 618, 641-42 (1969); *Schneider v. Rush*, 377 U.S. 163 (1964); *Bolling v. Sharpe*, 347 U.S. 497 (1954). The Philadelphia Plan is valid Executive action designed to remedy the perceived evil that minority tradesmen have not been included in the labor pool available for the performance of construction projects in which the federal government has a cost and performance interest. The Fifth Amendment does not prohibit such action.

One final point. The plaintiffs contend that although there were cross-motions for summary judgment the district court, while it should have entered summary judgment in their favor, could not properly enter summary judgment against them. Several amici press this point on appeal even more strenuously than do plaintiffs. They contend that neither the finding of past discrimination by the craft unions made in the June 27, 1969 order nor the statistical findings as to availability of minority tradesmen, employee attrition, and industry growth made in the September 23, 1969 order should be accepted as true.

The federal defendants conceded in the district court that the affidavit of Mr. Macaluso, to which copies of both orders were attached, was offered not for the truth of the underlying facts but only to identify the orders. This concession was not significant for the decisions on the motions under Rule 12(b) (1) and Rule 56(b). The complaint to which the motions by the federal defendants was addressed nowhere challenges the factual underpinnings of the specific goals set forth in the September 23, 1969 order. Rather the complaint makes a legal attack upon the power of the Department of Labor to impose these goals as contractual commitments. Read generously the complaint can be construed to challenge the administrative procedures followed by the Assistant Secretary in determining these goals. We have dealt hereinabove with that challenge insofar as it questions compliance with the procedures specified in Executive Order No. 11246. Insofar as the complaint challenges on broader administrative law grounds the method by which the Assistant Secretary assembled the data for the September 23, 1969 order, we hold that public hearings after notice were an appropriate means for the administrative agency to obtain the information needed for informed judgment. Cf. *Shannon v. Department of Housing & Urban Development*, — F.2d — (6d Cir. 1971). No public hearing was held prior to the issuance of the June 27, 1969 order, which contains the Assistant Secretary's finding of past exclusionary union practices. He relied upon published data, however, which itself may have been sufficient to justify administrative action leading to the specification of contract provisions. We need not decide that issue, however, for in our view the data in the September 23, 1969 order re-

vealing the percentages of utilization of minority group tradesmen in the six trades compared with the availability of such tradesmen in the five-county area, justified issuance of the order without regard to a finding as to the cause of the situation. The federal interest is in maximum availability of construction tradesmen for the projects in which the federal government has a cost and completion interest. A finding as to the historical reason for the exclusion of available tradesmen from the labor pool is not essential for federal contractual remedial action.

The judgment of the district court will be affirmed.

A True Copy:

Teste:

Clerk of the United States Court of Appeals for the third Circuit.

FOOTNOTES

¹ James D. Morrissy, Inc.; The Conduit & Foundation Corp.; Glasgow, Inc.; Buckley & Company; The Nyleve Company; Erb Engineering & Constr. Co.; Perkins, Kanak, Foster, Inc.; and Lansdowne Constructors, Inc.

² The Secretary of Labor, George P. Shultz; The Assistant Secretary of Labor, Arthur A. Fletcher; The Director, Office of Federal Contract Compliance, John L. Wilks; The Secretary of Agriculture, Clifford M. Hardin.

³ An additional defendant, the General State Authority of the Commonwealth of Pennsylvania, has not participated in this appeal.

⁴ 30 Fed. Reg. 12319 (Sept. 24, 1965), as amended by Exec. Order No. 11375, 32 Fed. Reg. 14303 (Oct. 13, 1967), 3 C.F.R. 406 (1969) 42 U.S.C.A. § 2000(e) (1970), superseded in part by Exec. Order No. 11478, 34 Fed. Reg. 12985 (Aug. 8, 1969), 3 C.F.R., 1969 Comp. 133, 42 U.S.C. § 2000(e) (1970).

⁵ Encompassing Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in Pennsylvania.

⁶ § 202(1). This wording comes from Exec. Order No. 11375, see note 4 supra, and represents a minor change from the original designed to parallel the classes of discrimination prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) et seq.

⁷ Recognition of this problem antedated the present Plan. Under the Philadelphia Pre-Award Plan, which was put into effect on November 30, 1967 by the Philadelphia Federal Executive Board, each apparent low bidder was required to submit a written affirmative action program assuring minority group representation in eight specified trades as a precondition to qualifying for a construction contract or subcontract. This predecessor Plan was suspended due to an opinion letter by the Comptroller General stating that it violated the principles of competitive bidding. 48 Comp. Gen. 326 (1968).

⁸ The order of June 27, 1969 listed "roofers and water proofers" among the trades underrepresented by minority craftsmen. The order of September 23, 1969 dropped this category from the list, leaving the six trades previously named.

⁹ Federal assistance was authorized under the Watershed Protection and Flood Prevention Act, 16 U.S.C. § 1001 et seq.

¹⁰ Comp. Gen. Op., Letter to Sec. of Labor George P. Shultz, August 5, 1969, 115 Cong. Rec. 17,201-04 (daily ed. Dec. 13, 1969). The Comptroller General had objected to earlier efforts at implementing the "affirmative action" aspect of Exec. Order No. 11246 on the ground that these plans failed to inform prospective bidders of definite minimum standards for acceptable programs. In his negative opinion letter in response to the original Philadelphia Pre-Award Plan, he had also adverted to the possibility of conflict with Title VII of the Civil Rights Act of 1964. See note 7 supra. The Title VII objections became the heart of the opinion of

August 5, 1969 which challenged the validity of the Revised Philadelphia Plan.

¹¹ 42 U.S.C. § 2000(e) et seq.

¹² 42 U.S.C. § 2000(d) et seq.

¹³ 29 U.S.C. § 151 et seq.

¹⁴ The Pennsylvania Human Relations Act, 43 P.S. § 951 et seq. (Supp. 1970), specifically prohibits an employer from keeping any record of or using any form of application with respect to the race, color, religion, ancestry, sex or national origin of an applicant for employment. 43 P.S. § 955(b)(1). The Act also prohibits the use of a quota system for employment based on the same criteria. 43 P.S. § 955(b)(3). The record keeping prohibition may be of limited force due to certain requirements of Title VII of the Civil Rights Act of 1964. 42 U.S.C. § 2000(e)-8(c). Moreover, we do not know how the Pennsylvania courts or the Pennsylvania Human Relations Commission would react to a scheme of "benign" quota hiring.

¹⁵ 311 F. Supp. 1002, 1011 (E.D. Pa. 1970).

¹⁶ 49 Stat. 2036-39, 41 U.S.C. §§ 35-45.

¹⁷ The actual holding of *Perkins* was subsequently nullified by Congress. 66 Stat. 308 (1952), 41 U.S.C. § 43(a). See 4 K. Davis, *Administrative Law* § 28.06 (1958).

¹⁸ 310 U.S. at 127.

¹⁹ Amici favoring the Plan include the City of Philadelphia, the Urban League of Philadelphia, Wives for Equal Employment Opportunity, the Lawyers' Committee for Civil Rights Under Law, and the N.A.A.C.P. Appearing as amici in opposition to the Plan are the Building and Construction Trades Dep't, AFL-CIO, the Building and Construction Trades Council of Philadelphia and Vicinity, AFL-CIO, the General Building Contractors Ass'n, Inc., the National Electrical Contractors Ass'n, and the Associated General Contractors of America.

²⁰ Exec. Order No. 10925, 26 Fed. Reg. 1977 (March 6, 1961), 3 C.F.R., 1961 Comp 86.

²¹ Management and Disposal of Government Property.

²² Procurement Procedures.

²³ But cf. *Wetner v. Cuyahoga Community College*, 19 Ohio St. 2d 35, 249 N.E.2d 907 (1969), cert. denied, 396 U.S. 1004 (1970); *Ethridge v. Rhodes*, 268 F. Supp. 83 (S.D. Ohio 1967).

²⁴ 343 U.S. at 635-38 (footnotes omitted).

²⁵ 6 Fed. Reg. 3109, 3 C.F.R., 1938-43 Comp. 957.

²⁶ Act of Dec. 18, 1941, ch. 593, 55 Stat. 838.

²⁷ 6 Fed. Reg. 6787, 3 C.F.R., 1938-43 Comp. 1054.

²⁸ 8 Fed. Reg. 7183, 3 C.F.R., 1938-43 Comp. 1280.

²⁹ 10 Fed. Reg. 15301, 3 C.F.R., 1943-48 Comp. 480.

³⁰ 15 Fed. Reg. 1049, 3 C.F.R., 1949-53 Comp. 390.

³¹ Exec. Order No. 10216, 16 Fed. Reg. 1815 (Feb. 23, 1951), 3 C.F.R. 1949-53 Comp. 732 (Department of Agriculture, Atomic Energy Commission, National Advisory Committee for Aeronautics, and Government Printing Office); Exec. Order No. 10227, 16 Fed. Reg. 2675 (Mar. 24, 1951), 3 C.F.R. 1949-53 Comp. 739 (General Services Administration), Exec. Order No. 10231, 16 Fed. Reg. 3025 (April 5, 1951), 3 C.F.R. 1949-53 Comp. 741 (Tennessee Valley Authority); Exec. Order No. 10243, 16 Fed. Reg. 4419 (May 17, 1951), 3 C.F.R. 1949-53 Comp. 752 (Federal Civil Defense Administration); Exec. Order No. 10281, 16 Fed. Reg. 8789 (Aug. 28, 1951), 3 C.F.R. 1949-53 Comp. 781 (Defense Materials Procurement Agency).

³² 16 Fed. Reg. 12303, 3 C.F.R., 1949-53 Comp. 837.

³³ 60 U.S.C. App. § 2061 et seq.

³⁴ This latter reference is to the source of appropriations for salaries and expenses for committee members and staff. It appears in numerous subsequent Executive Orders, but has no significance other than fiscal.

³⁵ 18 Fed. Reg. 4899, 3 C.F.R., 1949-53 Comp. 961.

³⁶ The new committee was composed of 15

members, 9 named by the President and one representative each from the Atomic Energy Commission, the Department of Commerce, the Department of Defense, the Department of Justice, the Department of Labor, and the General Services Administration. Id. § 3, as amended by Exec. Order No. 10482, 18 Fed. Reg. 4944 (Aug. 15, 1953), 3 C.F.R. 1949-53 Comp. 968.

³⁷ Id. § 5.

³⁸ "Sec. 6. The Committee shall encourage the furtherance of an educational program by employer, labor, civic, educational, religious, and other voluntary nongovernmental groups in order to eliminate or reduce the basic causes and costs of discrimination in employment.

"Sec. 7. The Committee is authorized to establish and maintain cooperative relationships with agencies of state and local governments, as well as with nongovernmental bodies, to assist in achieving the purposes of this order."

Id. §§ 6, 7.

³⁹ 19 Fed. Reg. 5655, 3 C.F.R. 1954-58 Comp. 203.

⁴⁰ See 40 U.S.C. § 486(a).

⁴¹ 26 Fed. Reg. 1977, 3 C.F.R. 1959-63 Comp. 448.

⁴² Id., pt. III, § 301(1).

⁴³ 28 Fed. Reg. 6485, 3 C.F.R. 1959-63 Comp. 774.

⁴⁴ See note 4 supra.

⁴⁵ Section 204 of Exec. Order No. 11246 provides that the Secretary of Labor may exempt certain contracts and purchase orders from the requirements of the order because of special circumstances in the national interest and that he may by rule or regulation exempt certain classes of contracts (1) to be performed outside the United States, (2) for standard commercial supplies or raw materials, (3) involving insubstantial amounts of money or workers, or (4) involving subcontracts below a specified tier.

⁴⁶ This same subsection refers to ability tests. The Supreme Court recently in *Griggs v. Duke Power Co.*, 39 U.S.L.W. 4317 (U.S. Mar. 8, 1971) considered the extent to which such tests are permissible. The Court said:

"But Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation." 39 U.S.L.W. at 4319.

It held that the tests must be job related. Nor can seniority make permanent the effects of past discrimination. *Local 189, United Papermakers & Paperworkers v. United States*, 416 F.2d 980 (5th Cir. 1969), cert. denied, 397 U.S. 919 (1970); *Quarles v. Philip Morris, Inc.*, 279 F. Supp. 505 (E.D. Va. 1968).

⁴⁷ The federal courts in overcoming the effects of past discrimination are expressly authorized in Title VII to take affirmative action. 42 U.S.C. § 2000(e)-5(g). See *Vogler v. McCarty*, 294 F. Supp. 368 (E.D. La. 1968), aff'd sub. nom. *International Ass'n Heat & Frost I. & A. Wkrs. v. Vogler*, 407 F.2d 1047 (5th Cir 1969).

⁴⁸ Section 604 of Title VI, 42 U.S.C. § 2000(d)-3, states that nothing in the Title authorizes agency action under the Title with respect to employment practices of any employer, except where federal assistance is primarily aimed at providing employment. However, since the Philadelphia Plan does not purport to derive its authorization from Title VI, this section does not affect its validity.

⁴⁹ See United States Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort at 167-72* (1970).

⁵⁰ Att'y Gen. Op., Letter to Sec. of Labor Schultz, Sept. 22, 1969, 115 Cong. Rec. 17-204-06 (daily ed. Dec. 18, 1969).

C. JAMES McCORMICK, CHAIRMAN, AMERICAN TRUCKING ASSOCIATION

Mr. BAYH. Mr. President, a recent issue of *Wheels* magazine contains an ar-

ticle entitled "New ATA Chairman Strong for Involvement, Communication." The new chairman of the board of the American Trucking Association is C. James McCormick of Vincennes, Ind.

Jim and his lovely wife Bettye have been long-time friends. Hoosiers are proud of the honor that fellow members of the trucking industry have given him. His long record of public service to his city, State, Nation, and industry will continue to build as he fulfills his new responsibilities. I would like to share with you and my colleagues the tribute paid to Mr. McCormick.

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

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

NEW ATA CHAIRMAN STRONG FOR INVOLVEMENT, COMMUNICATION

Involved—that's the word for C. James McCormick.

Never a sideline-sitter, the 45-year-old hard-charger who is the incoming chairman of the board (new title this year) of the American Trucking Association has always believed in being part of the action.

Involvement—and Communication, another McCormick credo—made him president of his university class; parlayed his one-truck operation into a multi-million dollar business; earned him a Junior Chamber of Commerce "Outstanding Man of the Year" award; and has snowballed activity in local, state and national affairs into a political prominence that's making him talked about as a prospective gubernatorial candidate.

These qualities have also carried the youthful chairman of the board and president of I & S—McDaniel, Inc., of Vincennes, Ind., to ATA's top spot, where he plans to clarify a call to all carriers to become involved in communicating the industry's story.

"The only way to overcome our problems is to get people talking about them," he said. "We'll work with the communications media to encourage full and factual reporting of our situation. And we'll get out ourselves and talk about it, and encourage others to talk about it."

"But just talking isn't enough. We've got to talk about our industry in such a way that people will listen—and believe. One reason for the communications gap we hear so much about today is that people don't listen."

McCormick expects to bridge this communication gap as the new ATA chairman by not only talking with, but also listening to customers, suppliers, and members of the industrial and financial communities—as well as representatives of the communications media and other influentials.

It should be a successful program, because talking and listening are two of the things McCormick does best, say those who know him.

"He's just naturally interested in people," one employee said of his boss. "And he has this great sense of fair play."

"He responds quickly to anyone. And anyone, no matter who it is, can get in to talk to the boss when he needs to."

McCormick looks for a new era of cooperation—of partnership—in the trucking industry. "I believe," he said, "that the 70's will see a new and better working relationship between the motor carriers and those who use our services, whether as shippers or receivers. The profit squeeze, which affects everybody alike, will necessitate this partnership concept."

The new ATA chairman isn't unduly worried about threats to motor carriers from other types of transport.

The jumbo jets? He doesn't think compe-

tion from air freight in the big planes will affect the average haul, at least not in this decade.

"There just aren't that many places in the United States where 360,000 pounds of freight, adaptable to aircraft containers, can be shipped from one point to another," he declared.

Nor does he believe there will be enough changes in the operations of railroads or barge lines to affect trucking significantly.

He feels strongly on one point: "If restraints on common ownership of different modes of transportation are removed, I can see nothing but utter chaos ahead!

"A viable—and varied—transportation industry is critically important to the economic well-being of our country. The major modes must be kept separate.

"To allow common ownership of transportation companies would be the first step, and a big one, toward nationalization of the transportation industry in this country—and this must not happen!"

McCormick has pledged himself to continue the ecology program so ably begun by outgoing ATA president Frank L. Grimm. He now serves on the Blue Ribbon Committee set up by Grimm to fight the problem.

"Because our trucks are big and visible, make a lot of noise and sometimes emit smoke they will continue to be attacked as a threat to our sociological and biological well-being," he said. "Unless we keep on with the corrective program we have started—and even intensify it—we could be in for some almost unlivable governmental controls."

Despite the problems it faces, McCormick sees a bright future for the trucking industry. He cites today's youth as one of the reasons.

"One commodity I'm sure we'll find in abundance in the 70's is management manpower," he declared. "I have a lot of faith in our young people. They're a new breed. They're bright, and they're going to be very valuable."

Perhaps one reason for McCormick's confidence in youth is to be found in his own family. He and his wife, Bettye—she's darkly attractive in contrast to his blond coloring—have four handsome children: Mike, 22, a graduate of the School of Business of Duke University with a degree in Management Science, now a dock supervisor at the I & S—McDaniel terminal in Indianapolis; Pat, 20, a junior in the School of Business at Indiana University, majoring in Transportation; O. James McCormick III (Mac), 18, a sophomore and varsity golfer majoring in Transportation at the University of Tennessee's School of Business; and Jane Ann, 16, a junior—and a cheer leader—at Lincoln High School in Vincennes.

The McCormick home in Vincennes is a Southern Indiana showplace. A family crest is on the gate of the iron fence that opens to the gracious white brick house that bears the apt name of *La Maison Blanche*—the White House. (McCormick has a strong feeling for his hometown; thus, for the last several years his Christmas greeting cards have been illustrated with scenes from historical "Old Vincennes.")

Invited into the house, a visitor enters an elegantly furnished foyer with a fountain of running water, then steps into a sunken, white-carpeted living room. There's a tastefully furnished family room and formal dining room, but the family spends many hours at home in the kitchen, which was skillfully designed to dine in, to live in, and to come and go from.

The basement is most distinctive. With a French cafe motif, and with a warm and cozy atmosphere, it has a snack-talk bar with a solid brass counter-top, spacious lounging and TV areas, McCormick's personal den with walls lined with pictures of his family and businesses—and a sauna bath.

No more perfect setting than this could be found for a girl's sixteenth birthday; and when daughter Jane Ann turned hers this year her father took advantage of the opportunity to "do his thing"—communicate with young people, as well as older friends—by inviting 100 guests to a party that featured a popular rock band.

McCormick has come a long way since 1944, when he began his business career by buying a small second-hand truck to haul watermelons, cantaloupes and other local produce to midwestern markets.

Born Jan. 3, 1925, on a farm near Vincennes, he had just finished his studies at Purdue University, where he had played basketball and been president of his class. There was no special reason why he bought the truck, except that with all that stuff waiting to be hauled to market it seemed like a good idea—and besides, "Doesn't every young fellow want to drive a truck?"

In 1946, the Indiana Public Service Commission granted McCormick his first operating authority as a contract carrier, and this is the way he operated for the next eight and a half years. In 1954, he sold his contract carrier interests and purchased the capital stock of Indianapolis & Southern Motor Express, Inc., a common carrier operating in a triangular area bounded by Cincinnati, O., and Indianapolis, Terre Haute and Evansville, Ind.

At that time the truck line had a gross revenue of \$728,000, employed 100 persons, and owned about 100 pieces of rolling stock. By 1969, it was grossing nearly \$7.5 million, employing over 500 persons, and using 650 pieces of equipment.

I&S purchased the "C" Line in 1966, and this extended its operations into Louisville, Ky. In 1967, McDaniel Freight Lines, Inc., based in Crawfordsville, Ind., was purchased; results included a near-doubling of volume and a change in the firm name to its present I&S—McDaniel, Inc.

In 1968, J. A. Grant & Son, Inc., a carrier headquartered in Rensselaer, Ind., was purchased to extend the company's operations into parts of Illinois and give it terminals in Chicago and Danville, Ill.

Only one enterprise bears McCormick's own name. This is McCormick, Inc., a truck and trailer sales and service dealership that he founded in 1948.

Other companies founded by McCormick are:

Commercial Rentals, Inc., truck and trailer leasing—founded in 1950.

Jamac Corporation, real estate holding and leasing—1960.

Indianapolis White-Autocar, Inc., truck sales and service—1963.

Jem, Inc., warehousing—1963. (Co-founder.)

McCormick is president of the first four companies named, vice president of Jem, Inc.

As his business and other interests spread out, McCormick found that he was—as he expressed it—"putting in too much windshield time." So, typically, he took to the air. That was 10 years ago, and his first plane was a small, single-engine job. Now, an instrument-rated commercial pilot, he flies a two-engine Beechcraft Queen Air, fondly dubbed "7 Charley."

And now—take a deep breath, reader—for a rundown on McCormick's "outside" activities:

He is a member of the Aeronautics Commission of Indiana, a position to which he was first appointed in 1962. He is also a member of the board of directors of the First Federal Savings & Loan Association of Vincennes and a member of the national board of directors of the Fellowship of Christian Athletes.

Besides holding—as this was written—the post of ATA first vice president and serving on the association's executive and finance committees, McCormick is an ATA Founda-

tion trustee. In 1965–66, he was chairman of the Regular Common Carrier Conference of the ATA. And in 1961–62, he was EIA president.

He has also held important positions in the Indiana Motor Truck Association, having served as president in 1958–59. In 1956 he became the first president of the newly-formed Indiana Motor Carriers Labor Relations Association; and from 1962 to 1964, he was president of the Indiana Motor Rate & Tariff Bureau, of which he is now a director.

He's a member of the Young Presidents Organization, a select group of men who are—or were—presidents of sizable corporations before reaching the age of 40. He is vice president and a director of the Indiana State Chamber of Commerce and a member of several local chambers of commerce.

In addition to holding memberships in many other local and area civic, social and fraternal organizations, McCormick is a 32nd-degree Scottish Rite Mason and a member of Hadri Shrine at Evansville, Ind. He is an active member of the Trinity United Methodist church, and has served on its official board and as a Sunday school teacher.

It's a long list, and these aren't just card-holding, dues-paying memberships and titles. In all his outside activities, McCormick appears to be fueled by the same high-octane that propels his business interests.

On top of all this, his energetic entry into the political arena has sparked a new optimism among Indiana Democrats, who feel their fortunes may hinge on this attractively aggressive young business executive.

For over a year, in his position as chairman of "UNITY 70," a state Democratic Central Committee voter registration program, McCormick has crisscrossed the state of Indiana repeatedly for a series of grassroots meetings; it's an activity that has brought him into close and favorable contact with party leaders and workers in every one of the state's 92 counties.

Indiana newspapers have now begun to pick up the talk that has been growing steadily louder in recent months to the effect that McCormick is a likely Democratic gubernatorial candidate for 1972.

Asked about this, the "candidate" grins and makes the cagey comment: "I'm not saying I am and I'm not saying I'm not. We've got the kite up and if the wind is strong enough to keep it up, I probably wouldn't close my mind to the idea."

On one political matter his views are definite; that is the need for business men—whatever their party—to become more actively involved in politics.

He agreed to take on his present political post because he had become disturbed about some of the operations of his state's government, and because of his feeling that in the past the business community had too often declined to play an active part in politics.

This is a point he intends to drive home as ATA chairman.

"As an industry, we must become more involved," he declared, "—not necessarily in partisan politics; but as active, interested participants in governmental operations.

"No longer can we sit back and let George do it. Politics are too important. Just look around, and you'll see politics—and their effect upon you and your business. We must become personally involved, at least to the extent of keeping abreast of the issues that affect us."

Introduced to politics as a youngster, when his father, Clarence J. McCormick, was Under Secretary of Agriculture under President Truman, Jim's philosophy on government is simple: "Government is a big business and should be run as such."

There's another McCormick who is being increasingly heard from at state and national levels of the trucking industry. He is 34-year-old Edward L. McCormick, who is going in as president of the Indiana

Motor Truck Association this fall—just 12 years after his older brother Jim.

Since Jan. 1, 1965, Ed has been executive vice president and general manager of I & S—McDaniel, Inc. Six years ago, when he was only 28, a national trucking magazine hailed him as the then-youngest man in the country with the full responsibility of operating a Class 1 motor carrier.

By day the active head of a burgeoning business operation, by night and weekend the equally active politician and community and industrial leader—it might seem a bit facetious to ask Jim McCormick, "So what do you do in your spare time?"

But the answer is serious—and quick: "Oh, a lot."

Jim McCormick plays as hard as he works, and is as diversified here as in business. Given a choice, he'll take golf, which he plays with a respectable eight handicap. ("If what happened to past ATA presidents happens to me, though, I'll probably be up to 12 by the end of my term," he commented ruefully.) But he'll just as enthusiastically join a friend who wants to play tennis, or bowl, or try some boating or other water sport.

When their children were younger and less scattered, the McCormicks spent a great deal of time on the water in a large cruiser.

Jim and Bettye have a heavy social schedule, and enjoy it together. They get in some more "togetherness" on the golf course, since they're both enthusiastic about the game. She accompanies him on some of his flying business trips and political jaunts.

McCormick doesn't take formal vacations, but works them into his business travel. If a business trip takes him somewhere interesting on a Friday, for instance, he may take his family along and extend the trip for a few days of relaxation.

This appears to be the secret of his successful balancing of his business, civic, social and family lives—combine them.

With a man like McCormick at the helm, the ATA should have a stimulating year coming up. A year of Involvement, Communication—and Action!

STUDENTS OF ROCKVILLE IN PUBLIC SERVICE

Mr. MATHIAS. Mr. President, few gifts are of greater significance in this busy world than the gift of an individual's time.

For this reason, I invite the attention of the Senate to the activities of the students currently attending the Charles W. Woodward High School, in Rockville, Md. These students are actively participating in an extensive program of volunteer service to organizations in the surrounding community; they are making a truly useful and constructive contribution to the welfare of others through the donation of their abilities and energy.

I know that Senators will join with me in congratulating these students and others like them throughout the Nation for their unselfish work in the important area of public service. I ask unanimous consent to have printed in the RECORD an article published in the Montgomery Sentinel of April 15, detailing the achievements of the students of Woodward High School.

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

CCW VOLUNTEERS DEVOTE ENERGIES TO SERVING SURROUNDING COMMUNITY

(By Margot Schnholtz and Eva Varaoi)

The "spirit of giving" has spurred many Woodward students to volunteer their time

and energy to various organizations in the area. The majority of the volunteers work in one of four specific areas.

Four CWW students have chosen to assist the staff at Suburban Hospital. Kim Buis, Gary Koplin, Denise Thibadeau, and Belinda Wilgus all perform the tasks that the nurses do not have time for.

A volunteer's duties consist of wheeling patients around the hospital, making beds, and cheering the patients up. "Many of the patients never have any visitors, and they really appreciate it if we just stop in for a few minutes to talk," said Gary Koplin.

There are 100 female volunteers who represent several Montgomery County schools, and one male volunteer, Gary, who represents Woodward. "I really enjoy being a male volunteer because I am able to work more closely with the actual hospital operations than the girls. I have gained an insight into my future profession, medicine, through volunteering," explained Gary.

Gary is not restricted to one specific department of the hospital. He has aided in the radiology department and in the laboratory. He has even been fortunate enough to observe procedures in the emergency room.

Judy Gordon, Betsy Kahn, Andrea Rechten, and Nina Rechten spend their Saturdays working at "The Thrift Shop" on Wisconsin Avenue. The shop is sponsored by the Association for the Rehabilitation of the Mentally Retarded. "All of the high school volunteers work sorting, packaging, and selling the items that are donated to the shop," remarked Judy Gordon.

On the other hand, other Woodward students donate their Sunday afternoons to working with autistic girls.

"Autism is an emotional disturbance characterized by an inability to form interpersonal relationships or to relate to society," explained one volunteer, Debbie Coe.

Before the students could begin helping the girls, they encountered an obstacle. "First, you have to get them to trust you before anything can be accomplished. Once you have their trust, you can begin to help them build confidence in themselves," remarked Paul Farrell.

The volunteers play catch with the girls, play on the swings with them, and help them develop their coordination. "To have them do anything positive gives me a good feeling," said Gary Williamson.

All of the volunteers find their work rewarding. Dee Dee Youso and Gary feel that their work helps them to appreciate their own lives, too. "We both get pleasure out of helping others," they explained.

Shelley Weckler and Sarah Hendrickson are two Woodward seniors who are once-a-week volunteers at Junior Village.

They, and several other volunteers are sponsored by Miss Clara Wing, a foreign language teacher at Woodward. Miss Wing drives the girls to and from the Village.

The girls play with the children and put them to bed. "It means a great deal to them, and it's only a few hours of my time. It's kind of my good deed," remarked Shelley. She has been a Junior Village volunteer for three years.

NASA FAILS TO COME UP WITH A JUSTIFICATION FOR THE SPACE SHUTTLE

Mr. PROXMIRE. Mr. President, on April 7, 1971, I wrote to the National Aeronautics and Space Administration asking them to provide me with a justification for the proposed space shuttle. Specifically, I asked NASA what tangible benefits we could expect from development of the space shuttle—benefits that might justify the expenditure of \$7 to \$9 billion.

Yesterday I received a response from George M. Low, acting administrator of

NASA. The response, unfortunately, is totally inadequate. Here is the gist of it:

The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the United States should and will continue to have an active space program from now on.

In other words, NASA does not expect any tangible benefits. The main rationale for the shuttle is that it will keep our space program going. It will keep the NASA technicians occupied. It will keep the aerospace industry happy. It will insure a continuing drain on the Federal budget. And it will insure that other needs will continue to go unmet.

Mr. President, the only other justification advanced in Mr. Low's letter is that the shuttle will reduce our costs of repairing or updating orbiting payloads. And what are these payloads for? No indication whatsoever. Are these payloads for military use? If so, the money should come out of the military budget. Are these payloads simply make-work projects, as the shuttle appears to be?

Mr. President, Congress cannot possibly be expected to appropriate \$7 to \$9 billion for a project whose sole justification seems to be that it will keep our space program going. If NASA cannot come up with something better than this, then it ought to drop this project. And if NASA does not do it, then Congress will simply have to make that decision.

Mr. President, I ask unanimous consent that the letter dated April 27, 1971, from George M. Low be printed in the RECORD.

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

NATIONAL AERONAUTICS AND

SPACE ADMINISTRATION,

Washington, D.C., Apr. 27, 1971.

HON. WILLIAM PROXMIRE,

U.S. Senate,

Washington, D.C.

DEAR SENATOR PROXMIRE: This is in further response to your letter dated April 7 regarding the space shuttle program.

The President's budget request for NASA for FY 1972 includes a request for \$100 million for the space shuttle. This funding will provide for the detailed design and development of the shuttle engines, the longest lead time component for the shuttle, and for proceeding on an orderly step-by-step basis with the shuttle airframe design. This may lead to continued detailed design or to initiation of development of a specific design, depending on the progress of the studies now underway.

We have recently settled on a single set of performance characteristics for the preliminary design of a two-stage fully reusable shuttle. Alternate approaches are also still under study. We expect to be in a position to make decisions this summer on how we will proceed with airframe design or development in FY 1972.

The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the United States should and will continue to have an active space program from now on. Our present systems for getting into and using space are much too complex and costly. We need a new approach to make space more economical for all users—NASA, the Department of Defense, other government agencies, and commercial enterprises. The space shuttle represents this new approach to space operations. Because it is reusable, we will no longer

have to throw away each element of hardware, booster or spacecraft after only one use.

The space shuttle is not a "manned spacecraft;" it is a reusable space transportation system to deliver manned and unmanned payloads to low earth orbit. With the shuttle, we will be able to repair, modify, or update manned and unmanned payloads in orbit or return them to earth. We will minimize costly failures of automated missions. And we will be able to reduce significantly the costs of payloads by taking advantage of the much larger payload-carrying capacity that will be available. In short, with the shuttle, we will be able to do more in space, better and at less cost.

With respect to your question regarding benefit-cost analyses of the shuttle, Mathematica Incorporated, under NASA Contract No. NASw-2081, is performing a benefit-cost analysis of an overall space transportation system, of which a reusable shuttle is a key element. The contract under which this study is being performed calls for Mathematica Incorporated to provide an independent opinion of the benefit-cost aspects of such a space transportation system. This study has not been completed; however, I am enclosing for your information an interim report dated March 15, 1971, which reports on fairly early work under the contract. NASA is now reviewing this interim report and is awaiting a more comprehensive report which is expected by the end of this fiscal year. When the more comprehensive report is available I will send it to you.

If I can provide any additional information, please let me know.

Sincerely yours,

GEORGE M. LOW,
Acting Administrator.

RAYMOND THOMAS

Mr. MATHIAS. Mr. President, I learned recently of a tribute which was paid on April 7 by the children, faculty, and staff of Alta Vista Elementary School to the late Raymond Thomas—a man who gave much of his life to helping and watching over the many children of the school.

I ask unanimous consent to have printed in the RECORD a brief account of the fitting ceremony which took place in memory of this kind man who was a friend to so many.

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

[From the Montgomery County Sentinel, Apr. 15, 1971]

ALTA VISTA PAYS QUIET TRIBUTE

(By Barbara Van Nice)

Alta Vista Elementary School was the scene of a quiet ceremony, April 7, to plant a dogwood tree in memory of the late Raymond Thomas, who was the school's gardener and custodian for 18 years.

Thomas died Dec. 15, 1970, of a heart attack. He was 58. Past students from the school remember him as a friend who not only worked for the school, but also watched over the children and occasionally joined in their games.

The schoolchildren, faculty and staff members gathered in front of the building for the planting near the flowering cherry tree and forsythia bushes, that Thomas, or "Raymond" as the children called him, had tended.

Mrs. Thomas, his widow, and his three daughters were seated for the ceremony. The school's flags flew at half-staff.

After the children sang "This Land Is Your Land" and "Kum By Yah," Clay E. Brooks, Jr., the school's principal for the

past 17 years, spoke of Thomas' dedication to the school and to the children. The children then sang "He's Got the Whole World in His Hands."

Mrs. Thomas and her three daughters each placed cover soil over the tree's roots, after which representatives of the school and PTA added more cover soil. Officer James Kelly, county police school safety coordinator at the school for 12 years, also participated.

Miss Diane Thomas, a teacher at Rock Terrace High School, told the assembled group of her father's devotion to the school, his pride in his work, and his delight in the children and events of the school.

After the dogwood has taken hold, school officials will place a memorial plaque at the base of the tree.

BRUNO BITKER ADVANCES THE CAUSE OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, a fellow Wisconsinite, Bruno Bitker, has long taken a leading role in promoting the protection of human rights. He has taken a particular interest in the Human Rights Conventions of the United Nations. In 1968 he was appointed U.S. representative to the United Nations Conference on Human Rights in Tehran.

He submitted some recommendations on human rights for the United Nations which deserve the attention of all Members of Congress. He has recommended that we ratify the Genocide Convention, the Convention on the Political Rights of Women, and the Convention on Forced Labor. Of particular interest in his proposal that an office of a United Nations High Commissioner for Human Rights be established.

Mr. President, the cause of human rights can certainly be furthered by prompt ratification of the Genocide Convention as well as the other human rights conventions before us.

I ask unanimous consent that Mr. Bitker's article be printed in the RECORD.

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

HUMAN RIGHTS

(By Bruno V. Bitker, United States Representative to the United Nations Conference on Human Rights in Tehran, 1968)

The protection of human rights is one of the very purposes of the United Nations. The Universal Declaration of Human Rights is not law, only a statement of the basic human rights within the context of conditions which prevail in the world today, which closely parallels United States law.

The members of the panel discussed the fact that the United States has not ratified three human rights conventions which are now pending before the Senate:

1. The United Nations Convention on the Political Rights of Women;
2. The ILO Convention on the Abolition of Forced Labor;
3. The International Convention on the Prevention and Punishment of the Crime of Genocide.

President Nixon recommended ratification of the one on genocide in February, 1970, which has been before the United States Senate since 1949; in addition, Secretary of State Rogers stated that the genocide treaty would be in our national interest, which is one of the tests frequently applied to whether or not a treaty should be ratified, and Attorney General Mitchell accompanied this statement with an opinion to the effect that there is no legal objection to the ratification of this treaty.

Besides the three conventions mentioned

above, the Economic and Social Council of the United Nations has recommended for ratification three conventions on discrimination in employment, in education, and in women's salaries. The United States has literally wiped out racial discrimination in this country—on paper, at least—by statute, Constitution, Supreme Court decisions, and administrative orders, but for some reason the United States has been unwilling to enter into a treaty to make racial discrimination illegal on an international basis.

How a treaty affects the sovereignty of a country was also discussed by the panel members, and it was pointed out that whenever a country enters into a treaty, it gives up a little of its sovereignty because, like any contract, each party to the contract gives up something or there would be no contract or treaty.

The enforcement of human rights treaties was also discussed, and the proposal for a United Nations High Commissioner for Human Rights was considered to be a practical approach for such achievement.

In view of the panel discussion, the following recommendations were made:

1. That the United States Senate ratify the human rights conventions that have been placed before it for consideration and action: the genocide convention as well as those on forced labor and the political rights of women.

2. That the United Nations create the office of a United Nations High Commissioner for Human Rights, which has been proposed for consideration by the General Assembly, and that the office in order to implement human rights instruments be given the power to examine situations resulting from complaints of violations.

SEPARATION OF POWERS DOCTRINE—ADDRESS BY RUFUS L. EDMISTEN

Mr. MATHIAS. Mr. President, we go about our legislative business—passing laws, holding hearings, making speeches—and too often fail to recognize the work and assistance by appropriate staff.

Rufus Edmisten, Chief Counsel and Staff Director to the Separation of Powers Subcommittee of the Senate Judiciary Committee, the subcommittee on which I serve, recently made a presentation before the North Carolina Political Science Association on the subject of the separation of powers doctrine. Mr. Edmisten should be recognized for his work and efforts within the subcommittee as well as for the substance of this fine speech.

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

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

THE SEPARATION OF POWERS DOCTRINE: CURRENT BREACHES

(Address by Rufus L. Edmisten)

My friends in political science, I come to you not only as a lawyer, but also as a student of government, with that basic grounding in political science which one receives at the hands of some of my former University of North Carolina professors I see here tonight. While my first loyalty is to the legal profession, I have enormous respect for political science as a discipline and for the contributions it has made to our Government and to the society. I am grateful for the insights it has given me, and I am acutely aware of the vital influence those of you who teach exert over the youth who soon will oc-

cupy positions of responsibility. Through your impact on the young people who aspire to public office, you have the potential of being office holders yourselves by proxy.

Currently I am Chief Counsel and Staff Director to the Senate Judiciary Subcommittee on Separation of Powers, a Subcommittee with rather interesting credentials. It came into being in the 89th Congress under the cosponsorship of Majority leader Mike Mansfield and the late Minority leader Everett Dirksen, and was empowered: "to make a full and complete study of the separation of powers between the executive, judicial, and legislative branches of Government provided by the Constitution, the manner in which power has been exercised to each branch and the extent, if any, to which any branch or branches of the Government may have encroached upon the powers, functions, and duties vested in any other branch of the Constitution of the United States."

The present membership of the Subcommittee includes North Carolina's Senior Senator, Sam J. Ervin, Jr., who serves as chairman, and Senators John McClellan, Quentin Burdick, Charles McC. Mathias, Jr., and Edward Gurney.

Since its beginning, the Subcommittee has conducted investigations involving violations of the separation of powers doctrine by all three branches of Government, including the Congress. Our projects have included hearings on congressional oversight of administrative agencies; the proper role of the Supreme Court in the separation of powers concept; the committee veto principle; procedures for calling a constitutional convention under Article 5 of the Constitution; nonjudicial activities of Federal judges; the independence of Federal judges; a measure designed to shift jurisdiction over unfair labor practice cases from the National Labor Relations Board to the United States district courts; the "pocket veto" power of the President; and most recently, on the Executive impoundment of appropriated funds. In the near future the Subcommittee plans to conduct hearings on a bill before it dealing with the much abused practice of Executive privilege, and initiate an extensive study of the war powers of the President. As you may well imagine, these last two subjects are likely to give rise to a great deal of agitation in various quarters.

The interests of the Subcommittee are unusually coincidental with those of political science, for its basic focus is the allocation of power within the Federal Government. Like most congressional committees, the Subcommittee is understaffed, but has undertaken several extremely important studies requiring a high degree of expertise in order to match the overwhelming manpower and information mobilized by the other branches of the Government. This need for expertise was met from the outset by employing permanent professional consultants consisting of two of the country's most outstanding law professors, Alexander M. Bickel of Yale and Phillip B. Kurland of the University of Chicago, and, until his untimely death, the noted political scientist Robert G. McCloskey of Harvard University. This policy has been expanded by the short-term employment of specialists, generally from the academic world, to assist the Subcommittee in its investigation of particular subject areas. During my tenure we have relied heavily upon political scientists and the response has been enthusiastic. Thus, I come to you not merely as one with a theoretical interest in political science, but as a grateful consumer of your expertise. I know that your discipline has much to offer the Subcommittee, and I would like to tell you about some of the projects we have undertaken which I feel offer a great deal to you.

As you are well aware, the doctrine of separation of powers is imprecise and does

not fit any neat pattern. It must be conceded by any objective observer that what we have in effect is not a Government of strictly separated powers, but of powers shared under a broad understanding of the major functional lines of demarcation among the three branches. As Dean Gavitt of the Indiana Law School noted in his introduction to Blackstone's *Commentaries*:

"The most significant feature of American Government as distinguished from the government of Great Britain arises out of the doctrine of separation of powers

"Few doctrines of constitutional law have caused more difficulty or have resulted in more confusing results. As a practical matter such a division has not been entirely feasible."

However overlapping the functions of the three branches may be, and however imprecisely the system may work, the doctrine itself is based upon good and sound grounds and the ends it was designed to serve two hundred years ago are as important, if not more so, today as then.

The Founding Fathers were fresh from their experiences with the exercise of autocratic executive powers by the English monarchs, yet after their experiment with the Continental Congress they were acutely aware of the unworkability of government dominated by legislative committees. As a result, they devised a system of government based upon a concept of separate but balanced powers, divided along functional lines. This concept originated in Aristotle's *Politics*, but Montesquieu, whose fundamental contention was that "men entrusted with power tend to abuse it," joined Aristotle's idea to the notion of a mixed constitution of checks and balances, thereby bringing the Aristotelian principle to bear on the rising libertarianism of the Eighteenth Century. In strict theory, the American version of the separation of powers concept assumed three distinct functions of government—the executive, the legislative, and the judicial. It was axiomatic that these functions should be carried out by three separate departments, constitutionally equal and mutually independent and, as a corollary doctrine stated by Locke, the legislative function could not be delegated.

For obvious reasons, such a system could not and does not operate in strict conformity to the underlying principle. In fact, the Constitution as drafted by the Founding Fathers recognized this difficulty *sub silentio* when it provided for such things as presidential initiative in proposing legislation, and such devices as shared responsibility in presidential nominations with the advice and consent of the Senate. The drafters fully understood that governmental responsibilities had to be shared in order to make the whole fabric of government viable. Yet they knew that each branch must maintain a basic respect for the duties and prerogatives of the other branches and that such divisions were mandatory in order to avoid the undue accretion of power in any one branch of the Federal Government and the resulting diminution of the rights of individual citizens.

In our modern technocratic society, where problems arise far more rapidly than they can be solved, there is a natural inclination to espouse any theory that offers the advantage of efficiency. Indeed, we have developed something of an efficiency syndrome which leads us to value efficiency above quality.

As the technology has developed along these lines, one can observe a parallel progression toward Executive dominance in the Federal Government, since it is the Executive branch that seems to offer the only semblance of efficiency. Of course there are corollary explanations, not the least being the evident inefficiency of both the Congress and the judiciary, and the acquiescence—if not the

collusion—of the Congress in allowing the Executive branch to assume roles legislative in nature and to perform all its functions in the absence of serious congressional oversight. In other words, Congress has felt it expedient, for reasons political or otherwise, to delegate to the Executive branch powers it was never intended to have.

In my opinion, this trend toward Executive dominance is startling in its extent and dangerous in its effect. As desirable as efficiency may be, it must never become more important than government under law.

At minimum, the separation of powers doctrine requires that no branch of the Government will engage in activities which are within the exclusive purview of another branch. With the aim of keeping this minimum standard in effect, the Subcommittee on Separation of Powers has conducted two recent studies which provide good examples of currently crucial issues relating to the separation of powers doctrine. As I noted earlier, the Subcommittee has studied breaches perpetrated by the judiciary and legislative branches as well as the Executive. However, tonight I want to focus on the Executive.

THE "POCKET VETO" POWER OF THE PRESIDENT

On January 26, 1971, the Subcommittee conducted a round-table discussion on the Presidential use of the so-called "pocket veto."

The Constitution, Article I, section 7, provides:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States: If he approves, he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. . . . If any Bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its return, in which Case it shall not be a Law." (Emphasis added)

This provision in its simplest form gives the President ten days to take some action on a measure passed by the Congress. Within that time he can either sign it, veto it, or, if he fails to do either, it becomes law automatically. However, if at the end of the ten-day period, he is prevented from returning a bill by the "adjournment of the Congress," the so-called "pocket veto" goes into effect.

To place the controversy before the Subcommittee in its proper perspective, let me relate the following facts. On December 14, 1970, the Congress sent to the President the Family Practice of Medicine Act, authorizing \$225 million to be appropriated over the next three years for grants to hospitals and medical schools to train general-practice physicians; the measure had passed the Senate by a vote of 64-1 and the House by a vote of 346-2. The Congress had recessed from the close of business on Tuesday, December 22, 1970, until 12 noon on Monday, December 28, 1970, a recess of four days not counting the intervening Sunday, and had appointed agents to receive messages in their absence. It just happened that the Congress was not in session on Christmas Day, which marked the end of the President's ten-day period within which to take some action on the measure, and apparently it occurred to him that there might be an easier way to dispose of an unwanted authorization bill than to send a veto message back to the Congress. At his request, the Justice Department advised him that he might consider the Congress to be in adjournment in the constitutional sense, and therefore could announce that the measure had been pocket vetoed.

To me it is difficult to see how anyone exercising intellectual integrity could consider the four-day holiday to be an "adjournment" in the constitutional sense. While the misuse of the "pocket veto" had occurred under other administrations, never had it occurred in such blatant form. It seems patent that the President grasped this opportunity to avoid sending to the Congress a veto message which almost certainly would have been overridden resoundingly.

My view was shared by almost all of the experts who were called upon by the Subcommittee to discuss the President's action. In fact, the only witness who supported the President's position was the Assistant Attorney General who, acting as the President's lawyer, had advised him to use the pocket veto mechanism in the first place. All the other participants agreed that this practice constituted a blatant usurpation of legislative power by the Executive Branch. A prominent political scientist, Dr. Donald Matthews, formerly of the University of North Carolina faculty and now at the Brookings Institution, was called upon by the Subcommittee to present his views. He stated:

"The pocket veto showed a gross lack of respect for congressional opinion. There was a bill that was opposed by one Senator and two Members of the House . . .

"If the President does not like the legislation that the Congress sends up to him he can veto it in the regular way and return it to Congress for reconsideration. The only exception to this procedure should be when Congress adjourns for the year."

Another political scientist from my alma mater, Dr. Thomas Cronin, who is on leave from U. N. C. and currently with the Brookings Institution, had this to say at the hearings:

"I am in favor of a strong Presidency, but it seems to me this act by President Nixon was an act not of strength, but of weakness . . . taking advantage of a reasonable 4- or 5-day Christmas break."

Doctors Matthews and Cronin focused on the political ramifications of the President's actions, and their views implicitly recognized the constitutional issue at hand, namely that by exercising the "pocket veto" in this manner never authorized by the Constitution nor anticipated by the Founding Fathers, the President was able to create for himself an absolute veto power over acts passed by those members of the governmental hierarchy who alone are empowered to legislate.

These two members of your discipline ably demonstrated the interdependence of legal principles and the allocation of political power in our constitutional framework; through the illegal use of the "pocket veto" power, the President not only violated constitutional principles, but also the political balance of power inherent in the separation of powers doctrine.

In order that I not leave you with the impression that the Subcommittee holds hearings only for the purpose of making noise, I am happy to report that Senator Ervin and Congressman Emanuel Celler have introduced legislation which would define adjournment as the final adjournment at the end of a session of Congress for the purpose of "pocket veto" situations. Hopefully this legislation will be passed. However, I would advise the Congress not to call a three-day recess which will fall ten days after sending the legislation to the President, or, judging from past performance, he will "pocket veto" the "pocket veto" legislation.

THE EXECUTIVE IMPOUNDMENT OF APPROPRIATED FUNDS

Permit me now to allude briefly to another constitutional-political problem which has engaged the Subcommittee's attention: the practice of Executive impoundment of appropriated funds. This practice, which has long

intrigued political scientists and infuriated members of Congress, is yet another example of Executive usurpation of legislative power.

Impoundment can, of course, be used legitimately as a management tool, and as a means of effectuating savings; this use was sanctioned by statute in the passage of the Anti-Deficiency Act half a century ago. However, the Executive branch, for reasons of its own, frequently decides not to expend sums which the Congress has appropriated for some particular purpose. Impoundment under these circumstances is patently unconstitutional, and it was this type of impoundment which led the Subcommittee to call the Executive branch to task.

In response to demands made by the Subcommittee prior to the hearings it conducted last month, the Office of Management and Budget reluctantly divulged that, at the present time, over \$12.7 billion is being impounded by the Executive branch—a sum that constitutes nearly 20 percent of the controllable budget for FY 1971. Such an illegal exercise of Executive power indeed constitutes a substantial inroad on the classic concept of the congressional power of the purse, a power given exclusively to the Congress by Article I, section 9, of the Constitution. At the same time, it operates to diminish the presidential responsibility imposed by Article II, section 3, which provides that the President shall "Take care that the Laws be faithfully executed." A Senator Ervin said at the hearings:

"Certainly the Founding Fathers did not intend to give the President any discretion when they imposed the duty upon him. On the contrary, they intended that he execute all the laws passed by the Congress, irrespective of any personal, political, or philosophical views he might have."

It is the responsibility of the Congress to dent can get away with making an independent determination regarding which legislative policies he will or will not execute, it renders the role of Congress nugatory.

It is evident that the constitutional draftsmen intended to limit the veto power of the President to the procedure outlined in Article I, section 7, which gives him only a limited veto, subject to being overridden by the Congress. Yet under the impoundment procedure the President is, in effect, able to veto measures absolutely, after they have been passed by the Congress and signed by him.

Moreover, the impoundment technique enables the President to exercise an item or line veto, a power that is not countenanced by a word in the Constitution, which empowers him only to veto entire bills. Thus, by impounding appropriated funds, the President is able to modify, reshape, or nullify completely, laws passed by the legislative branch, thereby making legislative policy through Executive fiat. Such an illegal exercise of the power of his office flies directly in the face of clear constitutional provisions to the contrary.

In this era when the powers of the Executive branch have become dominant in the operation of the governmental structure, the "power of the purse" is one of the few remaining tools which Congress can use to oversee the control of the burgeoning Federal bureaucracy. Congress is constitutionally obligated to make legislative policy, and is accountable to the citizens for carrying out that obligation. The impoundment practice seriously interferes with the successful operation of that principle and places Congress in the paradoxical and belittling role of having to lobby the Executive branch to execute the laws it passes.

In investigating the impoundment issue, the subcommittee relied heavily upon the assistance of political scientists, among them Professor Loch Johnson of Chapel Hill, who was a member of the subcommittee panel all three days. The subcommittee called upon Professor Johnson because he assisted Senator Frank Church in the preparation of an excel-

lent law review article on impoundment published in 1970 in the Stanford Law Review, which I highly recommend to your attention.

Moreover, during the course of the three-day hearing, the growing practice of Executive impoundment was sharply questioned by political science Professors Harvey Mansfield of Columbia University, Arthur Maass of Harvard, Joseph Cooper of Rice University, and Brownlee Sands Corrin of Goucher College, and by Dr. Louis Fisher, formerly of Queens College and presently with the Library of Congress. Professor Maass, in fact, suggested a legislative approach to the problem which Senator Ervin, in conjunction with several of his colleagues in the Congress, will be introducing in the form of a bill within the next several days. That bill will require the President to report to the Congress each instance of impoundment of funds appropriated for specific programs, and, within a stated number of days the Congress will have the power to override the President's action.

While there is a danger in any impoundment action which is not carried out for the purposes approved by the statutes I referred to earlier, I view the greatest danger as being the likelihood that such decisions are in fact made by second or third echelon bureaucrats who are not accountable to the taxpayers for any of their acts and who, for a variety of complex reasons, often are uncontrollable by the President himself.

I have raised these two current issues to demonstrate that the separation of powers doctrine is relevant not only as a basic constitutional principle, but in the allocations of political power which are made every day. The doctrine is central to the operation of our Government, and the ramifications of its violation raise serious problems indeed.

In sum, I contend that the issues arising under the separation of powers doctrine lend themselves particularly to the kind of analysis that political scientists are equipped to make, for the doctrine, when reduced to its basic components, is concerned with the allocation of political power among the three branches of the Government. As long as I am associated with the Subcommittee, I intend to continue to call upon members of your profession to assist us in our efforts to give effect to this basic political concept. I sincerely invite you, individually or as a group, to contact me about any issue you consider to be of sufficient significance to warrant the Subcommittee's study and investigation, and I can assure you that your suggestions will receive our serious consideration.

As one who is in daily contact with the governmental process, I want to urge all of you to become active participants in the business of Government, and not mere contemptuous, albeit able, observers. The Government needs your constructive criticism and the stimulation your creative analysis provides.

If the separation of powers doctrine is to work properly—or even to survive—the informed, aggressive participation of the citizenry must provide the missing link between the governors and the governed, this missing link must exert its influence over the three branches of Government in a manner so pervasive that abuses of political power cannot occur. In the final analysis this element accounts for every instance where our system works or fails to work—the army of citizens whose involvement or apathy, whose assertiveness or acquiescence, is ultimately responsible for every triumph and every failure of this Government.

SHAPLEN ON INDOCHINA

Mr. EAGLETON. Mr. President, during my recent trip to Southeast Asia, I had the good fortune to talk with Robert

Shaplen, a journalist who has watched Vietnam and Indochina since 1945.

Whether in conversation with military men, diplomats, or other journalists, when the subject of news coverage came up, so did the name, Robert Shaplen—always in the context of high praise. He knows, perhaps as well as anyone involved in Vietnam, what has happened, what is happening, and what is likely to happen.

He is by no means a "dove." His informed commentary on recent events, including Lam Son 719, the war in Cambodia, the upcoming Vietnamese elections, are well worth reading and reflecting upon, by both "hawks" and "doves."

I ask unanimous consent that his recent "Letter From Saigon," published in the New Yorker magazine of April 24, be printed in the RECORD.

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

LETTER FROM INDO-CHINA

SAIGON.—It may be six or eight months before any final assessment can be made of Operation Lam Son 719, the South Vietnamese invasion of Laos, supported by vast American air power, which lasted from February 8th until March 25th and was followed by brief commando forays until early in April. Nevertheless, even though this operation has produced more heated debate than any other Indo-Chinese battle since the French fell into the trap of Dien Bien Phu in the spring of 1954, a few conclusions can be reached now. The invasion failed to achieve anything close to its maximum aims, for, though it caused the death of a great many South and North Vietnamese, it did little—contrary to American and South Vietnamese expectations—to speed the end of the fighting, either by forcing Hanoi to negotiate or by assuring the success of the still inconclusive Vietnamization program. It may, at most, have postponed some major offensives that the Communists had planned in South Vietnam over the next few months. On the other hand, at least one big attack—in Kontum Province, in the Central Highlands—has been pressed during the past fortnight, and there has been a noticeable increase of terrorism throughout the country. Costly as the Laotian invasion was to Hanoi, it apparently hardened the determination of the North Vietnamese to continue fighting throughout Indo-China. Moreover, it led to a reaffirmation of Chinese and Russian pledges of assistance. Finally, the operation was a political setback for President Nguyen Van Thieu, whose reelection in October is now, for the first time, open to question.

The Americans, who are going all out to uphold Thieu and make their South Vietnamese allies feel "six feet tall" as the monthly rate of American troop withdrawals increases, have come up with the customary set of sanguinary statistics, this time claiming a nine-to-one "kill ratio" in favor of the Saigon forces. If that is believable—and even President Nixon, in his television interview of March 22nd, indicated that a five-to-one ratio might be more realistic—it could be due only to the preponderance of American bombers and artillery. There can be no doubt that if it had not been for this support the results would have been disastrous for the twenty-four thousand South Vietnamese who were fighting deep in unknown jungle territory against about thirty-five thousand North Vietnamese—a far more experienced force, which was fully determined to protect its lifeline to the South in the Ho Chi Minh Trail complex. The gruesome game of body counts has long been the bugaboo of cor-

respondents in Vietnam, and in this case the confusion has been compounded by a flood of often contradictory statements and assessments emanating from Washington and Saigon. Indeed, never in the past ten years—not even during the chaotic months before the overthrow of the Ngo Dinh Diem regime, in 1963, or during the Communist Tet offensive at the beginning of 1968 and the May and August offensives that followed—have I witnessed such dissension as has taken place between the news media and the authorities, both American and South Vietnamese, over the invasion of Laos.

According to the latest official American figures, the losses of the South Vietnamese—who for the most part fought bravely and well but lacked a cohesive command—were about fifteen hundred dead, more than six hundred missing, and fifty-five hundred wounded; so far there have been no estimates of how many of the wounded have died or are likely to die. Unofficially, however, according to what South Vietnamese sources have told me, the number of men missing and presumed dead is actually between a thousand and fifteen hundred, and the number of wounded is at least seven thousand. Some of those listed as missing are still straggling back across the border, but the majority, it is said, either died of their wounds in Laos or surrendered or were captured by the North Vietnamese. In their flight from Laos, under extremely heavy North Vietnamese attacks, the South Vietnamese abandoned many of their wounded—something that the government is reluctant to admit—and though American rescue helicopters did remarkable work under the most hazardous conditions, they couldn't bring out all the wounded. (A hundred and five helicopters were lost in the Laotian operation, and five hundred and fifty-six were damaged; a hundred and seventy-six Americans were killed during those weeks, on both sides of the border, and forty-two are missing.) Each Vietnamese unit commander reports on his own losses, so it is difficult to come up with comprehensive figures. The dependents of known dead get full pension awards, while those of the missing get payments for only four years, and the Minister of Veterans' Affairs, Pham Van Dong, said to me, "I won't know for months how much I have to pay to how many."

The North Vietnamese assuredly suffered heavier casualties, but whether these were as high as Allied authorities claimed can never be determined. It is admittedly difficult for troops engaged in bloody fighting or in flight to count the bodies of those killed by bombs, but if the given figure of thirteen thousand five hundred dead is correct, and if one assumes, as Allied military officials do, that twice as many North Vietnamese were wounded as were killed, then the total casualties come to about forty thousand, or more than the number of North Vietnamese that the same military officials say were fighting in the Laotian battle.

There would seem to be more realism in the estimate that from a third to a half of the thirty-three North Vietnamese battalions engaged were rendered "combat ineffective," and that it will be no easy task for North Vietnam, which is suffering from a manpower shortage, to replace these losses. About a third of the North Vietnamese losses were specialists—technicians of one sort or another who directed the flow of traffic on the Trail—and those men will be the most difficult to replace.

Nevertheless, the North Vietnamese quickly sent in between four thousand and eight thousand reinforcements to repair the damage done to the Trail, mostly by our B-52 bombers, and within a fortnight after the invasion ended, the movement of trucks south had been resumed at a more or less normal pace. (In comparison to the North Vietnamese battalion losses, at least five—and some say eight—of the twenty-two South Vietnam-

ese battalions involved were hurt to the point of combat ineffectiveness, and it must be stressed that Saigon threw its best forces into Lam Son 719. It will take between six months and a year to build these units back up to strength, and then they will certainly not be as well trained and "elite" as they were before.)

The North Vietnamese apparently lost between three and four thousand trucks along the Trail; again, most of these losses were the result of bombing, and only about three hundred trucks were destroyed in the actual area of the ground invasion. The North Vietnamese also lost more than a hundred tanks. (The number of new Russian-built PT-76, T-54, and T-34 tanks that Hanoi used, sometimes right under the noses of the South Vietnamese, was one of the surprises of the campaign, and the lighter tanks of the South Vietnamese forces, many of which got bogged down, were no match for them.)

In addition, Hanoi lost nearly seven thousand weapons, big and small, and nearly five hundred tons of heavy ammunition—artillery and mortar shells, and the like—but Saigon's claim of a total of a hundred and seventy-six thousand tons of North Vietnamese ammunition blown up, mostly by bombing, seems ridiculous, since the average monthly flow south in the past has been only about fourteen thousand tons. Furthermore, no major storage depots were taken—only some medium-sized way stations along the Trail.

The French used to say that for every ton of ammunition captured the Communists had three more tons available nearby. No one knows how much the North Vietnamese have currently stashed away around the Bolovens Plateau, about a hundred miles below the invasion area and near the border point where Laos, Cambodia, and South Vietnam meet. However, the North Vietnamese and their Pathet Lao accomplices recently extended their control in that region, and they obviously have quite a lot of supplies cached there. Consequently, just how much time Hanoi lost and Saigon gained by the invasion can be determined only next fall, when matériel in the northern part of the Trail complex is due to arrive farther south, some of it destined for Cambodia and the rest for the central and southern parts of South Vietnam.

For anyone attempting to evaluate the Laotian operation, what has perhaps been most significant is the fact that the Communists have struck back quickly and violently in various parts of South Vietnam and in Cambodia, clearly demonstrating that they have enough men and arms to cause a lot of trouble—at least during the present dry season, which will last another month. And most observers believe they will continue their attacks across the now expanded Indo-China fronts throughout the coming rainy season, which will last until the end of October. The attacks in South Vietnam over the past two weeks have ranged from a successful assault on an American base in Quang Nam Province, in the north, in which thirty-three Americans were killed and seventy-six were wounded, to quick strikes at district towns and headquarters and at fortified artillery fire bases that are set up to provide strong points for Allied military operations in all battle zones. By far the most serious of these attacks has been the one in Kontum, in the Central Highlands. Although the Communists have lost about twenty-five hundred men in this province as a result of American bombing, they have been making a concerted effort to capture Fire Base 6 there; if they succeed, they will presumably try to advance southward to Pleiku and Quang Duc Provinces and eastward as far as possible toward Binh Dinh and other coastal areas where there has been a recent flurry of fighting. The Communists also seem determined to pin down South Vietnamese troops and inflict heavy casualties. That being so, it is

significant that the equivalent of five South Vietnamese regiments is heavily engaged in Kontum, which in itself would seem to belie Saigon's claims that its casualties have been light. In mid-February, the Communists, having apparently anticipated a move westward into the border region below the Bolovens Plateau and adjacent to the Highlands, repulsed a South Vietnamese assault there and caused heavy casualties to two battalions. (No official announcement of this defeat has so far been made here.)

It has already become apparent that the North Vietnamese are taking advantage of the American troop withdrawals to strike at thinly spread South Vietnamese. Were it not for American air power (and nobody knows how much of that will be maintained and for how long), the Saigon forces would be in serious trouble. The Communists are already taking advantage of the situation along Route 19, which runs eastward through Pleiku Province below Kontum to the coast. It seems that after American troops left, the South Korean troops assigned to that area refused to fill that gap, complaining that they hadn't been promised enough helicopters and armored vehicles. Sections of Highway 1, which runs along the coast, are also considered risky these days, and for similar reasons. The general pattern of attacks around the country—including several attacks in Saigon in the past few days—makes it clear that the Communists are trying to create as much fear as possible and to disrupt the government's pacification program just when it is supposed to be going into high gear.

One of the worst incidents occurred at the district town of Duc Duc, in Quang Nam Province: The North Vietnamese raided a camp of refugee woodcutters from the mountains and killed a hundred and nine of them and twenty-three members of the territorial forces, losing fifty-nine men themselves. This seemed to be an act of pure vengefulness against the refugees, intended also to serve as a warning to others not to go over to the government side. Since January 1st about thirty outposts have been attacked in the Delta alone, where it has been claimed that the Communists are "dwindling on the vine." Although the Communists have been severely pressed in their major base areas in the Delta—such as the U Minh forest, where they have recently taken heavy losses and where there have been more than two thousand defectors, mostly conscripted laborers—the phrase "dwindling on the vine" seems questionable.

In Vinh Binh Province, for example, the Communists were able to mount carefully coordinated strikes against two district headquarters and nearby outposts a fortnight ago. Admittedly, Vinh Binh has always been a "bad" province, and one American official sought to minimize the effect of the attack by pointing out that "one rose doesn't make a summer." On the other hand, once a security pattern is broken, word of the fact quickly spreads throughout the area. In this way, the Communists seek to destroy the people's still shaky confidence in their government and to deny Saigon's optimistic claims that virtually the whole country is now pacified.

The recent attacks in South Vietnam underline what was basically wrong with the Laotian operation from the start—its conventionality. One neutral military observer said of it, "The South Vietnamese, while fighting bravely, fought half in the old French style and half in the new American style, and they fell between two stools. They have still not learned how to fight an unconventional war against an unconventional enemy who is flexible—and is even willing, when necessary, to stand and fight conventionally, and take enormous losses if he thinks it worth the effort, as he did in Laos."

A number of South Vietnamese officers have privately been saying the same thing—some of them have been saying it for years, but lately more voices have been added—and at least one high-ranking friend of mine bemoaned the fact that "you Americans have never let us fight the kind of war we know we have to fight." The helicopter is a remarkably mobile instrument of warfare, and it has done much in past years to keep South Vietnam from falling to the Communists, but there are veteran Americans here who now wish that it had never been invented, and that Vietnamese troops had been trained from the start to fight a "people's war." Nothing could have dramatized this failure more than the sight of South Vietnamese soldiers clinging to the skids of helicopters that were being flown out of Laos.

A large number of South Vietnamese are saying that the Americans pushed them into Laos against their will, and some of the comments have been extremely bitter; one newspaper cartoon depicted a helicopter lifting Nixon in his Presidential chair out of Laos under fire. The South Vietnamese were certainly encouraged to undertake the invasion, as they have been encouraged to do many other things before, although all specific military decisions were made by the South Vietnamese themselves—most notably by President Thieu and by General Cao Van Vien, the chief of the Joint General Staff. As the campaign proceeded, it quickly became apparent that much of the strategy derived from American misconceptions about waging a conventional or semiconventional helicopter war against an unconventional enemy in the jungle. Intelligence about the swiftly moving Communist troops was bad, and on many occasions the South Vietnamese found themselves sitting on hilltops surrounded by North Vietnamese troops who had moved in during the night or in the early-morning mist.

It may be, as the Americans maintain, that General Vo Nguyen Giap, the North Vietnamese commander, misjudged an early halt in the South Vietnamese momentum and massed his troops for what he thought would be the kill, only to suffer his heaviest losses, mostly through bombing. But if that was so, the carnage was general. Helicopters were used to bring replacements and ammunition to the South Vietnamese and to evacuate the wounded, but air-to-ground communications collapsed when the going got tough (language difficulties were a big part of this), and there was a notable lack of coordination among the four top South Vietnamese commanders in the field; each was operating on his own, and was not effectively responsible to a single headquarters. This caused profound morale problems, and many capable young junior officers and noncoms afterward blamed their senior commanders and the generals for not providing proper leadership. A number of battalion commanders, some of whom didn't seem to know what they were supposed to be doing, actually surrendered or fled in the midst of battle.

The armored column moving out along Route 9 into Laos with protective screens of troops on both sides was bogged down almost at once by bad weather. Originally, the Trail hub of Tchepone, about twenty-five miles from the border, was supposed to be reached in four days. When the armored force got stuck and North Vietnamese ambushes began, General Creighton Abrams and his Vietnamese counterpart, General Vien, flew north to Khe Sanh to bring pressure on both Thieu and his local commanders to keep moving. Thieu demurred. He wanted the force to dig in, avoiding any heavy engagements. It was at this point that it was decided to lift troops by helicopter to several fire bases farther inside Laos, which were supposed to support each other. (The North

Vietnamese quickly surrounded the bases.) Troops were also lifted as far as Tchepone, where the Saigon flag was briefly shown before they left. Ultimately, there were differences among the South Vietnamese generals and between the generals and Thieu about what to do, and these arguments, which the Americans were unable to reconcile, plus another spell of bad weather, caused the operation to be suspended a month early. Toward the end, some of the units just pulled out pell-mell on their own, without orders, and with the North Vietnamese pursuing them right to the border. A great many South Vietnamese vehicles were left behind, including some armored vehicles that had never moved more than ten miles down Route 9.

The confusion that accompanied the withdrawal intensified the bitterness of the South Vietnamese soldiers. "We do not want our leaders to minimize our casualty figures," one junior officer told a Vietnamese friend of mine, a correspondent who was wounded in Laos. "Let's give the true figures on our losses to prove we weren't on a camping trip. To mislead our families and our countrymen about our casualties will just encourage the enemy and dishonor us."

President Thieu, at his press conference on March 31st, expressed satisfaction over the Laotian offensive while admitting that some lessons had been learned for the future, and top American commanders have said much the same thing. It is a matter of opinion whether any of them are really proud of what was accomplished or are trying to hide their disappointment. Thieu, with his political future at stake, has obviously been on the defensive.

He spoke of "tendentious rumors" that the attack had been a failure, and claimed it was "the biggest victory ever," telling his troops, "I am proud of your performance," and adding, "You have caused a psychological breakdown among the Communists—you have hurt their morale seriously." There is no doubt, however, that more and more South Vietnamese soldiers are coming to resent the strategy and tactics that Western-trained officers have forced them to adopt.

One experienced Western analyst—Brian Jenkins, a historian and former Special Forces officer in Vietnam, who recently worked for American Army headquarters here on long-range-planning projects—has for several years been studying the subject of conventional vs. unconventional warfare. In July, 1969, Jenkins wrote, for an American research organization, a closely reasoned paper entitled "The Unchangeable War," in which he was highly critical of the American military establishment's hardheaded refusal to alter its traditional concepts and ways.

Jenkins concluded that "the most damaging indictment of our concept of warfare is that our military superiority and successes on the battlefield do not challenge the enemy's political control of the people, which he maintains by his promises of a better society and, when that fails, by intimidation and terror." In a list of "the institutional obstacles to change," Jenkins included the following: the belief that everything we do is right per se, especially in determining strategy; the attendant belief that when something fails it was not because of any inherent error of strategy or tactics but because "not enough" troops or materiel was applied; the myth that no organizational changes are possible in the midst of war, and that even if they were possible the Vietnam war is an "aberration" anyway, "an exotic interlude between wars that really count," and therefore doesn't warrant any "radical" institutional changes; the orthodox dependence on high body counts as the basis for good efficiency reports and for promotion; the illogicality of the twelve-month tour of duty for American military men in

Vietnam, since it is far too short for anyone to learn enough to be effective; and, finally, the lack of a single, over-all American command among the services in Saigon, Hawaii, and Washington.

Jenkins concluded that because of the way we have imposed our doctrine, organization, and technology on the South Vietnamese, "we may have rendered them incapable of successfully continuing the war after our withdrawal," and the Laotian operation appears to bear this conclusion out. A number of American officers here seem to consider the ideas for a "people's war" that Jenkins is now gathering from among growing numbers of disgruntled South Vietnamese as nothing short of "Communistic." Jenkins, however, has said that he derives some hope from the South Vietnamese reactions he has encountered.

For example, the mounting of objections to the American way of fighting the war have led more and more South Vietnamese officers to advocate doing away with the whole concept of divisions and corps—especially since it is widely held that three of the four corps commanders have proved themselves to be either incompetent or inadequate, the only really good one in the country being Ngo Quang Trung, who commands in the Delta. The officers advocate that the large, unwieldy units be replaced by smaller ARVN mobile brigades, made up of troops serving on a volunteer basis (and better paid than the regulars are now) who would operate in the forefront as a strike force.

The territorial forces, of drafted youths serving a hitch of from two to five years (for less pay than the volunteers), would spend part of their service helping to build roads and working in the fields at harvest-time. Finally—what is perhaps most important—there would be a new form of the People's Self Defense Forces, which are supposed to defend local hamlets but are increasingly being incorporated into the national military bureaucracy. What Jenkins and the South Vietnamese he has spoken with envisage is a P.S.D.F. whose members would be paid subsistence wages (they get nothing now) and who not only would take their turns at defending their hamlets but would develop plots of land assigned to them; after three years one-third of these forces would become full-time farmers and would be replaced by new men. Thus, paramilitary units would become production units, and a constant supply of full-time farmers would still be available for defense duties in times of crisis. All this is very close to the program that the North Vietnamese have successfully carried out for many years, and that fact may account for the shocked reaction of some of the American generals whom Jenkins has approached. "Why, what you're talking about, damn it, is building *communes!*" one of them boomed.

Statistical-minded, as always, the Americans have just come up with still another new set of standards for the so-called Hamlet Evaluation System, whereby each hamlet in the country is rated from A, or a hundred per cent secure, to E, or contested, on the basis of security and development, and V designates a hamlet still run by the Vietcong. The new system is based more on the whereabouts and safety of certain key individuals, notably hamlet chiefs and members of village councils, than on general, area-wide security. In Long Khanh Province, for example, where there has been an increase in terrorism, and where some main-force Communist units are operating from sparsely populated jungle areas they have long controlled, the H.E.S. rating has recently dropped from eighty-nine per cent to sixty-eight. The drop appears to indicate primarily the foolishness of trying to determine Communist strength by playing with numbers.

I reached this conclusion during a recent trip I took through four provinces near Saigon: Long An, just to the south, which used to be one of the worst from the standpoint of security and is now said to be much improved, and three others, to the west—Phuoc Tuy, Binh Tuy, and Long Khanh, which are still rated relatively low on the H.E.S. scale. In Long An, which has been in a shaky condition for years, farmers are still not taking sides, realizing that when the Americans leave Vietnam the government will probably have a harder time holding its own, but neither are they responding to the blandishments of the Communists as much as they were a year ago.

When the local guerrillas come to a peasant's home for food, for instance, they are given a meal but are asked not to come back again. This response reflects a cautious belief on the farmers' part that the Communists are growing somewhat weaker under government pressure, even though abductions and assassinations and other forms of terrorism are continuing, but it does not necessarily reflect belief in the government or increasing support for President Thieu. Here, as elsewhere, the Communists are stepping up their process of "going legal"—that is, ordering their cadres to blend themselves into the government landscape and live openly as ordinary citizens of the villages and towns while reporting, on a "one-man-cell" basis, to unknown contacts through mail drops and waiting for new orders.

Another of the recent innovations—they never cease—is known as Dong Khoi, translatable as "Start Together," whose main purpose is to produce some cohesion among small, local units directly involved in pacification. The impetus for the new program came from the chief of Quang Tin Province, in the northern part of the country—an ingenious man who, when his opposite number, the underground Communist province chief, was killed, late last year, gave him a special burial in a local pagoda, went to the funeral himself, and, in general, "took him back into the fold."

Leaflets describing the ceremony were subsequently distributed, and a lot of Communists were won over, or at least softened up. In any event, the Dong Khoi concept, which often makes use of such imaginative tactics, has not yet inspired any noticeable improvement in the much debated Phoenix program for uprooting the Vietcong infrastructure, which includes an estimated sixty-five thousand people.

The Phoenix program is still floundering, largely because it is just another streamlined American scheme imposed upon a Vietnamese society that is not only incapable of dealing with it but is actively hostile to it. Designed to coordinate intelligence-gathering and lead to the arrest of top Vietcong leaders, the program has simply created new jealousies and increased inefficiency among the various South Vietnamese who were expected to deal with it—particularly the local military-intelligence men at the district level. The police, under the Department of the Interior, will soon take over the primary responsibility for the Phoenix program, and, whether it works any better or not, one American has said of the shift, "This is the best thing that could happen, and the sooner we get out of the whole thing and let the Vietnamese run it the better."

Though comments like this may imply nothing more than an increasing degree of resignation on the part of Americans here nowadays, Vietnamization of this sort does seem to make sense; what it really amounts to is "de-Americanization."

The chief of one province, a veteran intelligence man, has devised a method of his own for dealing with Communist agents. When he detects one, and has what he con-

siders positive proof about, say, a financial official in a hamlet who is operating legally and pretending to be a loyal assistant to the government's hamlet chief, he will invite the man in, praise him, ask him to dinner a couple of times. This treatment frequently causes the Communists to become suspicious of their agent and to kill him. It is pure entrapment, but it is also beating the Communists at their own game. Whatever form of accommodation is finally reached in Vietnam, terror and counter-terror are bound to continue for years.

In three of the four provinces I visited, it was apparent that the Communists were still a force to be reckoned with, although at that moment their level of activity was low. Their conduct was thoroughly in accord with the now famous Resolution 9 of COSVN—the Central Office for South Vietnam, which runs the war in the South under Hanoi's aegis. This directive, issued more than a year ago, sets forth the concept of "protracted warfare," and provides one reason the Paris peace talks are getting nowhere and probably won't get anywhere—at least until after the American election in 1972.

In conducting their campaigns of terror and their occasional larger strikes, the Communists are generally relying on progressively smaller structures and progressively smaller units. Ordinarily (the Kontum attack is an exception), they don't move about nowadays in groups of more than fifty.

They are using more and more terrorist tactics, such as sapper attacks and booby traps, which are killing Americans and South Vietnamese alike, much to the exasperation of experts like George Jacobson, the acting head of the pacification program on the American side. "If we can figure out a way to go to the moon," Jacobson exclaims, "why the hell can't we figure out a way to detect booby traps before they blow us up!" Jacobson, one of the few Americans who believe in the concept of a "people's war," spends at least one day a week roaming around the country trying to "debureaucratize" both the American and the South Vietnamese pacification effort. His success is limited.

Almost invariably, inexperienced and uninvolved Americans in the districts give him the same meaningless or patently exaggerated figures about the Phoenix program. Almost always, an American provincial or district pacification adviser will say that the strength of the territorial units is up ninety per cent, or more. When Jacobson hears this, he usually snaps out just one word—"Ghosts!"—meaning that the payrolls are obviously padded and that the district or province chief is pocketing the difference.

Corruption, on a widespread basis, continues to be one of the major issues in South Vietnam, and this issue is bound to have an effect both on the elections for a new House of Representatives in August and on the Presidential election in October. Smuggling has increased on a vast scale in the past six months, partly as a result of new import taxes imposed to obtain more revenue for the government, so that it can continue fighting the war as American aid drops off. The government's anti-fraud bureau, which is run by a handful of men who are related to or are otherwise close to some of the highest officials in the country, has been slow to move against the smugglers, but a few weeks ago two members of the House of Representatives were caught smuggling heroin and gold into the country. The fact that they happened to be pro-Thieu men suggested to some that there must have been a political tipoff. The scandal prompted one of the representatives to resign immediately, and Thieu's political opponents, in the light of the dubious success of the Laos invasion, aired the corruption issue anew.

All in all, though the Americans here re-

fuse to admit it, Thieu's popularity has sunk to a new low. Many South Vietnamese admit it readily, but their fundamental cynicism leads them to believe that it won't make any difference—that Thieu will be re-elected, because the Americans want him to be, and because the vote will be rigged anyway. Thieu is fully aware of his diminishing popularity and is doing his best to improve the situation by travelling around the country more. (It is also significant that just this week General Dang Van Quang, the head of all security services, who is a close friend of Thieu's and probably the second most powerful man in the country, saw fit to take a trip to the United States. Although American officials deny it, some South Vietnamese, including members of Quang's own staff, have said that the main reason for the trip is Thieu's desire to get a sounding on American public opinion after the Laotian invasion and an appraisal of how much personal support he can expect from President Nixon.) Even before the invasion of Laos, I have learned, Thieu was severely shaken by a private poll he had ordered, which showed that sixty per cent of the South Vietnamese military men questioned were against him. Earlier, a number of informal provincial samplings were conducted by the United States Information Service—an enterprise that has now led to the introduction of a bill by Senator Frank Church in the United States Congress prohibiting any government agency from engaging in any propaganda activity involving the internal affairs of another nation. Several stories in the local press to the effect that the American Embassy was supporting Thieu prompted an official statement last week from an Embassy spokesman denying that Ambassador Ellsworth Bunker or anyone else in the mission supported "any specific individual or individuals in the forthcoming election." This was issued at about the same time a resolution was co-sponsored in the Senate by Senators Adlai Stevenson III and Mike Mansfield calling for the creation of a ten-man congressional commission to make sure the United States stays out of the coming election campaigns in Vietnam. Stevenson charged that American officials were in effect supporting the reelection of Thieu and Vice-President Nguyen Cao Ky.

While many of the Americans here would still like to see Thieu and Ky run together again, the chances of this happening are increasingly remote. Ky, who told me a month and a half ago that he would run for President himself, has just informed me that he is more determined than ever to be a candidate and that he is rapidly creating a campaign team. He has obtained a growing number of pledges for political and financial support, he says.

The political climate has now reached the temperature at which all the religious and political elements in the country are scurrying around trying to figure out who has the best chance of winning and whom to support. It appears at the moment that there will be three principal candidates—Thieu, Ky, and retired General Duong Van Minh, the former Chief of State and the nominal leader of the 1963 coup that overthrew Diem. An agreement between Ky and Minh for concerted action against Thieu that began to be fashioned several weeks ago has become increasingly solid, and Thieu has begun to run scared—so scared, indeed, that some observers are predicting that he will withdraw from the race before October. Assuming that he doesn't withdraw, and that Ky and Minh both enter the race, the challenger whose prospects look dimmer will almost surely throw his support to the other at the last moment.

Ky told me that he is determined to defeat Thieu in an open contest, and that

he has received promises of help from many people, including military men, who will in effect serve as volunteer poll watchers in an attempt to insure an honest election. Even so, both Ky and Minh will have a hard time contending with Thieu's apparatus, dominated by the province and district chiefs he has appointed, who will all do their utmost to see to it that he wins, no matter how few people vote for him. Nevertheless, given the rising public sentiment against the President, Ky or Minh conceivably could win if the election should be even reasonably fair. Just how much an American or an international commission could do in the way of preventing fraud is debatable. The official American "observers" who watched the 1967 elections here certainly saw little or nothing of what actually went on, but a more professional group of poll watchers might have greater success.

What may be more important this time is the role to be played by elements of the sort that Ky spoke of—not only Army men but local village and hamlet officials, including leaders of the Buddhists, Catholics, and the Hoa Hao and Cao Dai religious sects. An interesting curtain-raiser will be the House elections, which promise to be less of a grab-bag affair than they were in 1967. At least two solid blocs of candidates will be running for election, one dominated by the Farmer-Workers Party, which is headed by Tran Quoc Buu, a labor leader who is not running himself, and the other by former Senator Tran Van Don's National Salvation Front Party. Don is still trying without much success to make peace among Minh, Thieu, and Ky, but in a showdown he will probably support Ky.

If the House elections are orderly and fair, and if there is enough of a ground swell of public opinion demanding an honest vote for the Presidency, and if social unrest over high prices, corruption, veterans' payments, and other issues does not produce uncontrollable disorder, the Presidential election just might turn out to be more honest than the cynics predict. It will be interesting to see what role the Communists take. Formally, of course, they will not participate in the voting, but I have been told that they have pledged at least half a million votes to General Minh, whom they regard as the leading peace candidate. Minh has said he is against coalition government—the same thing Thieu and Ky have said, but more outspokenly—and it is believed that if Minh should win, the Communists would simply push the peace issue without demanding a coalition government immediately, leaving themselves free to work from within to dominate or undermine his regime and thus eventually get coalition government anyway.

One high-ranking American here has attempted to justify the Laotian invasion by maintaining that it was better for Thieu and his army to fight the North Vietnamese in Laos and Cambodia than in Vietnam itself. This is not how the people in Laos and Cambodia feel about it. I have just visited both countries, and found them in a state of confusion and dismay over the widening of the war. What they still want is for all Vietnamese, Northerners and Southerners, to get out.

In Vientiane, the administrative capital, I spoke with the sixty-nine-year-old Prince Souvanna Phouma, Prime Minister of Laos since 1962, who practically alone, has kept his divided country in some semblance of unity. I saw him the morning after the South Vietnamese troops withdrew, and just after the royal capital of Luang Prabang had been hit by Communist rockets. Since he had no control over events in eastern Laos, around the Ho Chi Minh Trail area, Souvanna had mildly condemned the invasion when it began, and he expressed to me satisfaction that it was now over, although he

admitted that it might have had "some good results." He was extremely angry about the attack on Luang Prabang, however, and regarded it as further proof that "the Communists are now engaged in total war as a result of the creation of their new Indo-China People's United Front last year." He had just been to Luang Prabang to see King Savang Vatthana, who, he said, was equally angry and had decided to stay in his capital instead of coming to Vientiane to take part in Army Day celebrations, as he had originally planned.

"The attack will serve to strengthen the unity of the Lao people," Souvanna told me. He went on to say that it would do little to increase the chances of peace between him and the Neo Lao Hak Xat, which is the Communist political front of the Pathet Lao and is headed by his half brother Prince Souphanouvong. "Hanoi wants to continue the war," Souvanna said. "I will continue to try to negotiate and will go anywhere to talk, but not under the impossible conditions imposed by the Pathet Lao, such as their demand that we stop bombing northern Laos, which is the only way we can counter-balance their attacks against us." Many of the foreign diplomats in Vientiane, including the Americans, had been hoping that the end of the invasion would bring the Communist representative of Prince Souphanouvong back to the city to resume preliminary talks to arrange a full-fledged meeting aimed at restoring the tripartite government of left-wingers, right-wingers, and neutralists that was set up under the Geneva formula of 1962. Souvanna, though his hopes were not high, agreed that "when you have a small candle, you have to keep it burning, and not blow it out."

The Russians are said to be in favor of re-establishing the 1962 coalition, but with more Communists in the Cabinet than there were then. As for the Chinese Communists, there are signs that they are not altogether pleased about Hanoi's apparent plan to push ahead in Laos and take over the country by force. Peking wants to maintain its position in the northwestern part of the country, where in recent weeks it has increased the number of Chinese troops building a road from the Chinese border down through Laos toward the Mekong River, almost to the border of Thailand. It therefore seems significant that Premier Chou En-lai, who visited Hanoi shortly after the Trail attack began, took the occasion to make public mention for the first time of a five-point formula that the Neo Lao Hak Xat had set as the basis of its negotiations with Souvanna. The Chinese realize that the Lao Communists want to break away from North Vietnamese domination (more than a hundred Pathet Lao fled from the North Vietnamese in the Bolovens Plateau a few days ago), and also that the Neo Lao Hak Xat seeks the support of the Russians in establishing a new coalition government, with stronger Communist representation. Consequently, the Chinese are going all out to please the Lao Communist leaders—even entertaining them in China. And in order to keep a tight watch on Souvanna, Peking recently sent a new chargé d'affaires to Vientiane.

The military situation is more precarious for the Royal Lao government today than it has been at any time since 1964, and the dangers have grown especially acute in the past month. Before I left Laos, Luang Prabang was shelled for the second time and a number of planes were destroyed on its airfield. The Communists pressed to within two or three miles of the city on all sides before government reinforcements were rushed to the scene to push them back. Most observers believe that because of the patriotic importance of the King—it is to him rather than to Souvanna that the North Vietnamese

and the Chinese diplomats are accredited—the Communists won't try to seize the royal capital itself. But they are obviously engaging in some strong psychological warfare, and appear determined to advance as far as they can through Laos before the dry season ends, and to maintain their new positions during the rainy season. With C.I.A. support, government troops are still holding the bases of Long Cheng and Sam Thong, along the eastern rim of the Plaine des Jarres, which is held by the North Vietnamese. (Hanoi denies that it has any troops of its own in Laos, but there are actually about fifty thousand of them.) The bases are being subjected to almost daily shelling and to some ground probes by sappers from two North Vietnamese divisions and from what was described to me by one Laotian defense official as an additional "suicide regiment." If both bases should fall, and the troops of the Meo leader General Vang Pao should be further weakened by casualties, the Communists' conquest of the north would be virtually complete; they would then control the eastern half of the country from the Pathet Lao capital of Sam Neua, in the north, all the way down to the Bolavens Plateau. Even now the Pathet Lao and their North Vietnamese cadres dominate some pockets in the southwest as well.

Originally, it had been reported that Royal Lao government troops, aided by some Thai "volunteers," were supposed to push toward the Trail area from the west at the time of the invasion and take the towns of Muong Phalane and Muong Phine, near Tchepone, as part of a pincers movement designed to prevent the North Vietnamese from using alternate trails southward. However, this action was never seriously contemplated, despite the urging of the right-wing generals in Vientiane, because, among other reasons, the government forces were simply too weak. Instead, some guerrilla probes were conducted, but the Communists repulsed most of them.

The increased military activity in the northern part of the country has dampened earlier talk that the right-wingers would make a move to topple Souvanna, who remains more or less the indispensable man among the non-Communist factions. Certain right-wingers would undoubtedly like to bring Phoumi Nosavan, the former strong man of Laos, back from exile in Thailand. There was a report of a coup a few days after I left, but it turned out to be only a struggle within the right wing, which is itself divided. Souvanna has agreed to reshuffle his Cabinet in May, and members of the right wing will surely try to persuade him to let go of some seats he is still holding for the Communists, in the event that some agreement can be worked out for their return. Souvanna told me he would refuse to do this.

The right-wingers, divided though they are, are fully aware of the Communists' new intention of grabbing not only as much land as they can in Laos this season but also of bringing more people into line—through terrorism and abductions, if necessary. They are terrorizing the refugees in government camps, undoubtedly to deter others from fleeing Communist areas, and in their drive westward this season they have abducted villagers to work on the Trail and have even been building new villages and roads close to the Trail, colonizing these remote areas with mixed groups of Lao and North Vietnamese. The colonization program is an example of the struggle for manpower now going on in Laos, which has a population of about three million. The government is having trouble augmenting its still fairly incompetent regular army of sixty thousand; General Vang Pao has only about ten thousand men, following some severe losses in the last year. For this reason, Souvanna has somewhat reluctantly accepted Thai "volun-

teers" in addition to one regular Thai artillery battalion.

Recently, some young Lao who were taken north four and five years ago, at the age of fourteen and trained in Hanoi have been returned to proselyte other Lao. Further, in what has been a remarkable job of synchronizing the radio propaganda from Peking, Hanoi, and Sam Neua, the Pathet Lao have been given all the credit for "repulsing" the South Vietnamese invasion of Laos. The increase in these political efforts removes any doubt about the firmness of Hanoi's determination to remain in Laos. All in all, the country is in a shaky condition, and, as one European ambassador put it to me, "Laos has proved itself shockproof by now, but it's not waterproof, and one of these days it may just sink into the morass of Indochina and disappear."

Apart from the relatively brief action within and around the Ho Chi Minh Trail complex, the war in Laos has remained more or less separate, in strategic if not in ideological terms, from the war in Vietnam. The war in Cambodia, on the other hand, has been very closely related to the Vietnamese conflict for the past year. East of the Mekong, South Vietnamese troops are ostensibly helping the Cambodians but are primarily protecting their own flanks in South Vietnam. In the former North Vietnamese sanctuary areas, a battle is now being waged between the South Vietnamese and the North Vietnamese in which the former are trying to keep the latter from reestablishing the sanctuary areas and supply lines into South Vietnam. Over the past two months the North Vietnamese are said to have suffered fifty-three hundred fatalities, largely because of American airpower, and the South Vietnamese only five hundred.

To the west of the Mekong, the South Vietnamese are less directly involved, and this phase of the war is rapidly developing into a struggle for Cambodia itself. With the exception of the area around Angkor Wat, where the North Vietnamese have entrenched themselves, the struggle increasingly involves native Cambodian Communists and the forces of the new Republic. The Communists, both Cambodia and North Vietnamese, naturally seek the overthrow of the Republic headed by Prime Minister Lon Nol, who got back this week from Hawaii, where he had been recuperating from a stroke he suffered two months ago.

But the Cambodians, even more than the Lao, have no love for Vietnamese of any political coloration, and it is perfectly possible that had they been left to themselves the Cambodians might already have reached some form of internal accommodation. In fact, last February, a number of Khmer Communists met with representatives of the Phnom Penh government in the western province of Pursat, bordering on Thailand and the Gulf of Siam. Several sessions were held in a jungle clearing. No one knows whether any progress was made, however, because after an air attack by Cambodian pilots, flying T-28 bombers that the Thais had lent them to destroy a nearby Communist camp, all five government representatives were killed. Whether the attack was an accident or was ordered by someone in Phnom Penh who knew about the meeting and didn't want it to succeed has been the subject of much speculation.

In any event, the attack served to emphasize the confusion that exists in Cambodia today. Besides some forty thousand North Vietnamese in the country, and some Vietcong, there are perhaps ten thousand Khmer Rouge, who cooperate with the North Vietnamese and are partly dependent on them for arms and ammunition (they give the North Vietnamese rice in return) but who are becoming increasingly restive and critical of the conditions the alliance imposes on

them. The North Vietnamese appear to be concentrating more and more on developing their own Cambodian elements, and, especially in the southern part of the country, are training recruited or impressed Cambodians in scores of jungle camps.

There is also a small remnant of anti-government forces still loyal to Prince Norodom Sihanouk, who was overthrown in March, 1970, but they don't amount to much. Sihanouk, who is in Peking, nevertheless keeps referring to them as the nucleus of his new revolutionary government. While Peking permits the Prince to exhort his "followers" over Radio Peking, the Chinese Communists apparently regard him as a mere puppet, and continue to prepare their own team of Sino-Khmer leaders, trained in Peking—or, in earlier days, in Moscow—to take over Cambodia when the time comes.

A year ago, when the South Vietnamese and American troops made their original attack on the sanctuaries, the North Vietnamese established new base areas west of the Mekong and in the northern part of the country, below Laos. Since they then still had enough supplies on hand, they conducted a wide-ranging campaign to consolidate their hold on at least half the country and to capture some cities. In the past few months, perhaps because they now want to husband their supplies of ammunition pending the arrival of more from the north, they have shifted their tactics and—except for engaging a few big battles with South Vietnamese forces, mostly around Kompong Cham and the Chup-plantation area north of Phnom Penh—have concentrated on ambushing Republic troops and on cutting a number of main roads. They have had considerable success at this, but less success at stopping river traffic on the Mekong from Saigon to Phnom Penh. During the past two months, at least half a dozen protected convoys carrying oil and other supplies have reached the capital despite attacks en route from the shore.

The government's army, of some two hundred thousand men, is in the process of being pruned to a somewhat smaller and more effective force. The troops are still being trained mostly in Vietnam, but their effectiveness is not improving fast enough to satisfy the Americans. There are fifteen United States military attachés currently stationed in Phnom Penh, along with sixteen representatives of the new Military Equipment Delivery Teams. Fifty additional M.E.D.T. representatives stay in Vietnam and take turns serving in Cambodia. These men are not supposed to advise the Cambodians but simply to supervise the use of equipment—obviously a narrow line to draw.

At the moment, an effort is being made in Washington and Saigon to bring out another fifty M.E.D.T. men. This is being strongly opposed by a handful of Americans in Cambodia—notably by Jonathan Ladd, a retired Special Forces colonel with long experience in Vietnam, who has the title of political-military counselor. Ladd feels that we are starting to make the same mistakes in Cambodia that we have been making for years in Vietnam. He says that the Cambodian Army is now being turned into the same sort of conventional force we created in Vietnam, and he is vigorously opposing a plan formulated by some military men in Saigon to send Cambodians to the United States for training at conventional war schools, such as Fort Leavenworth and Fort Benning. "The Cambodians have to clean up their own backyard first, and they're not going to learn how to do that in America," Ladd says. "We have to accept them for what they are rather than what they ought to be, and one thing they're not going to do is march through Belgium."

The number of personnel at the American Embassy in Phnom Penh has grown in the

past year from a dozen, including secretaries, to just under a hundred. Emory C. Swank, an able ambassador with experience in Laos, is trying to adhere to President Nixon's policy of "keeping the profile low," but there are difficulties about doing this when the military-aid and economic-aid programs together total two hundred and fifty-five million dollars. The Cambodians naturally welcome the American aid, and very little remains of the anti-American feeling that Sihanouk engendered.

They are proud of having survived over the past year, marked, as it was, by an expansion of the war following Sihanouk's downfall, but they also feel a deep uncertainty and discontent, which is most often expressed in criticism of nepotism, corruption, and the generally slow rate of progress in the fighting. Two weeks ago, Acting Prime Minister Sisowath Sirik Matak called for a "popular war" to combat the Communists in the countryside. This will include a small and poorly planned pacification program, mostly involving the distribution of medicines and pamphlets and some guns to villagers, on what neutral observers regard as far too lax a basis.

The uncertainty and discontent have surely been aggravated by Lon Nol's illness and temporary absence from the scene. Sirik Matak, despite his demonstrated administrative abilities—among other things, he has allowed the various generals in the military regions to run their own campaigns without the interference from Phnom Penh that Lon Nol kept imposing—is not a popular leader. Père Lon Nol, as he is often referred to, remains the consensus figure—the father who took over the guardianship of Sihanouk's "children," as the Prince was so fond of calling his people. During Lon Nol's absence, there was a flurry of coup rumors in Phnom Penh, mostly involving alleged efforts to restore the monarchy, but the diplomatic community is virtually unanimous in stating that there was little substance to these rumblings. However, considerable doubt exists about what will happen now that Lon Nol is taking over again. The question everyone is asking is whether he will be able to do his job effectively. He has made it clear that he cannot resume his eighteen-hour-a-day pace, but the degree to which he will allow Sirik Matak and others to share the burdens of leadership is not yet known. A fundamental Cambodian quality that diplomats in Phnom Penh describe as "immobilism" or "the phlegmatic approach" continues to hamper progress in most areas of governmental concern, especially the economy, which is just barely holding its own as prices rise slowly and the riel—the Cambodian monetary unit—brings half the official rate on the black market. The problems include a lack of organization, too many overlapping ministries, and a lot of dead wood left over from the Sihanouk days. "There has been a loss of élan, of political enthusiasm, in the last few months," one Western ambassador says. "The Cambodians have been hurt militarily, and Lon Nol's illness was a real psychological blow. Now we'll just have to see what happens." Like other military observers in Cambodia, Jonathan Ladd believes that the Cambodians can survive as long as the North Vietnamese don't make that country their primary target. The signs indicate that South Vietnam is still Target No. 1, but more will be known about that when the next dry season starts.

However one gauges the results of the recent military and political events in Laos, Cambodia, and South Vietnam, the biggest factor is their collective impact on North Vietnam, where new elections just took place, on April 11th, for the fourth legislature of the National Assembly. These are the first such elections since 1964, and, important as they are in their own right, they may be

even more important in presaging a full Party congress later this year or early next year. The last such congress was called in 1960.

Though the election results are sure to be routine when they are announced—the official Fatherland Front chose five hundred and twenty-two out of the five hundred and twenty-nine candidates to run for four hundred and twenty seats—the new Assembly, which meets in June, is likely to take some important political steps, including making changes in the government. It seems likely that some younger men will be added to the Politburo, most of whose members are in their late sixties or older.

There is also a possibility that North Vietnam may acquire a new President, for Ton Duc Thang, who replaced the late Ho Chi Minh, is in his eighties. Conceivably, he could voluntarily step down and be given some honorific post, in which case, experts here speculate, his place might be taken by Vice-President Nguyen Luong Bang, who played a significant role in Ho's efforts to maintain a precarious balance between Moscow and Peking. Or Bang might become the first of two Vice-Presidents with special duties.

Even if the new elections consolidate the position of Truong Chinh, the ailing chairman of the Standing Committee of the Assembly, who is generally regarded as the strongest pro-Peking man in the Politburo, no one here believes that he is prepared to challenge the "first-among-equals" position of Le Duan, the first secretary of the Lao Dong (Workers') Party. There are some differences within the Politburo over the emphasis that should be accorded domestic problems vs. the prosecution of the war, but the unity of the group remains basically firm.

The policy is one of flexibility—a policy that was set forth in an important speech delivered a few months ago by General Giap and was further stressed in speeches made by Le Duan, during a trip to Peking and then to Moscow, where he was given the signal honor of being the first speaker at the Soviet Party Congress. Duan, Chinh, and Prime Minister Pham Van Dong are still the top three men in the Politburo. Many people now believe the fourth-most-important man to be Pham Hung, who runs the war in South Vietnam and spends most of his time there. Giap and Le Duc Tho, a theoretician, who is the liaison man for the Paris talks, are next in line.

While the Laotian and Cambodian attacks hurt the North Vietnamese, the mood in Hanoi, according to observers who have recently returned from there, is one of tough-minded confidence. For the first time in two years or so, articles propounding the official line in North Vietnamese publications are emphasizing the need to press on to military victory in Indo-China, and, at least for the moment, the stress on diplomatic offensives, in Paris or elsewhere, has been dropped. The threats to invade the North voiced by President Thieu and other South Vietnamese—and backed by President Nixon and various Administration spokesmen at least to the extent of not ruling out such a possibility—are regarded here by almost all experienced observers as psychological-warfare maneuvers. Since the South Vietnamese have suffered severe losses, and since they have their hands full right here as the Americans step up their troop withdrawals, they are certainly spread too thin to plan any further bold offensives, though they could make commando raids.

The invasion threats have backfired in that they have helped the North Vietnamese leaders to rally the population to increase its military effort and to stiffen the economy for the imminent "total victory" that they claim lies ahead. In an effort to obtain hard currency, the North Vietnamese are exporting all the goods they can spare—even rice

and coal. One reason they need hard currency is that they are buying necessary mining and other machinery and small mechanical plows from Japan, partly because the equipment obtained from Russia and China has been difficult to maintain. Prosecuting the war throughout Indo-China has certainly made heavy financial demands. "Legalizing" their cadres in South Vietnam, for example, costs a great deal of money, and aside from the needs of individual cadres, Hanoi has increased what is known as its "shadow supply system," whereby its agents secretly buy into Western firms in South Vietnam and elsewhere.

It also costs a lot to finance the Provisional Government in South Vietnam—the successor to the National Liberation Front—especially now that the P.R.G. is recognized by about a score of nations and maintains delegations abroad.

In their elections, the North Vietnamese decided to eliminate eighty-nine seats that had been accorded to "Southern delegates" in 1946—a decision that has given rise to much speculation here in Saigon. The step was probably taken simply to accord the P.R.G. status as a "government" in its own right, and thus enhance its position throughout the world. It has been suggested that, for propaganda purposes, and because the talks in Paris are getting nowhere, the Hanoi delegation may leave Paris, at least temporarily, and let the P.R.G. deal directly with the Saigon government.

This would embarrass both Washington and Saigon, but in the long run it might lead the two sides within South Vietnam itself to hold some serious talks, and lead Washington and Hanoi to use their own channels to settle the matter of prisoners and troop withdrawals. In any event, by holding their elections now, ahead of those in South Vietnam, the North Vietnamese have mounted a political offensive at a time when the diplomatic front is momentarily quiet.

Taken in conjunction with the negative effects of the Laotian invasion—especially its failure to spur negotiations—political events both in the North and in the South between now and the end of the year are apt to be more important than military events. The fighting will continue, as it seems to continue endlessly, but the real contest for power is now a political one.

Unfortunately, the hard-liners in Hanoi are far more aware of this underlying situation than are the political leaders in the South, who seem to offer their followers only further doubts and uncertainties. That is why the Northerners seem so sure of ultimate victory, and why so many Southerners are secretly making their own plans for ultimate accommodation. Such an accommodation increasingly implies a willingness to get along somehow with the Communists in the South, while accepting the fact that North and South Vietnam are likely to remain separate countries indefinitely.

OLDTIMERS ON STAGE

Mr. MATHIAS. Mr. President, I was delighted to learn recently that 17 members of the Fahrney-Keedy Memorial Home for the Aged, near Boonsboro, Md., have proved beyond dispute that age does not necessarily go hand in hand with inactivity or unproductiveness.

For the past 2 years, troupers belonging to the Home's "Stay Young Club" have been wowing audiences in the Baltimore area and beyond with their stirringly patriotic production of "A Musical Tribute to George M. Cohan." The show's cast, which has an average age of 84, has provided a lively and

colorful evening's entertainment for 36 audiences to date, with still more performances already scheduled for the near future.

The pantomimed presentation stars John Nicodemus, a retired Boonsboro area farmer, in the title role, and also features Harvey Rowland as Broadway producer E. F. Albee, and Georgiana Randall as turn-of-the-century Broadway star Fay Templeton. It is only one of several activities by which the young at heart of the Fahrney-Keedy Home assert their continuing participation and usefulness in the society around them. According to the home's administrator, Lester Kesselring, the tribute to George M. Cohan was chosen as particularly appropriate because "even though the residents of Fahrney-Keedy have lived in our Nation through 80 to 90 years of hardship, depression, and wars, they welcome the chance to express their continuing faith in America."

I, for one, am pleased and proud to add my congratulations to the standing ovations and other praises which have gone out so far to the Stay Young Club. I wish these senior citizens with the youthful spirits even greater success in the future as they continue to present their inspiring production of "A Musical Tribute to George M. Cohan." It is a tribute not only to one man, but to all of this Nation's active and involved senior citizens.

ENVIRONMENTAL EDUCATION

Mr. NELSON, Mr. President, the May issue of *American Education*, published by the Office of Education, contains an article by Commissioner Marland entitled "Environmental Education Cannot Wait." It is heartening to see such an enthusiastic response to the purposes of the Environmental Education Act, Public Law 91-516, which was passed with broad bipartisan support last fall.

As was the intent of the act, the Commissioner sees the "responsibility of the new office to serve as a coordinator in the Office of Education of all activities relating to environmental education." Additionally, Dr. Marland indicates that the use of funds and authority provided under the act can serve as the "catalyst" for commitments to environmental education in the Office of Education as well as throughout the Federal Government.

The importance of the concept of environmental education cannot be minimized. The task of educating our citizens about their responsibilities relating to their natural and man-made surroundings is essential to finding solutions to the environmental crisis facing this Nation and to improving the quality of life for all Americans.

I ask unanimous consent that Dr. Marland's timely article be printed in the RECORD.

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

ENVIRONMENTAL EDUCATION CANNOT WAIT (By S. P. Marland, Jr.)

It is now quite clear that the American people are determined to make the 1970's

the Environmental Decade. In two State of the Union addresses and two special messages on the State of the Environment, President Nixon has made what he called a "national commitment" to environmental enhancement and improvement.

A sense of American history makes clear that unless the present environmental crusade is deeply rooted in the educational system and within the consciousness of the people, the current high public interest will falter. The extensive rhetoric of doomsayers along with the sobering counsel of scholars have served the purpose of alerting Americans to pollution and population problems. Doom-saying, however, is not leadership, nor do scholarly papers clear the air.

Americans in a crisis situation have traditionally turned to the public schools and their colleges and universities—to education—to help solve large social problems. It has been from local communities, from "hometown" schools that we now see a response to environmental difficulties. Environmental education is actually a deep-rooted local answer to environmental problems, and, as has been historically the case, community school initiatives will in all probability color most programs developed under the environmental educational label.

Environment as a high priority educational theme has also been assisted by strong student concern for the decline in environmental quality. Youth is more concerned with the future state of the environment than is the older generation because young people are, for one thing, going to spend so much time inhaling that future environment, swallowing it, and finding their way through it. Environmental concern offers an attractive neutral ground in which to work out the "alliance between generations" which President Nixon spoke of at the University of Nebraska in January.

Reliance upon education as a means to end the degradation of our environment and to improve quality of life was to be seen in local communities and even among youthful enthusiasts long before Earth Day, a year ago. Yet, this symbolic and constructive reorientation of youthful energies identified 1970 as the year of change in American education.

During the summer of 1970 there was a nearly unparalleled migration of educators and environmentalists to Washington's Capitol Hill to testify on behalf of the then proposed legislation on environmental education. The not-surprising culmination of this outpouring of concern was the nearly unanimous passage of the Environmental Education Act on October 13, by a vote of 64 to 0 in the Senate and 289 to 28 in the House. President Nixon signed the legislation into law on October 30.

The President himself has made the definitive statement on environmental education, which shapes the official view of the Office of Education in the administration of the act. President Nixon went much further than merely speaking in terms of a generalized national commitment. He has spoken of environmental education as "reform," and has asked that the schools get on with the work.

In his August message transmitting to the Congress the first annual report on his Council on Environmental Quality President Nixon said: "We must seek nothing less than basic reform in the way our society looks at problems and makes decisions. Our educational system has a key role in bringing about this reform. . . . It is also vital that our entire society develop a new understanding and a new awareness of man's relation to his environment—what might be called 'environmental literacy.' This will require the development and teaching of environmental concepts at every point in the educational process."

Several times in this message the President reiterates his emphasis on reform and his understanding of the new role of American education. His words "We need new knowledge, new perceptions, new attitudes . . ." and "We must achieve a new awareness . . ." reflect a dependence upon educational processes, both formal and nonformal.

Environmental education is directed at modifying man's attitudes toward his world—both the world of nature from which he derives and inherits his responses and the world which he is creating. As his attitudes are reflected in informed democratic processes, both in the polling booth and in the marketplace, man must recognize that whatever happens or is not permitted to happen to his world can be substantially influenced by a majority vote. Speaking realistically, this "vote" by each individual—man, woman, or child—is determined by his or her attitudes toward self, toward others, and toward the quality of life for all. This means that all men must encourage self-respect, respect for their fellows, and respect for the living Earth.

In the words of the act, ". . . 'environmental education' means the education process dealing with man's relationship with his natural and man-made surroundings, and includes the relation of population, pollution, resource allocation and depletion, conservation, transportation, technology, and urban and rural planning to the total human environment."

Central to the philosophy of our administration of environmental education under the act is the idea of using environmental education funds and authority as the catalyst—a triggering mechanism—for other funding commitments within the Office of Education and in the coordination of resources and facilities of other Federal Government agencies. This derives first from environmental education's very nature as a pervasive concern, cutting across conventional operating agencies.

Environmental education is directed toward attitudes, and, therefore, the emphasis is on process and not on content. Of course, curriculum materials must be prepared, but the long-range objective must be to bring concepts of environmental education into virtually every aspect of learning. Environmental education is not a new subject, for we have taught about the values of conservation for many years. But we now see environmental education as a new approach to learning. Even as attitudes of individual worth, free agency, democratic consent, and cooperative effort are learned subconsciously in many parts of the public school curriculum, so must new attitudes of environmental concern pervade each subject, each course, and each discipline, whether mathematics, English, science, social studies, music, or whatever. Environmental education is interdisciplinary, pervading the spirit of all teaching at all levels.

Immediately we perceive that every educational mechanism and institution in our society is and must be involved in environmental education. The responsibility is not merely that of the Federal Government or of the State and local school system, but it is shared by the church, professional associations, civic organizations, voluntary agencies, and the family. Each of the several elements of our society provides learning experiences in the vital areas of environmental attitudes and in helping individuals to learn personal responsibility and the importance and weight of personal decision-making.

Inasmuch as we can avoid the use of the word "teaching" and emphasize the concept "learning," we will convey the spirit and intent of our approach to environmental education.

Even for sketching environmental education in large and expansive concepts, as I

have done, the Environmental Education Act furnishes an adequate framework for progressive guidance and assistance. Perhaps more important, it sets the tone and points to the philosophy of this new role of American education, with OE serving as stimulator, fiscal resource, and coordinator of information on desirable programs.

Environmental education can be the core, the unifying concept around which Office of Education categorical grants can be coalesced into a modern educational response to the environmental/ecological crisis. This crisis is nowhere more evident than in our large urban complexes.

First—as spelled out in the history of the new legislation and in the language of the act—is the responsibility for a new office to serve as a coordinator in the Office of Education of all activities related to environmental education. Further, the act authorizes the Commissioner of Education to utilize the services and facilities of each Federal agency and other public and private institutions with programs of potential environmental education content. This is to be done through appropriate interagency agreements. The President has made it clear that in all matters of environmental quality, the several Federal departments and agencies will cooperate.

Let it be supposed that we are now speaking of a massive and all-pervading Federal education program to which States and local communities are supposed to bow, I want to emphasize what is perhaps the most remarkable aspect of reform in the new act.

Environmental education is, must be, and shall be of and from the people. Washington does not know enough and has no inclination or desire to direct the American people in this matter. The act merely calls for the Office of Education to "encourage and support" environmental education. Education happens elsewhere.

The needs of an urban society must find their response in sober, creative planning and design. The President has recognized this, too, in his message transmitting the report of the Council on Environmental Quality, when he said, "Our challenge is to find ways to promote the amenities of life in the midst of urban development: in short, to make urban life fulfilling rather than frustrating."

The very act of undertaking this gigantic commitment, of rebuilding our cities, will do more than improve landscapes, speed communications, stabilize the economy, and reduce pollution and stress. The process itself should fill the psychic needs and solve the problems of a great many people. Mental and physical health will be improved; career ladders will be opened which have been unavailable to individuals in some ethnic, racial, or economic groups; a return of economically favored families to cities should follow.

Individuals at all levels of society should sense a personal engagement in the process. With recognition of identity will grow a sense of responsibility, of values, and the importance of individual decision-making. The dynamics of this process are seen in the joining of present inner-city work forces, occupationally displaced scientists and engineers, and volunteer groups—from student activists to retired professionals—coordinating their efforts through retraining, development of new skills, and redirection or reorientation of existing capabilities. The Office of Education is developing curriculums and models for the training of technicians and paraprofessional personnel in the field.

Community-based environmental education programs can use the schools as the focus for community self-improvement and development. Emerging careers in environmental technology offer a splendid oppor-

tunity for a here-and-now approach to vocational or career education. This approach would be combined with Work Study at the high school level and meshed with the Manpower Development Training Act programs of the Skill Centers of community colleges—like the one at Denver Community College, for example.

Environmental management and technology offer new careers for unemployed scientists and engineers. Brevard Community College at Cocoa, Fla., began such a retraining program under a grant made jointly by the Office of Education and the Department of Labor in August 1970. The college has made the experience and program available to other colleges in areas of high aerospace technological unemployment.

Community-based environmental education programs can also serve as a lever for volunteer projects and can be the source of specific community improvement projects. New job opportunities are being created through the development of recycling businesses, pollution abatement terms, and environmental monitoring and control activities. These opportunities should increase greatly as political and industrial interest and concern continue to mount.

The coordinated approach to environmental concerns must involve more than traditional State government. While there are State agencies involved in education, health, natural resources, and conservation, so, too, are there numerous private and semiprivate agencies equally involved. The Izaak Walton League and Audubon Society must find common ground with the Fish and Game Commission. Federal agencies—such as Interior, Agriculture, HEW, HUD, National Science Foundation, and the new Environmental Protection Agency—must work with them all. Business, industry, and labor must find reconciliation with community interests and the trade-offs must be faced by all concerned. A consensus exists that there is and must be some kind of State commitment to match the national commitment which has been identified by both the President and the Congress.

A State commitment to environmental education could result from a variety of approaches. There is no single required or approved system of organization. One procedure might be the establishment of a task force by the Governor or the legislature or both to make a reconnaissance of the State's environmental problems and needs, its resources, programs, and priorities. Of course, the State's educational institutions would be involved, but not exclusively or even principally concerned. It is possible that a State center for environmental education might result from such an initiative. A center could possibly represent and reflect all the State's participants and resources in environmental problems and solutions, from those of business, industry, and labor to professional associations, universities, and private nonprofit institutions like museums. The law calls for the Office of Education to hear the recommendations of the State educational agency before the Commissioner of Education may approve financial assistance programs in that State. The suggested center would be a prime source of recommendations for the required funding procedures.

Many will recognize the reform measures implicit in the administrative approach to the act, which is to look to the many progressive, innovative, and imaginative environmental education programs at the local level for inspiration and replication. Those local groups that already have invested time, talent, energy, and money in programs that are demonstrably successful and promising will receive additional funds. The new law spells out the principles of multiple funding, progressive weaning of a program supported with Federal funds, and the sharing of ideas

and talent with groups willing to take the initiative.

Funding of environmental education programs, under the act, will go to nonprofit public and private schools and agencies. They must have been in existence a year and proven their ideas. Environmental education funds must not replace other available money. No funds will be provided for construction. Yet the principle of coordination of programs, including funds from other sources, has such potential that the accomplishments under the act may far surpass the present limited concepts and immediate budget of an admittedly new and untried educational program.

Small grants of up to \$10,000 annually will be available to citizens' groups, volunteer organizations, and other private as well as public nonprofit organizations for conducting courses, symposiums, and otherwise exploring possibilities in environmental education. This specific provision is intended to discover, illuminate, and introduce ideas that might otherwise remain untried or might not appeal to local, State, and Federal agencies.

Although the idea of an advisory board for new programs is not new, the act provides for an Advisory Council on Environmental Education which has considerably more than rubber stamp responsibilities. This appointed body will advise the Commissioner of Education on most aspects of the administration of the act. It will have authority to evaluate programs and publicize its findings.

Further, the Advisory Council's responsibilities include requirements that it assess and recommend the part it should play under the law. The Advisory Council must reflect a broad geographic and disciplinary constituency. A balanced representation of memberships, consistent with the act, is intended to guard against favoritism and insure that the law is fairly administered.

We see in the Environmental Education Act a medium for the Office of Education, as a totality, engaging in a reform activity concerning all the people. If we are to encourage the all-pervasive spirit of environmental consciousness in the State and local education agencies, then we must start in our own agency. We are placing this small but extremely important function in the Office of Priority Management, with direct and constant influence on all offices and bureaus of OE. We see environmental education not as something to be "taught" but a condition to be lived.

TAMING THE HIGH SCHOOL HOODLUMS

Mr. MATHIAS. Mr. President, this is a time of crisis for many of our Nation's large urban schools.

Vandalism, robbery, and violence have assumed such a large role in so many of our schools that, in many cases, the educational process itself is being severely impeded.

For this reason, I take great pleasure in bringing to the attention of the Senate an article published in Parade magazine of April 16. It highlights the encouraging efforts of one Baltimore school, Woodburne Junior High. Working together, the students and administrators of this school have successfully and constructively realized a dramatic drop in robbery and vandalism through the implementation of a new, student oriented security system. This plan has proven amazingly effective in reducing crime and drug abuse at Woodburne Junior High—it is a plan which other schools would do well to consider in

mapping their own battles against the menace of crime in our schools.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

ALL KIDS WANT TO BE THE GOOD GUY
(By George Kannar)

Like many big city schools around the country, Baltimore's Woodbourne Junior High, with 2100 students, has been plagued by robberies, extortion, gang wars, vandalism, and—although less than some places—drugs. Here, however, a school security officer has come up with an effective response. He puts the troublemakers in the lawman's position as members of the school's Student Security Patrol. As a result, he says, gang wars are averted, drugs have almost vanished, and vandalism is down an astounding 99 percent.

"Basically all kids want to be the 'good guy,'" says John Pugh, the 38-year-old former detective, amateur cartoonist, and fashion model who organized the patrol. "Even the bad kids are just trying to look like big heroes to the other bad kids. The patrol gives them a chance to look like heroes in everyone's eyes." Thus, the patrol serves a double purpose: it tightens school security, and at the same time it gives wayward youngsters a chance to make a new start in a constructive direction.

Patrol members stand in hallways between class periods to keep the traffic moving and break up fights. They watch students' lockers to prevent robberies. They look and listen for clues in robberies and shakedowns that do occur.

But their most important job is communication. "They're our eyes and ears," says one school administrator. And when trouble is brewing among the school's rowdies or when outside youths try to enter the school, the Security Patrol becomes the administration's voice as well. Its members, often close friends of the roughest and toughest students, firmly but cordially extend the word: "Cool it." And, coming from them, the message is heeded.

When Parade visited Woodbourne recently, a crisis was in the air. Rumors of an impending playground gang fight at lunchtime were reported to Pugh by members of the Student Security Patrol. Pugh called the Baltimore Police Department which sent squad cars to cruise in the vicinity of the school in case something serious broke out. Later in the morning, on a tip from a patrol member, school security officers confiscated a knife from one youngster.

At lunchtime Pugh and fellow security officer William Morrow showed up at the playground, and this, together with the squad cars, kept the lunch hour peaceful. Later Pugh confided that he had been particularly worried because of a report that one of the gang members had a gun.

EASY TO JOIN

Pugh has made it easy for students to join the patrol. They are asked only for a promise of good behavior and for two photographs to put on their Security Patrol identification cards: no teacher recommendations, no minimum grades are necessary. The patrol members succeed or fail solely on the basis of their ability as "law enforcement officers." If a member misbehaves in school, he is suspended from the patrol until Pugh and the other members decide to reinstate him.

The idea of putting troublemakers on the security force is "as old as Aristotle," according to Leon Horowitz, Woodbourne's principal when the patrol was organized in April, 1969, and now director of secondary schools for eastern and southeastern Baltimore.

"The difference," says Horowitz, "is that Pugh has managed to give membership in the patrol an aura of something to aspire to, not a job for flunks or stool pigeons. The kids who associate with him learn a new respect for police authority. And chances are that some youngsters who would have gone into socially destructive careers will now end up in police work instead."

Not all of the patrol's 50 members are ex-troublemakers, however; some of them are just interested students. Pugh also has three secret "underground" student patrolmen who provide additional useful information. They also keep an eye on the patrol members' own behavior.

The youngsters' reasons for joining the patrol are many. Status is an important motivation, as is the desire for the job's considerable (in student eyes, anyway) fringe benefit: the freedom to leave class three minutes early and return three minutes late when periods change. They need the extra time to get to and from their hallway posts.

But there are other reasons, too.

"I joined because I didn't want to see any more fighting. As a patrol member I can get in there and break up fights," says one boy. "Now I can stop people from getting hurt."

And other students appreciate the job the patrol is doing. As one member points out, "At first some of my friends used to tease us and call us 'junior pigs,' but after a while that just became kind of a joke. They got to respecting us. Now some of them have even joined up."

The Fraternal Order of Police, a national policeman's association, recently congratulated the patrol on its security efforts and has agreed to supply new badges and commendation plaques for its members. In addition, the association will sponsor an annual "Student Security Patrolman of the Year" award.

THE PERSONAL TOUCH

A good deal of the patrol's success derives from the excellent rapport Pugh and Morrow have established with the youngsters. If a kid is in financial trouble, they will lend him a little money. If he needs a job, they will help him find one. "Nobody is too far gone" is their operating principle.

Because of repeated requests for information from school officials elsewhere, Pugh has written a manual on organizing and running student security patrols. But he knows that not all problems can be solved "by the book." The personal touch is what really counts in dealing with young people.

"When I'm talking to the kids," says Pugh, "I make sure to tell them about all the things I did wrong when I was a kid. I try to show them that I wasn't always a 'good guy' policeman. And the surprising thing is they listen."

POLISH INDEPENDENCE

Mr. ROTH. Mr. President, on behalf of the Senator from Colorado (Mr. DOMINICK), I ask unanimous consent that a statement by him on the subject of Polish independence be printed in the RECORD.

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

POLISH INDEPENDENCE

On May 3, 1791, the people of Poland, without violence or bloodshed, brought forth the brightest light of democracy ever witnessed in that country. The Polish people expressed their deep-felt belief that popular sovereignty was the principle which should, through their written constitution, become the basic law of the land. Poland thus led the way in recognizing that the expressed will of the people was more important than that of the state.

The American people share an unusual

bond with the Poles, having adopted their own Constitution, built on popular sovereignty, just two years prior to Poland's first step. We in America have been fortunate enough to witness the fruits of nearly two centuries of democracy and freedom resulting from the actions of our founding fathers. The Poles, as the free world recognized all too vividly in 1795, received no such opportunity. Their short-lived spark of democracy was soon quashed by the third partition of their country by Austria, Prussia, and Russia.

By continuing to celebrate the birth of their democratic constitution, drafted so many years ago, rather than a date of victory in battle or an anniversary of national achievement, the Polish people demonstrate their desire to return to the principles of individual freedom. They deserve that chance, and all free nations must continue to direct their policies toward giving Poland that opportunity.

**MAYOR NACRELLI'S
PROCLAMATION**

Mr. SCHWEIKER. Mr. President, Mayor John Nacrelli, of Chester, Pa., issued a proclamation declaring day before yesterday, April 28, as POW Day in his city. I would like to join Mayor Nacrelli, the citizens of Chester, and the millions of Americans who are deeply concerned with this problem, in expressing support for our brave men held prisoner by the North Vietnamese.

I feel that the status of our POW's is repugnant and totally unnecessary, particularly since the Hanoi Government has been so unwilling to provide even verification of the names of prisoners they are holding, much less give them humane treatment. It is my fervent hope that the force of world opinion and human conscience will help lead the North Vietnamese to accept President Nixon's plea for immediate release of all prisoners of war.

I have introduced legislation to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is, or may be, held prisoner by the North Vietnamese. And I will continue to do all that is possible to get Hanoi to meet their responsibilities under the terms of the Geneva Convention to provide these men with fair and humane treatment.

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

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

PROCLAMATION

Whereas, International concern for the plight of Soviet Jews has recently proven that the Iron Curtain can be pierced by public opinion; and

Whereas, all Americans are similarly concerned for the plight of American prisoners in the hands of the North Vietnamese, and desire to seek more humane treatment, if not the out and out release of these men;

Now, therefore, I, John H. Nacrelli, Mayor of the City of Chester, in the State of Pennsylvania, do hereby proclaim April 28, 1971 as POW Day in Chester, and call upon all citizens of Chester to join with millions of Americans who will be taking part in programs across the country on this day, reaffirming their support of these valiant men.

PRESIDENT'S ECONOMIC PROGRAM IS SHOWING RESULTS

Mr. BENNETT. Mr. President, the last 2 or 3 weeks have not been good for the Presidential critics and doomsayers of this country, particularly those who seem to take no small degree of delight in pointing the finger of criticism at the Nixon administration.

First, the President announced a stepped-up withdrawal of American troops from South Vietnam, this coming at a time when American casualties are being continually reduced and when the South Vietnamese are assuming an even greater role in the military effort.

Now, even while the President's critics are searching for ways to discount these events, the Department of Labor has released the economic statistics for the first quarter of 1971. Much to the doomsayers' distress, the statistics show that the President's efforts to stimulate the economy are successful.

The Bureau of Labor Statistics reports that for the first 3 months of 1971 the increase in consumer prices was the lowest in 4 years. The 2.7 percent on a seasonally adjusted annual basis is evidence that the President's program to control inflation is working.

This announcement is even more promising when it is combined with other national economic indicators. The Consumer Price Index showed only a moderate increase of 0.3 percent. When this is combined with abnormally small increases of 0.1 percent in January and 0.2 percent in February, it puts the overall increase for the year well below the increase for earlier years.

An even more dramatic illustration of the strength of the economy is the continuing upsurge of the stock market. On May 26, 1970, President Nixon said that he thought it was an excellent time to invest in the stock market. It was excellent advice. In less than a year, the Dow Jones industrial average has climbed from 631.16 to 947.80, a rise of 316.64 points or an increase of over 50 percent.

Market experts cite a number of reasons for the market's boom. Chief among them is the simple fact that the 1970 business slowdown has hit bottom and is now experiencing the growth that President Nixon so accurately predicted.

Closely related to the strong showing of the stock market has been the reduction in the prime interest rate. The past year has seen the rate fall from a high of 8.5 percent in 1969 to 5.5 percent in March of this year.

On a more personal basis, the economic growth means that the annual rate of housing starts will have gone above 1.9 million, by year's end that the personal income has increased 6.3 percent over the same quarter last year, and that retail sales have increased 3.3 percent over the fourth quarter of 1970. This resurgence in personal income and purchasing power will provide the basis for more consumption, more home buying, and more investment in coming months.

Also noted in this quarter's statistics were lower mortgage rates, a drop in

new-car prices, and continued decreases for gasoline and women's clothing.

It is to the President's credit that the economy has made this progress despite continued opposition from many Members of Congress. The President's opponents seem to have found a modern adaptation of the old western adage of shooting first and asking questions later. It seems that they now want to spend first and worry about the consequences later.

Interestingly enough, it has been these same spend-from-the-hip critics who were among the first to claim that the Nixon administration was responsible for inflation and unemployment. Nowhere was this more evident than in my own State of Utah. During last year's election campaign, no sooner would the loud Democratic demands for the reductions in defense spending come to an end than the liberal cries would begin that President Nixon was shutting down defense installations, throwing hundreds of Utahans into unemployment. These complaints were often quickly followed by charges that it was a heartless Republican Party that was responsible for inflation and the dismal state of business. Then in almost the same breath the President was chastised by the local Democratic doomsayers for not spending more and more on their pet projects or programs.

In general, no efforts were spared by Utah's Democrats in their campaign to paint a dismal dark picture of Utah's economy and then place the blame on the doorstep of Richard Nixon and the Republicans.

Mr. President, despite all the cries, the charges, and the rhetoric, I am happy to note that the same economic trends that are establishing themselves on the national level are also reflected in the statistics coming from the State of Utah. The State department of employment has reported a considerable increase in the number of employment opportunities and a substantial decrease in the percentage of unemployment. This increase was especially noted in the agriculture and construction industries. These figures, even after being seasonally adjusted, still showed an increase over previous months. This decrease in unemployment is reflected in the 3.1-percent increase in capital spending in Utah since last December.

Along these same lines, I was encouraged by the recent report of the Bureau of Economic and Business Research at the University of Utah. Each spring this bureau compiles and publishes selected business statistics for all Utah counties. Their report for 1970, which was recently released, stated:

Although 1970 was a year in which the nation's economy slowed down, the state as a whole showed a percentage growth in all categories . . . except new car sales. The percentage increase this year was larger than between 1968 and 1969 for residential construction, new dwelling units, total construction, average work force, average monthly nonagricultural wages and annual nonagricultural payroll. Only the nonagricultural employment and nonresidential construction had a slower growth rate during the latter period.

On the whole, the State of Utah experienced a 2.7-percent increase in average nonagricultural employment.

Without going into a detailed analysis of the bureau's statistics, it is sufficient to say that with their report and the increases reported by the Utah State Department of Employment Security, it is evident on a small scale the economic progress that is being made nationwide.

Even in view of these encouraging statistics, Mr. President, I realize that there will still be difficult situations to cope with and possibly some temporary setbacks, but the important thing to recognize is that the trends have been established and Richard Nixon is once again doing what he said that he would do. His policies of vigorous and orderly expansion of the economy are achieving greater stability in costs and prices.

Having worked closely with the administration on a number of these programs, I know that the decisions were not easy to make and they were made even more difficult by the opposition that he received from many, including some in the Congress. It required no small amount of courage for the President to stand by his policies when it would have been much easier to give in to the pressures calling for a less responsible fiscal program.

The American public has recognized this courage, as has been demonstrated by the increased support that they have given the President in recent opinion polls that have been conducted on a nationwide basis.

Mr. President, I would hope that those who were among the most vocal critics of the President's economic policies will also be among the first to admit that progress is being made and that we are achieving the goals of orderly economic increases accompanied by relative stability in costs and prices. Doubting very much that this will happen, I can only conclude that it will continue to be rather distressing times for the critic and doomsayers.

WOODROW WILSON NATIONAL FELLOWSHIPS

Mr. MATHIAS. Mr. President, since its inception in 1945, the Woodrow Wilson National Fellowship Foundation has provided vital initial aid to exceptional young college graduates embarking upon doctoral studies and eventual careers in education. The accomplishments of the foundation have been impressive. In less than 30 years there have been over 18,000 Woodrow Wilson fellows. At the present time 6,000 former Woodrow Wilson fellows are teaching in colleges and universities. Eminent alumni of the program include Ralph Nader; Robert F. Goheen, president of Princeton University; Albert B. Brown, president of Long Island University; and Padraic Kennedy, former head of Vista.

In the 1971-72 competition for Woodrow Wilson Fellowships, more than 10,000 college seniors throughout the United States and Canada were nominated by their professors. Out of this number,

regional selection committees elected 305 fellows and recommended 741 finalists to graduate schools for fellowships and assistantships awarded by the schools.

Obviously, Mr. President, the competition for these esteemed fellowships is rigorous and challenging. And I agree thoroughly with Mr. Hans Rosenhaut,

president of the foundation, in his view that—

In future years these remarkable young men and women will be among the teachers and leaders who will help to achieve America's goal of universal higher education.

I am proud to announce to the Senate today that this year 12 Woodrow Wilson

fellows and 14 Woodrow Wilson finalists are native Marylanders, and I think it appropriate and deserving that they be recognized in the CONGRESSIONAL RECORD.

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

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

WOODROW WILSON FINALISTS, 1971-72

MARYLAND

City	Home address	Undergraduate college
Baltimore:		
Lewis, Diana Susan	5908 Winner Ave.	Goucher College.
Roig, Randy Allen	1021 Green Acre	University of Maryland.
Seliger, Susan Diane	1805 W. Rogers Ave.	University of Chicago.
Weisman, Robert Bruce	4004 Liberty Heights Ave.	Johns Hopkins University.
Bowie:		
Cowan, Donna Lynn	Cowan Ave., Rt. No. 1, Box 344.	Randolph-Macon Woman's College.
Francis, Patricia Ruthann	12149 Long Ridge Lane	Bowie State College.
Frederick: Davis, Christopher Richard.	Rt. 5, Jefferson Blvd.	University of Maryland.
Hyattsville:		
Coe, Mrs. Joan Barbara	2811 Nicholson St., No. 203	Do.
Meyerson, Mark Daniel	3421-11 Tulane Dr.	Do.
Rusinko, Nancy Elaine	6013 37th Ave.	Do.
Wilfong, Susan duPaul	6700 Belcrest Rd.	Do.
Silver Spring:		
Betcher, Bro. Michael Joseph.	9001 New Hampshire Ave.	Catholic University of America.
Schneider, Alan Gregory	717 Edelbut Dr.	Columbia Union College.
Wheaton: Willoughby, John Alden.	3815 Kayson St.	University of Michigan.

WOODROW WILSON FELLOWS, 1971-72

MARYLAND

City	Home address	Undergraduate college
Baltimore:		
Eareckson, Louise Tannehill	4136 Roland Ave.	Michigan State University.
Murray, Michele Phyllis	7707 Windy Ridge	Towson State College.
Paris, Ira Mark	1019 Flagtree Lane	Johns Hopkins University.
Richman, William Mark	3215 Shelburne Rd.	University of Pennsylvania.
Bethesda: Wiener, Joshua Mark	5705 Kingswood Rd.	University of Chicago.
Chevy Chase: Steptoe, Mary Lou	6808 Connecticut Ave.	Occidental College.
Hillcrest Heights: Hanson, Maureen Rebecca.	2300 Foster Place, SE.	Duke University.
Laurel: Redenbarger, Wayne Jacob.	9689 Muirkirk Rd, 95B.	Indiana University.
Silver Spring:		
Callanan, Kathleen Brigid	8509 Leonard Dr.	Dickinson College.
Levenson, Carl Avren	8712 Leonard Dr.	Allegheny College.
Luck, Cynthia LaVerne	1207 North Belgrade Rd.	Pembroke College, Brown University.
McEuen, James Edward	412 Pershing Dr.	Antioch College.

ARAB-ISRAEL PEACE

Mr. JAVITS. Mr. President, I am pleased to ask unanimous consent to have printed in the RECORD a major address on Israel-Arab peace by the Senator from Kansas (Mr. DOLE).

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

Mr. Chairman, Delegates to the American Israel Public Affairs Committee, members of the Washington Jewish Community and guests.

Bipartisan support for the establishment and development of Israel has always been a major element in the policy of our Government in the Middle East. With a few notable exceptions, Republicans and Democrats have always joined forces. It is, therefore, a great privilege to be here tonight, not only as the Junior Senator from Kansas, but also as the Chairman of the Republican National Committee.

KANSAN WAS EARLY CHAMPION OF ISRAEL

Charles Curtis, who was the Republican Senator from Kansas for 15 years and who climaxed his distinguished career as our Vice President from 1929 to 1933, was one of a long line of Republican Congressmen who contributed to the realization of a modern Israeli State. As far back as 1918, he heartily approved the Balfour Declaration and stated that "these long oppressed people should be given an opportunity to work out and determine their own future and homeland of their own."

Isolationism was rampant following World War I. As the Majority Whip in the Senate, Curtis fought against this trend to win passage of the Lodge-Fish resolution which, in 1922, put the Congress of the United States on record in favor of the Balfour Declaration. This was not a proforma or routine affair—there was opposition and it had to be overcome.

At that time the birthright of the Jewish State was under attack from many quarters—which even then was not an unusual condition. The League of Nations was then delaying approval because the United States had not endorsed the Declaration. In England, the House of Lords actually repudiated the Balfour Declaration.

AMERICA SUPPORTED JEWISH HOMELAND

Nevertheless, in unequivocal terms, the American people, speaking through their Representatives in Washington, affirmed their support of the Jewish homeland. Curtis never lost faith in the potential viability and the eventual formation of the State.

In 1932, he helped to form the American Palestine Committee and became its Honorary Chairman. This Committee's purpose was to "organize more effectively our endeavors as non-Jews to cooperate with this great idealistic cause." The Committee declared that it regarded the speedy realization of Zionism as an imperative necessity. It would be an exaggeration for me to claim that the Republican Party is singularly responsible for support of the Jewish State in this country. This has always been a bipartisan endeavor; sometimes we have judged circumstances accurately and sometimes we have made mistakes. Nevertheless, the Republican Party has never defaulted on its basic commitment to the formation and survival of the Jewish State.

GOP CALLED FOR OPENING OF PALESTINE

In the dark years of World War II, in 1944, the Republican Party was the first to write into its party platform a strong plank calling for the opening of Palestine to Jewish immigrants and for the establishment of a free and democratic commonwealth in Palestine.

The Democrats, too, had a strong plank that year and it was only four years later that both planks were transformed into reality.

Since then, the State of Israel has thrived and grown. I have seen this growth first hand and am convinced that State will continue to live and prosper—with the support of most Americans, regardless of political party.

ISRAEL STILL MENACED

Today, however, the State of Israel is a beleaguered nation. She is surrounded by hostile nations. But this, in itself, would not be an overwhelming challenge to the resourcefulness and courage of the Israeli people were it not for the Soviet threat.

The Jewish people have lived with Russian hostility on many fronts over the centuries. All of us know about the pogroms of Czarist times—pogroms which brought many of your forebears to this and other lands of refuge.

Even after the Bolsheviks overcame the

Czarists, the anti-Jewish attitude remained basically unchanged. There was the continuing bigotry, discrimination against Jewish institutions and, most of all, hostility to Zionism, a hostility based on ideological grounds, for the Soviet Government and the Communist party fought the concept of a Jewish state as counter-revolutionary. Inside Russia, Jews were imprisoned and Zionists exiled, while the Government carried on an unrelenting attack against the Hebrew language, Jewish institutions and the religion itself.

In 1948, there was a brief interlude when the Soviet Union supported the formation at the United Nations of the Jewish State. One must realize, however, that this was nothing more than a tactic to serve long-term Soviet expansionist ambitions. This sudden and brief reversal of policy was based on the fact that the Zionists were fighting to end British rule in Palestine.

U.S.S.R. DENOUNCES ISRAEL

Within a few years, the USSR was denouncing Israel as a reactionary and imperialistic puppet because the Jewish State refused to become a Soviet satellite and because it was totally oriented toward democracy. Now, Soviet enmity for the Jewish people had a geopolitical rationale.

RUSSIANS WOO ARABS

Rebuffed by Israel, the Soviets set out to win the favor of the Arab states by exploiting Arab hostility toward Israel. Hostility toward Israel abroad has paralleled hostility toward Jews inside the Soviet Union. Since Czarist days, Russian anti-Semitism has been ingrained.

INTRODUCED RESOLUTION FOR SOVIET JEWRY

In protest against this and the recent recurrence of show trials and repression in the Soviet Union, I introduced into the Senate last December a resolution to express "grave concern" over the treatment of Soviet Jews. I urged in that resolution that the USSR "Provide fair and equitable justice for its Jewish citizens." Unfortunately, we may have a long time to wait. This resolution was passed by a voice vote on December 29, 1970.

RUSSIANS OBJECT EXPANSION IN MIDEAST

Soviet tactics in the Middle East concentrate on Israel but the main Soviet objective is expansion in the Middle East. If there

were no Israel, the Russians would doubtless exploit other conflicts in the area. They would support Egypt against Saudi Arabia, or Syria against Jordan. It has been said that if there were no Israel to menace, they would have to invent one.

Thus, the Arab war against Israel serves the Soviet Union as a convenient pretext to further imperialistic designs which go back to Czarist days.

AGE-OLD RUSSIAN TARGET

In previous centuries, Turkey stood in the path of the Russian southward drive. During the brief Nazi-Soviet alliance, the Russians aimed to get a German promise for control over the Persian Gulf and the Dardanelles.

After World War II, the Russians tried to annex part of Iran and to infiltrate into Turkey and Greece. Firm U.S. action stopped the Communist advance in these areas. Failing there, the Soviets have concentrated on Egypt, exploiting Arab Nationalism and old grievances against Israel to keep the entire region in conflict.

The tools which the Kremlin leadership has used to gain inroads in the Middle East are economic, political and, most important, military—planes, weapons and training in their use.

RUSSIA PUSHES MIDEAST ARMS RACE

This process, which began in 1955, continues today. For, no matter what her leaders might say, the fact is the Russians have never been willing to agree to any limitation of arms shipments to the Middle East. Whenever the United States has hesitated to provide arms Israel has requested, in the hope that this might initiate mutual restraint, the Russians unhesitatingly have escalated their involvement by sending more MIGs and missiles to Egypt.

The Russians watch the United States closely for any signs of hesitation or weakness. They know that we are the only major power standing between them and domination in the Middle East.

Within the last few weeks, the Soviets have continued this maneuver by supplying Egypt with their most advanced jets—MIG-23s.

ISRAEL ON THE FIRING LINE

Among the nations of the free world, only one—Israel—is menaced directly by hostile Soviet troops and equipment without the benefit of a treaty or a security pact. And, unlike many other nations which get military aid from the United States, Israel is unique in that it pays for all its military equipment, albeit on special terms.

Is it any wonder then that the Soviet Union regards Israel as a vulnerable Cold War target and that the Soviet Union's Arab allies watch eagerly for the slightest sign of U.S. hesitation in support of Israel? Such hesitation would be clear evidence that Israel indeed stands alone and might prove to be an easy prey.

NIGHTMARE OF PAST BETRAYALS

I know that the nightmare of isolation weighs heavily on this audience here tonight. It conjures up the grim memory of the holocaust visited upon the Jewish people during the Second World War, when a paralyzed world sat by and ignored the Nazi policy of intimidation, harassment, juridical discrimination and, finally the mass murder of six million human beings. It is against this background of history, so fresh in memory, that many of us have come to think of Israel as a test case of our civilization. For if we fail in our responsibility to humanity a second time, could we ourselves survive?

ENEMIES SEEK AMERICAN RETREAT

The Arab militants do not need to make peace with Israel. They know the Soviets are

willing to foot the bill for continued war preparation and war, itself. Moreover, Israel, in Arab eyes, has only the United States to support her, and they, hearing the voices of faint hearts calling for retreat and surrender in Vietnam, view the United States as a fickle friend to any ally. They are wrong. Their hopes for an American abandonment are an illusion. They misinterpret every American proposal and gesture which is intended to win Arab friendship as a sign of hostility to Israel. When the United States takes any action toward peace, the Soviets conjure up the mirage of final victory. Yes, we seek peace. But we do not seek surrender. We seek a negotiated settlement, reached by the parties concerned, and free of great power imposition.

DIVISIVE TACTICS FAIL

Israel's foes sometimes try to alienate us from Israel by arguing that an Arab victory over Israel would lessen the Arab need for a Soviet presence in the Middle East. That is sophistry. We will not accept that argument. On the contrary, if the Soviet-backed Arab extremists ever succeed in their war against Israel, Russian prestige will be enhanced and influence in the Arab world will be stronger than ever. Personally, I am convinced that American support of Israel—support that is firm and unyielding—is an essential ingredient in keeping peace and freedom for Israel alive in the Middle East.

And I believe that that support will continue.

SOVIET THREAT REAL

Few doubt that the Soviet threat is real. A war plane that can travel from Cairo to Tel Aviv in 7½ minutes does not seem like "humbuggery" to me. Yes, the Soviet threat is real, not only to Israel but also to the whole of the Middle East, and beyond—the Persian Gulf, the Indian Ocean, East Africa, and the entire Mediterranean—the soft under-belly of Europe.

It threatens the nations of the North Atlantic Treaty Organization and the pillars of the free world.

Thus, the threat to Israel becomes a part of a wider threat to which American policy in that part of the world must respond.

Thus, Israel becomes a major pivot around which American policy in that part of the world inevitably revolves.

URGED PLANES FOR ISRAEL

About one year ago, I joined with 75 of my colleagues in a letter to Secretary of State Rogers, urging that we provide planes to Israel. I took the position then, and I want to reaffirm it now, that "the strength of Israel's military posture is the best guarantee against the outbreak of major hostilities." In that way the needs for Israel's immediate survival will be assured. Arab leaders will have to re-examine their belligerency; Russian expansion will be slowed, and the position of the free world in the Middle East will be more secure.

LONG TERM HOPES FOR PEACE

But in looking to the future in the Middle East, we seek more than the continuation of an uneasy truce—of an armed truce subject to erupt into open warfare without a moment's notice.

For the millions of Arab and Israeli children growing up in the tensions and hostilities of today, we hope for a future free of strife. Such a future must be built on more than guns and planes—though we must never forget the importance of military security.

Such a future must be built on a genuine, lasting settlement of the basic differences that divide the contending parties in the Mideast. Obviously, this kind of settlement should not and will not be imposed from the outside. The idea of a rigid "agreement",

engineered by the great powers and inflicted on Israel and the Arab states is neither ethical nor practical. It would not be a just peace, and it would not be a lasting peace, by its very nature.

ENCOURAGE PEACEFUL SETTLEMENT

But, while the great powers and the United Nations cannot impose peace, they can encourage it. They can refrain from acts which threaten the tenuous first steps which reasonable men and women on both sides have taken.

While ensuring that the State of Israel never is subject to military blackmail from neighboring enemies, we must also recognize that, although there is a widespread hostility to Israel in the Arab world, the Arab peoples and the Arab states are not a monolith.

UNDERCUTTING AMERICAN EFFORTS THREATEN PEACE

Those who would undermine either American role—be they critics from the right or the left—increase the threat to Israel, and to world peace, in the Middle East.

Sometimes such action takes the form of destroying America's credibility as a world power that honors its global commitments; sometimes it takes the form of trying to weaken our strength as a military power in an age when strength is still the final guarantor of peace; and, sometimes, whether it takes the form of a new spirit of isolation and disengagement—of turning our back on our friends and allies around the world and burying our head in the sand—whichever of these forms it takes, the result will always be the same.

The result will play into the hands of those who would see Israel cut off and helpless—of those who would see the birthplace of our Judeo-Christian culture become a scene of new desolation and destruction.

RISK OF GLOBAL TRAGEDY

It would be the greatest tragedy of recorded history if the cradle of three great religions—Judaism, Christianity and Islam—should be the cockpit of a third, and probably a last, world war.

The Republican Party and the Nixon Administration are pledged never to let this happen, as long as it lies in our power to prevent it.

This means both maintaining Israel's defensive strength and encouraging the kind of moderate, fair-minded climate in which men of good will on both sides can meet and reach accord.

ARAB MODERATES ENDANGERED

There are good men and bad—many honest seekers of peace—in some Arab capitals.

Indeed, we have seen cases when the extremists of the Arab world have turned their wrath away from Israel and attempted to destroy more than one moderate Arab leader in the past—most recently, in the case of Jordan's King Hussein.

Fortunately for the prospects of peace and stability, that attempt failed. Just as the Nixon Administration has demonstrated its determination to make available to Israel the arms and material needed for a secure defense, the American naval presence in the Mediterranean was a powerful factor in helping end the Syrian invasion and in preventing an extremist takeover of Jordan.

The efforts of Secretary Rogers to preserve the reputation of the United States as an honest broker in the Middle East is important to the long range security of Israel. Secretary Rogers is in the Middle East tonight to bring what influence he may have to bear on both Egypt and Israel in the cause of peace. Of course, he recognizes, that there are many difficulties that lie ahead before we can be sure of peace in this area. However, I think that I should

point out that since last June when Secretary Rogers first undertook new peace negotiations, there has been more progress made involving both parties than at any time in the last four or five years. It is well to remember also that it has now been nine months since there has been any shooting in this area. No one in this Administration is predicting any such thing as a major breakthrough in peace negotiation but I have been assured that Secretary Rogers has high hopes of narrowing areas of difference between Israel and Egypt. If he can accomplish this, his trip will have been worthwhile and perhaps it will even allow us to predict some degree of confidence that President Nixon's dream of a generation of peace will not founder.

SEEKING PEACE

Seek peace and pursue it, we are told in the 34th Psalm, for "the eyes of the Lord are upon the righteous, and his ears are open unto their cry."

It is the young, the innocent on both sides who have paid the greatest price in a generation of hatred and violence in the Middle East. For 23 years their prayers for peace have gone unanswered.

PEACE CANNOT BE WON OVERNIGHT

Strife that has lasted this long cannot be expected to end overnight. Ending it will be a long, hard business. But we must continue "to seek peace and pursue it", in the words of the Old Testament.

For until there is real peace, there will be no rest for anyone in the Holy Land, and no real security from war for all the peoples of the World.

Israel must and shall survive as a free nation. But beyond bare survival, let us work for the day when a generation of Arab and Israeli children can be born into a world at peace—a world in which old enmities and injustices no longer poison the chances for peaceful development and cooperation.

NOT AN UNATTAINABLE DREAM

To some, this may seem an unattainable dream. But, then, there were many who scoffed at the idea of creating a State of Israel in the first place. They said that, too, was impossible.

Yet today, the State of Israel is a strong and proud reality. If that dream of countless centuries could be turned to reality; if the desert could be made to flower—surely peace is not an impossible goal.

I do not believe so, and the Nixon Administration does not either.

Your strength and understanding can help to make it a reality.

A REVERSAL OF POLICY ON FUNDING FOR AOA

Mr. CHURCH. Mr. President, I am pleased to report to you today that the Secretary of Health, Education, and Welfare announced, during a Senate hearing this week, that the administration's proposed cutbacks in funding for the administration on aging would be rescinded. This is indeed a cause for satisfaction when one considers the consequences that the cutbacks would have had. Now, rather than cutting funds from the program, the administration has said it will seek \$10 million in excess of its original request of \$29.5 million.

This is far short, however, of the \$105 million authorized by Congress.

The hearings, conducted jointly by the Senate Special Committee on Aging and

the Subcommittee on Aging of the Senate Committee on Labor and Public Welfare have emphasized in detail the disastrous effects upon the community service programs, the outstanding Foster Grandparent program, and research and training efforts that a reduction in funding would have had. The AOA has been limping along on a pitifully small budget of \$32 million when the administration proposed cutting that amount to \$29.5 million.

Now, in what can only be termed a significant reversal of policy, the administration has taken a course that our two committees have advocated all along. Not merely restoring the budget to its original amount, but increasing it by several million more.

Considering that the amount of money we spent in Vietnam in the last 6 weeks alone would have funded all of the AOA programs at the authorized level of \$105 million per year for the rest of this century, or that the amount we gave the Greek junta for military aid for this year alone was twice the amount the administration originally proposed giving to our own aged Americans through the AOA programs, I can only express relief at this recent change of events.

Even so, there remains much to be done for the Nation's elderly. Because the AOA has been submerged deeply in the Federal bureaucracy and several of its most promising programs stripped of importance by diverting them to other agencies, we cannot consider the battle won till the elderly have been credited with the importance and influence intended by Congress in enacting the Older American's Act of 1965.

To this end, I shall be naming a bipartisan advisory committee to present recommendations to the Senate for a successor agency to the Administration on Aging.

Mr. President, I also ask unanimous consent that a table explaining the new proposed budgetary requests be included at this point in the Record.

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

ADMINISTRATION ON AGING BUDGET
[In thousands]

	Original fiscal year 1972 budget	Revised fiscal year 1972 budget	Net in- crease	Authori- zation
Community programs.....	\$5,350	\$9,000	\$3,650	\$30,000
Planning and operation....	4,000	4,000	—	5,000
Model projects.....	4,000	5,200	1,200	10,000
Foster grandparents.....	7,500	10,500	3,000	25,000
RSVP.....	5,000	5,000	—	15,000
Research and demonstration.....	1,800	2,800	1,000	20,000
Training.....	1,850	3,000	1,150	—
Total.....	29,500	39,500	10,000	105,000

MAIL SHOULD BE CARRIED ON AMTRAK PASSENGER TRAINS

Mr. METCALF. Mr. President, yesterday the distinguished Senator from Idaho (Mr. CHURCH) introduced S. 1666

which I cosponsored. In conjunction with his statement, and his bill to provide that mail shall be carried on a priority basis on Amtrak passenger trains, I ask unanimous consent that a table listing the 1969 mail revenue received by the Burlington Northern Railroad be printed in the Record.

I believe that Senator CHURCH is absolutely right in saying that this mail should not be carried on freight trains when there is an Amtrak route that could be used. This source of revenue should clearly be assigned to the passenger corporation in lieu of additional outright subsidy.

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

Railroad:	All mail revenue	Mail in freight service	Mail in passenger service
CBQ.....	\$8,476,088	\$5,770,726	\$2,705,362
GN.....	9,156,745	1,471,946	7,684,799
NP.....	1,816,466	791,280	1,025,186
B.N.....	19,499,299	8,033,952	11,415,347

DEFENSE OF FBI'S 8,000 SPECIAL AGENTS

Mr. PELL. Mr. President, I speak today on behalf of what is probably an unpopular cause in Congress. However, I feel impelled to do so because of recent events and statements that have been made concerning the Federal Bureau of Investigation. I do this in full knowledge that my statement on this matter could well be misunderstood, that it might be said that my statement today infers or implies an endorsement of political surveillance, support for wire tapping, and the continuance of the 76-year-old director of the bureau, J. Edgar Hoover, in office. This is not the case. When asked recently in my own State of Rhode Island if I thought Director Hoover should retire, I said:

Seventy-six is a good age to retire.

I do not like nor do I support political surveillance except in matters of espionage. I do not believe in wholesale wire tapping without court order, again, except in espionage. However, this criticism or any criticism about the policies of the Federal Bureau of Investigation should be directed specifically at the Attorney General and the administration. I think it serves no useful purpose whatsoever to impugn the motives and efficiency or to destroy the reputation of almost 8,000 special agents in the Federal Bureau of Investigation.

I ask unanimous consent to have printed at this point in the Record a summary of statistics for the 1970 fiscal year which clearly details the activities of the Federal Bureau of Investigation, the convictions of 13,245 criminals, fines imposed of over \$2¾ million, the savings and recoveries of over \$408 million in goods and the location of 30,318 fugitives.

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

SUMMARY OF STATISTICS FOR THE 1970 FISCAL YEAR

Classification title	Convictions	Actual suspended and probationary sentences ¹				Fines imposed	Savings and recoveries	Fugitives located
		Years	Months	Days				
Total	13,245	47,143	10	6	\$2,754,878	\$408,219,221	30,318	
Admiralty matters						16,495,606		
Antiracketeering	12	81	6		10,000	4,175	11	
Antiriot laws	5	25			25,000		8	
Antitrust	55	22	3		1,159,600	23,926,796		
Ascertaining financial ability						2,765,931		
Assaulting or killing a Federal officer	129	370	5	28	1,875		29	
Bank robbery, burglary, and larceny	1,300	14,128	11	11	56,560	3,578,587	641	
Bills of Lading Act	1	3		1		3,250		
Bombing matters							1	
Bond default	174	461	7	28	3,550	1,485	441	
Bondsmen and sureties							1	
Bribery and conflict of interest	28	58	10	1	25,350	1,635,443	5	
Civil rights	18	54			4,000		5	
Civil Rights Act of 1964							3	
Contempt of court	230	55	2		64,135	2,000	4	
Copyrights	4				22,500	183,000		
Court of claims						44,024,502		
Crime aboard aircraft	31	116	2	10	2,825		17	
Crimes on the high seas	33	53	2	6	450	898,781	22	
Desecration of the flag	2		6				2	
Desertion, harboring deserters, enticing to desert	1	6				26,590	17,885	
Destruction of aircraft	10	9			3,410	2,608	3	
Destruction of interstate property	2	4						
Election laws	2				5,100			
Escaped Federal prisoners, parole, probation, and conditional release violators	478	835	7	20	3,500	19,755	2,615	
Espionage						2,926	1	
Extortion	48	218	7	13	5,750	2,000	40	
Extortionate credit transactions	2	48	6		60,500	1,676	41	
Falsely claiming citizenship	2	4	6				1	
Federal Housing Administration matters	80	179	1	1	48,900	361,866	37	
Federal lending and insurance agencies	4	17	4		1,000	101,315	2	
Federal Tort Claims Act						154,512,841		
Federal train wreck statute	2	6	5			1,100		
Fraud against the Government	95	288	4		37,534	17,616,980	54	
Government and Indian reservation matters	1,482	2,427	2	16	54,828	176,587	443	
Harboring fugitives	6	22	6				16	
Illegal wearing of uniform and related statutes	101	60	1	22	2,290	3,572	19	
Impersonation	25	50	3		625	6,725	28	
Interception of communications	2	8			1,000		1	
Interstate obscene or harassing telephone calls	2	6	6				1	
Interstate transmission of wagering information	5	8			8,500	30,602	24	
Interstate transportation in aid of racketeering	152	497	10	21	363,300	85,295	135	
Interstate transportation of fireworks	1				250			
Interstate transportation of gambling devices	1				500	7,000		
Interstate transportation of lottery tickets	3	2			600	3,469		
Interstate transportation of obscene matter	20	47	9		14,600	882	39	
Interstate transportation of stolen cattle	7	19			3,000	5,742	5	
Interstate transportation of stolen motor vehicles or aircraft ²	3,684	10,931	3	15	72,925	52,104,148	1,359	
Interstate transportation of stolen property	1,100	4,265	11	10	138,601	29,600,596	955	
Interstate transportation of wagering paraphernalia	5	20	6		2,500		5	
Irregularities in Federal penal institutions	30	112	3	2	1,500		2	
Kidnaping	154	662	3			1,178	42	
Labor Management Relations Act	11	11	3	3	54,100		3	
Labor-Management Reporting and Disclosure Act of 1959	16	59	10	3	5,539	5,870	5	
Mail frauds	21	70	10	16	5,400	13,400	3	
Miscellaneous	40	126	6		185	16,821,985	2	
National and Federal Firearms Acts	36	14	4	1	10,000	1,875	14	
National Bank and Federal Reserve Acts—Banks	631	1,995	8	15	101,770	12,985,047	120	
National Bank and Federal Reserve Acts—Federal Credit Union	38	118		2	5,450	89,804	15	
National Bank and Federal Reserve Acts—Savings and Loan	43	147	8	1	850	262,850	9	
National Bankruptcy Act	20	47	6		8,300	53,461	10	
Neutrality Act and related statutes	3	10			35,000			
Obstruction of justice	9	23	6	1		1,782,865	17	
Passports and visas	1	5			300			
Perjury	20	70	4	1	20,500		6	
Renegotiation Act						11,050,000		
Selective Service Act, 1948	923	3,018	1	5	35,000		1,592	
Switchblade Knife Act	1	1	6					
Theft from interstate shipment	1,013	3,153	7		128,242	15,126,694	535	
Theft, embezzlement, or illegal possession of Government property	936	1,756	11	22	58,334	1,250,050	230	
Unlawful flight to avoid prosecution, confinement or the giving of testimony	1	5				105,204	2,754	
Veterans' Administration matters	7	29			500	15,803	3	
Welfare and Pension Plans Disclosure Act	5	22	4		47,500	459,304	8	
White Slave Traffic Act	36	181	2	1	31,350		49	

¹ Life sentences—14 (kidnaping—4; Government and Indian matters—7; assaulting or killing a Federal officer—2; bank robbery, burglary, and larceny—1). Death sentences—none. ² Autos recovered—30,599.

Mr. PELL. Mr. President, I would hope that those who have become recent critics of the Bureau should say to themselves:

What agency of government, what law enforcement group would I call if a child were kidnapped . . . if a car were stolen by an interstate ring . . . if a legitimate businessman were being subjected to extortion threats?

Those who are heaping unfounded criticisms on the FBI agents should ask themselves this question, "What is to take the place of the FBI if it is destroyed as an effective investigative organization?"

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a newspaper article entitled "FBI Back to Normal, Catching Suspects and Keeping Mum," in the New York Times of Monday, April 19.

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

[From the New York Times, Apr. 19, 1971]
FBI BACK TO NORMAL, CATCHING SUSPECTS AND KEEPING MUM
 (By Robert M. Smith)

WASHINGTON, April 18.—"It's business as usual, no problems at all. We're just going about normal tasks."

That is the way Thomas E. Bishop, an assistant director of the Federal Bureau of Investigation, described the mood of the bureau at the end of one of the stormier weeks in its history.

Indeed, it appeared like business as usual. In the middle of the week the bureau captured one of its "10 most wanted" criminals, a suspected murderer, in Pacifica, Calif. And after an outpouring of wrath six weeks ago by Senator George McGovern, when the South Dakota Democrat sharply criticized the bureau, traditional silence reigned in the half of the Justice Department building occupied by the F.B.I.

Using the low-profile bureaucratic style, he has employed for most, if not all of the 46 years he has run the place, John Edgar

Hoover sat in the fifth-floor office granting no interviews, making no statements and taking none of the proffered opportunities to defend himself against criticism that by week's end had a most unusual stridency.

Mr. Bishop, who heads the bureau's crime records division, is also its chief public relations man. When he was not in a series of frantic meetings last week with Justice Department and F.B.I. officials, he passed out a succession of no comments to a growing band of pesky newsmen, telling at least one of them that the newsmen was not "supposed" to seek talk with bureau officials other than himself.

DEPENDING ON GOODWILL

It was clear that the bureau had returned to its traditional policy of silence, depending on its friends in Congress and the executive branch and, more importantly, on the reservoir of trust and goodwill among the American people that Mr. Hoover believes he has built.

The question for those charting the mood of the bureau is why it reverted to silence after venting no little wrath on Mr. McGovern.

The reversion comes at a time when even some of his supporters are saying Mr. Hoover may be in his most serious trouble. There is a feeling that the critics may be draining, gallon by gallon, reservoir of goodwill built over the years with the arrests in the 30's of gangsters, in the 40's of Nazi spies, in the 50's of Communists and in the 60's of the Rev. Dr. Martin Luther King Jr.'s assassin, James Earl Ray.

Part of Mr. Hoover's problem seems to be that, even if the bureau remains silent, its critics do not. They came in last week with still more troublesome allegations that the F.B.I.'s 7,910 special agents (108 from non-white minority groups) were doing things they should not.

Representative Hale Boggs of Louisiana, the House majority leader, charged on April 6 that the bureau was tapping Congressmen's telephones.

Next, Senator Edmund S. Muskie, the Democratic Presidential aspirant from Maine, released an F.B.I. report showing that the bureau had engaged in surveillance of Earth Day, an antipollution rally held here a year ago. And then it was discovered that the bureau had—with court approval—sent an informer into the office of Representative John Dowdy, Democrat of Texas, with a hidden tape recorder and had recorded telephone conversations between the informer and Mr. Dowdy.

ANDERSON AND M'GOVERN

These disclosures piled atop criticism of the bureau by Representative William R. Anderson, Democrat of Tennessee, last November and Senator McGovern in January.

Mr. Anderson chastised Mr. Hoover for telling a Senate subcommittee that the Rev. Philip and Daniel J. Berrigan were the leaders of a group plotting to kidnap a Presidential aide and damage Government buildings in Washington.

Senator McGovern called for an investigation of Mr. Hoover's "persecution" of John Shaw, an F.B.I. agent dismissed for writing a letter on the strength and shortcomings of the bureau.

After his speech, Senator McGovern received and entered in the Congressional Record an unsigned letter purportedly written by 10 F.B.I. agents that derided what they said was a Hoover cult of personality in the bureau.

That did it for the bureau. Senator McGovern received a stream of 21 letters that made it clear that events had not altered the loyalty of the F.B.I. leadership to Mr. Hoover. The letters also made it clear that the bureau's top executives regarded the Senator's statements as the smears of a headline hunting politician.

Clyde A. Tolson, the associate F.B.I. director, wrote: "You are not the first person I have encountered during almost 50 years in Washington whose ambition has far exceeded his ability."

'CHAMPION OF PRIVACY'

Ivan W. Conrad, an assistant director wrote: "The vast majority of Americans know from long years of experience that there is neither now nor has ever been a greater champion of their personal privacy and personal freedom than Mr. Hoover."

Some of the letter-writers showed sensitivity to the issue of their director's age. James H. Gale, another assistant director, wrote: "Far from being senile, his mind is as razor sharp as it was when I first talked to him 20 years ago."

William S. Tavel, an assistant director, wrote that the anonymous agents had "failed to specify even one case where the bureau's responsibilities have been neglected. They cannot do so truthfully because none have been," he added.

Senator McGovern entered all of these letters in the record noting that they had all been written by members of the bureau's hierarchy. Then there descended on him 200 more letters, this time from F.B.I. agents, secretaries, inspectors and clerks.

The Senator said that many of the letters followed the same pattern and used similar stationery. He suggested that they had all been inspired.

Thus, the bureau brought in cannon for use against Senator McGovern and his anonymous evidence. But it tried no such thing with Senator Muskie or Representative Boggs or Senator Edward M. Kennedy. The Massachusetts Democrat quietly said in answer to a question one night that he too thought Mr. Hoover should retire.

In the meantime, President Nixon stayed out of the fray for 10 days after Mr. Boggs made his charges, and when he did speak out directly he refused to say how long he intended to keep Mr. Hoover in his post.

The widely accepted view here is that the White House now finds Mr. Hoover an embarrassment and would in fact love to edge him out of his job if it could do so gracefully. The problem, in this view, is that the harder the Democrats attack the director, the harder it is for Mr. Nixon to seem to capitulate by retiring him.

Last Friday, President Nixon told newsmen that he would not discuss Mr. Hoover's tenure, but he said he believed "it would be most unfortunate" to allow him "to go out under a cloud, maligned unfairly by many critics."

The President also suggested that the critics might be hurting their own cause. Knowing Mr. Hoover, he said, he believed the effect of the criticism would be "not to hasten his retirement but to have him dig in."

A SHIFT BY MANSFIELD

Two events have shifted the opinion of some officials here who initially discounted the unsubstantiated charges by Mr. Boggs. These were the disclosure of the surveillance of Representative Dowdy.

Thus, Senator Mike Mansfield of Montana, the majority leader, first criticized Mr. Hoover's detractors, then conceded he was having second thoughts and called for a Congressional investigation.

Today, Senator Sam J. Ervin Jr., chairman of the Subcommittee on Constitutional Rights, said he had seen no evidence of illegal acts by the F.B.I. and would not make it a target of his inquiry on Governmental surveillance unless he first saw such evidence.

Even if a Congressional investigation were begun it is unclear how far it would go. Representative Roger H. Zion, Republican of Indiana, said today that the criticism of Mr. Hoover has been initiated by Communists.

Still other Congressmen may be worried about the bureau but are also worried about becoming involved in a dispute with it. Sophisticated lawyers in government and on its fringes contend that many officeholders believe that the bureau has files with material on the personal peccadilloes of people in government and were—justifiably or not—afraid of being blackmailed.

In addition, Mr. Hoover has many friends on Capitol Hill, including Senator Hugh Scott of Pennsylvania, the minority leader and Representative John J. Rooney, the Brooklyn Democrat who heads the House appropriation subcommittee that oversees the F.B.I.'s budget.

Finally, no investigation would take place on Capitol Hill if Congressmen felt their constituents were not aroused. And it is precisely in these constituents—the public at large—that the bureau is placing its confidence.

This is probably why Mr. Bishop, the F.B.I. press relations man, urged a reporter not to interview "figureheads" in Washington "Get out," he counseled, "and talk with John Q. Citizen in Des Moines, Iowa."

Critics of the bureau are saying that the public is concerned enough about the charges to warrant at least an investigation. Ronald L. Ziegler, the President's press secretary, seemed to detect some of this mood last week. He said he found it distressing that "there is an impression that is creating a feeling of fear among the people that they are being spied upon."

Mr. PELL. Furthermore, Mr. President, I should like to point out that from my own State of Rhode Island a total of over 30 law enforcement officers have graduated from the Federal Bureau of Investigation's National Academy and one additional officer, Lt. John J. Leyden, of the Providence Police Department is presently attending the 87th session which commenced on April 12 and will graduate on June 30, 1971. Of the 30 graduates, 14 are still active in law enforcement and 15 have retired from active service and only one is no longer connected with any law enforcement agency.

I can remember vividly when Capt. Paul Sullivan, from my own city of Newport, went through the academy and expressed to my office the benefits gained from the instruction received there.

During the calendar year 1970 the Federal Bureau of Investigation participated in 11 police training schools in the State of Rhode Island attended by 370 law enforcement officers. In the first 3 months of this year the Federal Bureau of Investigation has participated in 10 schools attended by 430 law enforcement officers. The FBI laboratory in the fiscal year 1970 made a total of 96,059 examinations of evidence for non-Federal law enforcement agencies and this includes 582

What I am attempting, Mr. President, examinations of evidence submitted by Rhode Island law enforcement agencies, to bring out is that the Federal Bureau of Investigation is charged with many responsibilities. The special agents of the FBI have a reputation for being non-partisan, for treating the information they obtain in a confidential manner and for fulfilling their duties in a circumspect manner. I would hope that they would not wind up the scapegoats for policies relating to political surveillance and wire tapping by the Justice Department and this administration. Therefore, Mr.

President, I would ask that my colleagues, who are concerned about the present-day activities of the Federal Bureau of Investigation, remember its long history as an old-line trusted and highly efficient agency of Government under Director Hoover. Certainly this agency, as well as any agency of Government, is subject to the scrutiny of a democratic society. We should not forget at the same time that we should not tarnish the loyal career service of its employees, special agents, and clerks.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

VISIT TO THE SENATE BY MEMBERS OF THE CONGRESS OF THE REPUBLIC OF MEXICO

Mr. MANSFIELD. Mr. President, I wish to call to the attention of the Senate at this time the presence in this Chamber of a number of distinguished guests, fellow parliamentarians from the Republic of Mexico. It is a personal pleasure for me to introduce to the Senate on this occasion a number of old friends, friends whom we will be seeing toward the end of next month in Mexico at the 11th meeting of the Mexico-United States interparliamentary meeting, friends who have done a great deal to bring about a better understanding between our two countries, based on mutual trust, dignity, equality, understanding, and accommodation.

Our distinguished guests are Deputy Octavio Senties Gomez, Deputy Santiago Roel Garcia, Deputy Oscar de la Torre Padilla, Senator Luis M. Farias, Senator Miguel Angel Barbarena Vega, Senator Guillermo Morales B., and Deputy Leon Michel.

[Applause, Senators rising.]

RECESS

Mr. President, I ask unanimous consent that there be a brief recess for the purpose of greeting our visitors, and that I be recognized when the Chair calls the Senate to order.

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

Thereupon, at 12:35 p.m. the Senate took a brief recess.

At the expiration of the recess, the Senate reassembled, when called to order by the Presiding Officer (Mr. STEVENSON in the chair).

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE COMMUNICATION

Mr. MANSFIELD. Mr. President, I wish to call up some unobjected to items on the calendar.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 79, S. 699. I understand three items have been cleared.

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

The assistant legislative clerk read the bill by title, as follows:

S. 699, to require a radiotelephone on certain vessels while navigating upon specified waters of the United States.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 1, in line 10, after the word "frequency", insert the words "or frequencies";

On page 2, in line 19, after the word "length", strike out the words "at the waterline";

On page 3, in line 15, after the word "maintain", strike out the words "or cause to be maintained";

On page 3, at the end of line 23, after the word "it", insert the words "or cause it to be restored";

On page 5, in line 3, after the word "of", insert the words "not more than"; and

On page 5, at the end of line 13, strike out the date "March 1, 1971," and insert in lieu thereof the date "May 1, 1971,"; So as to make the bill read:

S. 699

A bill to require a radiotelephone on certain vessels while navigating upon specified waters of the United States

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 "Vessel Bridge-to-Bridge Radiotelephone Act".

Sec. 2. It is the purpose of this Act to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station. To effectively accomplish this, there is need for a specific frequency or frequencies dedicated to the exchange of navigational information, on navigable waters of the United States.

Sec. 3. For the purpose of this Act—

(1) "Secretary" means the Secretary of the Department in which the Coast Guard is operating;

(2) "power-driven vessel" means any vessel propelled by machinery; and

(3) "towing vessel" means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

Sec. 4. (a) Except as provided in section 7 of this Act—

(1) every power-driven vessel of three hundred gross tons and upward while navigating;

(2) every vessel of one hundred gross tons and upward carrying one or more passengers for hire while navigating;

(3) every towing vessel of twenty-six feet or over in length while navigating; and

(4) every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels—

shall have a radiotelephone capable of operation from its navigational bridge or, in the case of a dredge, from its main control station and capable of transmitting and receiving on the frequency or frequencies within the 156-162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) The radiotelephone required by subsection (a) shall be carried on board the

described vessels, dredges, and floating plants upon the navigable waters of the United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.

Sec. 5. The radiotelephone required by this Act is for the exclusive use of the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel, who shall maintain a listening watch on the designated frequency. Nothing contained herein shall be interpreted as precluding the use of portable radiotelephone equipment to satisfy the requirements of this Act.

Sec. 6. Whenever radiotelephone capability is required by this Act, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practical time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this Act, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

Sec. 7. The Secretary may, if he considers that marine navigational safety will not be adversely affected or where a local communication system fully complies with the intent of this concept but does not conform in detail, issue exemptions from any provisions of this Act, on such terms and conditions as he considers appropriate.

Sec. 8. (a) The Federal Communications Commission shall, after consultation with other cognizant agencies, prescribe regulations necessary to specify operating and technical conditions and characteristics including frequencies, emission, and power of radiotelephone equipment required under this Act.

(b) The Secretary shall, subject to the concurrence of the Federal Communications Commission, prescribe regulations for the enforcement of this Act.

Sec. 9. (a) Whoever, being the master or person in charge of a vessel subject to this Act, fails to enforce or comply with this Act or the regulation, hereunder; or

Whoever, being designated by the master or person in charge of a vessel subject to this Act to pilot or direct the movement of the vessel, fails to enforce or comply with this Act or the regulations hereunder—

Is liable to a civil penalty of not more than \$500 to be assessed by the Secretary.

(b) Every vessel navigating in violation of this Act or the regulations hereunder is liable to a civil penalty of not more than \$500 to be assessed by the Secretary for which the vessel may be proceeded against in any district court of the United States having jurisdiction.

(c) Any penalty assessed under this section may be remitted or mitigated by the Secretary upon such terms as he may deem proper.

Sec. 10. This Act shall become effective May 1, 1971, or six months after the promulgation of regulations which would implement its provisions, whichever is later.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc; and, without objection, they are agreed to en bloc.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the proviso that I retain my right to the floor. I am awaiting the coming into the Chamber of the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. 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. MANSFIELD. Mr. President, I offer an amendment which I believe is at the desk, or, if not I will send it up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new title:

SEC. (a) That section 401(a) (1) of the Rail Passenger Service Act of 1970 be amended by striking out "May 1, 1971" each place it appears and inserting in lieu thereof in each such place "December 1, 1971".

SEC. (b) That section 401(b) of such Act is amended by striking out "May 1, 1971" each place it appears and inserting in lieu thereof in each such place "December 1, 1971".

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

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I derive no satisfaction in using this legislative procedure to endeavor to bring justice and consideration, not only to the people of my State, whom I represent primarily, but to the people of the areas throughout the country which have been deprived of rail transportation, or where passenger transportation has been curtailed too drastically.

I approve completely of what Amtrak has done up to this time, but, like the distinguished Senator from Washington, I think that there are other lines, international and national, which should be given consideration and which should be added. I am not under any illusion, I wish to assure my colleagues. I have read the decision of Judge Corcoran this morning. That decision, which was adverse has now been appealed, and we will await a decision of the appellate court, hopefully later today. I know also that the House of Representatives is not in session today. I recognize that under the law, Amtrak goes into operation at 12:01 a.m. tomorrow morning.

But I intend to join with my colleagues, the distinguished Senator from Montana (Mr. METCALF), the distinguished Senator from Wyoming (Mr. MCGEE), the very distinguished chairman of the Committee on Commerce, which has legislative authority over all forms of transportation, and others, in doing what I can, if at all possible, to bring about a rectification of this situation, to the end that those of us who think we have legitimate grievances—and all of us know we have them—will hopefully be given some consideration.

I happened to read in the New York Times this morning an article written by Christopher Lydon, entitled "Rail Men Face Job Disruptions When Amtrak's Service Starts."

They certainly do. I do not know how they are going to get out of this crisis in which they find themselves. While we

have, to the present time, appropriated only \$40 million to Amtrak, of which \$2 million to \$4 million have been spent, I noticed, after the plan was announced, that the railroads came in and asked for a subsidy of \$36 billion over the next 10 years—\$36 billion—and for the first year I think they were being very considerate; all they wanted was \$600 million. Well, they do not lose anything like that on all the passenger routes of the country combined, and I would hope that the Senate, which is supposed to represent the people, will see to it that the intent of Railpax, Amtrak, or whatever you want to call it, is carried out.

I feel, as I have said before, that the members of the board, or the corporation, as I believe it is now called, are all honorable and decent people. I would hope that they would show some understanding, and I would hope that in the meantime, something could be done to bring about relief for those of us who seek it, because we have a right here in the Senate to assemble peaceably, and we have a right here in the Senate to seek a redress of grievances, and I speak for Montana, the Rocky Mountain West, and the Midwest, when I say that we are entitled to this consideration. States like Idaho, Wyoming, South Dakota, Montana, portions of Washington, Vermont, New Hampshire, Maine, cities like Cleveland and Tulsa and a good many others—all of these are without passenger rail service or very little passenger rail service.

This is a momentous issue. There are thousands of people in my State, Republicans and Democrats, who are behind the efforts of Senator METCALF and me to bring about, if at all possible, a continuation of service on the southern route, the Northern Pacific, and also on the Short Line, the route between Butte, Montana, and Salt Lake City, Utah.

This is not small potatoes. This is something which the people of Montana are unitedly, wholeheartedly for. That is what we are advocating. Not much; just to continue the Northern Pacific through Minnesota, North Dakota, across the 700 miles of the State of Montana, through Idaho, through the State of Washington, and the Short Line from Butte which serves southern Montana, southern Idaho, and the Ogden-Salt Lake area in Utah.

This is all I have to say at the present time, Mr. President, though I believe I shall have a few more remarks to make later.

I ask unanimous consent that the article to which I have referred, appearing in today's New York Times, which gives a pretty good description of how the workingmen are going to be affected if Amtrak goes into operation on its present basis, be printed in the RECORD at this point.

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

RAIL MEN FACE JOB DISRUPTIONS WHEN AMTRAK'S SERVICE STARTS

(By Christopher Lydon)

WASHINGTON, April 29.—For railroad labor, the National Railroad Passenger Corporation's

start of Amtrak service this weekend is the start of another painful series of job losses and disruptions.

Thousands of men who spent most of a lifetime working up to the "red apple" jobs on passenger trains will now "bump back" into freight jobs, in the jargon of railroad men. Many young freight workers at the bottom of the seniority scale will "fall out of the tree" altogether.

Job statistics involved in the Amtrak transition are disputed. Amtrak officials, including Charles Luna, a member of the board, who is also president of the United Transportation Union, says that the new service will eliminate 16,000 jobs.

Labor lawyers put the loss as high as 26,000 jobs. Railroad spokesmen say that, because many older workers will now choose retirement, the actual displacement will be minimal.

Union lawyers await a decision tomorrow on a suit they have filed asking an indefinite postponement of Amtrak service. In the Senate, a move is under way to force a similar postponement by legislation.

Correspondents who studied the major passenger terminals from Buffalo to Butte, Mont., for The New York Times were told that, even after the date of Amtrak's start is resolved, it will be another six weeks to six months before the chain reaction of job losses is complete and the results are clear.

They also found that, enough job protection—including up to six years' pay for idle workers—sounds lavish, the hardships are real.

James G. Robinson of Omaha, a 58-year-old dining car waiter who quit law school in the Depression for the "security" of a railroad job, made his last Union Pacific trip to Ogden, Utah, and back this week.

"Even if I would get severance pay, I won't be working over the tables," said Mr. Robinson. "I've got a sick wife. I can't ignore the fact that gratuities have played a significant part of my income. Tips help make up the difference in my life between a standard wage and an average wage."

Everett Devour lives in Billings, Mont., and works as a brakeman and conductor on the North Coast Limited, one of the crack passenger trains between Chicago and Seattle that was conferred by merger on the Burlington Northern Railroad but that Amtrak has decided to drop.

Mr. Devour, who had a heart attack three years ago, is 60 years old—four and a half years short of retirement. In passenger service, he has every third day off, but in freight he would have to work seven days a week.

He cannot afford to reduce his pension by taking early retirement, he says, and he does not want to leave Billings, but the next available job is in Livingston, 116 miles away. The railroad's offer to buy the homes of transferred workers was recently withdrawn, so Mr. Devour faces the task of selling his house himself.

PUZZLED AND WORRIED

In St. Paul, a 60-year-old brakeman is puzzled and worried. "Unless I get a disability pension, I'm hurting," he said. "I can't afford to retire yet, and I don't know if I'm up to chasing boxcars any more."

On the eve of Amtrak's debut, basic questions about the dimensions of the new passenger network are still unresolved in Washington.

In Federal District Court this morning, union lawyers said that a loophole in the protective arrangement would let railroads put the blame for lost jobs on factors other than Amtrak service reductions.

Judge Howard F. Corcoran took a union appeal for postponement of Amtrak's service under advisement. He said he would announce a decision early tomorrow, in time for recourse to the United States Court of

Appeals for the District of Columbia before Amtrak's scheduled start at 12:01 A.M. Saturday.

Meanwhile, the Senate Commerce Committee, reversing the pledge of its chairman, Senator Warren G. Magnuson of Washington, to press for a Congressional postponement of Amtrak's inauguration, voted instead to study the possibility of adding extra subsidies and extra routes to the basic network of 186 trains that the corporation has pledged to operate.

THREAT BY MANSFIELD

The Senate majority leader, Senator Mike Mansfield of Montana, who has pleaded in vain with Amtrak officials to save the train through the larger cities of his home state, announced that he would keep the Senate in unscheduled session tomorrow to debate his bill for a seven-month delay of Amtrak's introduction.

Senator Vance Hartke of Indiana, the Commerce Committee's railroad specialist and a co-author of the bill that created Amtrak (formerly known as Railpax) last year, hinted that the corporation would voluntarily restore Montana route and the service to Cumberland, Md.

Amtrak is unwilling to put those routes into the basic network, Senator Hartke suggested to newsmen, because it would then be obliged to operate them for at least two years, regardless of patronage. After this weekend, he said, the corporation will be free to add the same routes on an "experimental" basis.

There were other signs today that the initial Amtrak service would be somewhat larger than the corporation had proposed. In Massachusetts, Gov. Francis W. Sargent was prepared to sign a bill that would subsidize continued daily service between Boston and Springfield.

BUFFALO AND CHICAGO

In Albany, a similar bill to commit state funds for two-thirds of the deficit for a train between Buffalo and Chicago was before the Legislature, drafted by the New York Department of Transportation though not yet formally endorsed by Governor Rockefeller.

Ohio and Michigan officials have already pledged to raise their share of the required subsidy to maintain train connections between Buffalo and Detroit and keep service to Cleveland alive.

Pennsylvania and Indiana, which would also be expected to share the Buffalo-to-Chicago deficits, have not yet acted. Even so, one Amtrak official said today, the expressions of state support are sufficiently earnest to warrant continuing that run—once a vital corridor of the old New York Central Railroad—after May 1.

Even after such additions, and even if the quality of Amtrak service brings a revival of passenger traffic, the trend of railroad employment—now under 600,000, or about a third of the 1.7 million railroad jobs before World War I—continues downward.

In Buffalo, Gene Davis, 64, a railroad worker since he was 15, looks forward to retirement.

"I'm one of the last to leave," he said the other day. He was once a dining car waiter on the New York Central; since the Central and the dining cars disappeared, he has been manning a snack bar at the end of a Penn Central coach.

"All of those other men that came up with me, they're all gone," Mr. Davis said. "They're all gone."

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

Mr. MANSFIELD. I yield.

Mr. CHURCH. I strongly commend the action which the distinguished majority

leader has taken. I ask that he associate my name with his effort to secure an amendment to this pending measure.

Those of us who represent States which have been simply dropped off the map by the incorporators of Amtrak, have been trying to find a solution to this problem. Only yesterday, I appeared, together with the distinguished majority leader, before the Subcommittee on Surface Transportation of the Senate Commerce Committee, and we received a very sympathetic hearing. I was hopeful that the full Commerce Committee might find it possible to report a bill which would put over for a few months the operative date when the new Amtrak system goes into effect. Now is the last opportunity for the Senate to act in a timely fashion; and if we fail to act, it is going to be exceedingly difficult to recover from the impact when this new system is established and rail passenger service eliminated.

Mr. President, I fail to see what sense it makes for Congress to establish a quasi-public corporation for the purpose of furnishing the American people with rail passenger service, to finance that corporation with public money, and then to lie back and accept a system which provides no service at all to a half dozen States with a population of more than 4 million people and only token service to many other States, such as my own.

In Idaho, one town will receive passenger service, a community in the Northern Panhandle of Idaho, which originally was not even scheduled for a flag stop until the Idaho congressional delegation protested vigorously that Idaho had been entirely forgotten. In return Idaho was given passenger service to Sand Point, which happens to be on the railroad track en route to Spokane.

I am happy that the people of Sand Point, a community of 4,200, are going to get this service. But Sand Point is more than 500 miles from the State capital of Idaho and from all other major population centers of the State.

In practical effect, Idaho simply has been dropped off the Amtrak map.

The same is the case for the States of Montana, Wyoming, South Dakota, Arkansas, New Hampshire, Vermont, and Maine—States where the people are just as entitled to the convenience and reliability of rail passenger service as the people of any other State.

If the standard that Amtrak is to follow is going to be the same as the standard followed by the railroad companies, and every passenger line that does not show a profit is going to be stricken from the system, why did we pass the bill? Why are we using public money ostensibly for the purpose of furnishing the people with passenger service? If this is to be the standard, then we should never have passed the enabling legislation in the first place, and simply permitted the railroad companies to proceed with the cancellation of service and the elimination of every line that did not show a profit on the railroad books.

We can have it one way or the other, but the worst way to have it is to set up

a corporation and supply public money and then fail to provide a basic service to the people of the country. That is what has happened, much to the consternation of those of us who felt that we were going to preserve passenger service when we voted for this bill. So it is up to us to take action while there is still time.

I commend the leadership that has been given us by the distinguished majority leader, the support we have from the Senator from Montana (Mr. METCALF), and the sympathetic reception that we received from the distinguished chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON), and all others who are willing to join us on this floor in a fight to see that basic railroad transportation is preserved for the people of all the contiguous 48 States.

I hope that the amendment offered by the distinguished Senator from Montana will be agreed to, and agreed to promptly, by the Senate.

Mr. PROUTY. Mr. President, it is paradoxical that the Senator from Vermont who is completely sympathetic with the views expressed by all the speakers thus far during the debate should be in the position here of a defender of Amtrak. My section of the country has been denied passenger service. We have none whatever, and I am concerned about it. My objectives are identical with those of the distinguished majority leader, the Senator from Montana (Mr. METCALF), and others who have spoken. But I am convinced that if Amtrak is stopped now or if action is postponed for another 6 or 7 months, that will be the end of our attempt to revitalize rail passenger service, and such service over the period of the next few years will become extinct in this country.

I believe that Amtrak will operate passenger trains so efficiently that heads of railroads are going to wonder why they were so stupid in the past in failing to operate passenger service on a paying basis, instead of doing everything possible to discourage it. I have that confidence.

The law itself, section 403, reads as follows, in part:

The Corporation may provide intercity rail passenger service in excess of that prescribed for the basic system, either within or outside the basic system, including the operation of special and extra passenger trains, if consistent with prudent management.

I am confident that the Corporation is concerned. We have been given assurance by many of the individuals who will serve as directors that they intend to investigate and make a thorough study. I believe that the action taken by the Committee on Commerce yesterday is of real significance, in which we required the Corporation to make a study and report back to the Commerce Committee by June 30, with recommendations as to what train service could and can be restored. As a member of that committee, I can pledge my best efforts to help rectify the situation in Montana and elsewhere, and hopefully in my own section

of the country. I will do everything possible to bring that about.

Mr. President (Mr. SPONG), on May 6 of last year, this body passed the bill by a vote of 78 to 3. Now we are being asked to undo all of that at the last minute. Doing so would force an abrogation of all of the contracts entered into between Amtrak and the railroads—20 of the 23 passenger railroads in this country.

It seems to me that only a half dozen or so Senators have been in the Chamber. I am going to suggest the absence of a quorum, and it will be live.

Mr. METCALF. Mr. President, will the Senator yield before he suggests the absence of a quorum?

Mr. PROUTY. I yield.

Mr. METCALF. If this Amtrak provision did not go into effect tonight and a resolution such as this were adopted, the only way railroad passenger service could be discontinued would be by application to the Interstate Commerce Commission. Is that not true?

Mr. PROUTY. Yes.

Mr. METCALF. And they could go through the same procedure that had been a matter of law for all these years since the establishment of the Interstate Commerce Commission.

Mr. PROUTY. That is true. That is why we find that passenger trains have disappeared over the years, because the Interstate Commerce Commission has been unable to justify ordering their continuance.

Mr. METCALF. But sometimes the Interstate Commerce Commission has refused to permit the railroads to discontinue the passenger trains on the basis of the presentation made to them.

Mr. PROUTY. That, of course, is true.

Mr. METCALF. I want to remind the Senator that one of these instances involved the Northern Pacific, the Main Streeter, which I recall. Senator MANSFIELD and I have appeared twice before the Interstate Commerce Commission in opposition to an application to take one of the Northern Pacific trains off, and each time the Interstate Commerce Commission has refused. Yet, under this regulation, we not only lose that train but also the other train, the North Coast Limited, on Northern Pacific.

Mr. PROUTY. It is the sincere hope of the Senator from Vermont that that will not happen, except, perhaps, on a very temporary basis.

I believe that the distinguished majority leader and the distinguished junior Senator from Montana have accomplished a great deal through this debate thus far. With the prestige of the distinguished majority leader and the respect in which the junior Senator from Montana is held, I am sure the members of the Corporation will give particular consideration and thought to their views.

I assure the Senator from Montana that the Senator from Vermont will do anything and everything he can to assist them, and, hopefully, will be of some help in trying to solve these problems.

Mr. METCALF. If the Senator from Vermont will yield further, I am very much delighted to hear these words of

praise, but, regardless of the accolades, we will lose our trains at midnight tonight.

Mr. PROUTY. Hopefully, only on a temporary basis, however.

Mr. METCALF. We will lose our trains just at the beginning of the tourist season. People are beginning to travel to Yellowstone National Park. They are beginning to travel to the Grand Teton. This is the time that many tourist programs are being organized by travel agencies, and so forth. Perhaps, 3 or 4 months later, the Senator will come in and say, "Well, we will give you a park service, or something of that sort"; but the experience has been that when we lose a train we lose it forever. Therefore, if we lose a train tomorrow, I doubt very much we will ever get it back.

Mr. PROUTY. Well, let me read from the transcript of the hearings before the Subcommittee on Surface Transportation of the Committee on Commerce when the distinguished Senator from Indiana (Mr. HARTKE), on Wednesday, April 28, 1971, addressed this question to David Kendall:

Senator HARTKE. Senator Mansfield raised a question about Yellowstone. Do you think there is any possibility that sometime in the future you can provide service for a place like Yellowstone National Park? That certainly is an historic, beautiful place.

Mr. KENDALL. It sure is. And we have discussed it. As a matter of fact, one of the first things we discussed was the type of summer service we could do to Yellowstone.

Originally we discussed Yellowstone and Glacier, each with gateways—well, Glacier is all in his state, and the Livingston entrance at Gardner is in Montana. And we certainly do and we have it very much in mind, and have discussed it.

I believe they are taking this job very seriously and, may I say to the distinguished Senator from Colorado, it is because of my concern for the rail passenger service all over the country and not just in the Northeast section of the country, the three northern New England States, that I support Amtrak, otherwise I certainly would be backing the proposal offered by the distinguished majority leader. In my judgment, if Amtrak does not go into effect as it is supposed to go into effect, at 1 minute after midnight tonight, passenger service in this country in the next 2 or 3 years will be a thing of the past all over the country.

Mr. METCALF. Will the Senator from Vermont yield again?

Mr. PROUTY. I yield.

Mr. METCALF. The Senator from Vermont, with whom I served in the House and whom I very much admire in this body, knows that both the distinguished majority leader and I know he is working in the interests of railroad passenger transportation with every bit of his efforts moving in that direction; but I do want to say, before I go any further, that I know a member of the Board, Charles Loomis, and his name was not added. Former Congresswoman from Washington, Catherine May—now Mrs. Bedell—was inconsistent in her reporting how these lines were arrived at.

For example, in the Spokesman Review for the 23d of March, a newspaper printed in Spokane, Wash., it suggested that the reason Wenatchee was abandoned was that there was greater traffic through Yakima, yet Wenatchee was 67 miles shorter and 1 hour faster; but when she got to Montana—and she was very good about Montana, she said that Montana was a tough decision—the northern route is 2 hours faster, but she said that a greater proportion of the traffic generated would be in the southern route. And then she suggested that was the only reason they decided the northern route should be taken. I completely concur that there should be transportation through the northern route, but that was the only reason they decided on only one route was that—

Those fewer people in the North showered twice as many letters on us pleading for retention of their service.

As the newspapermen filed out of the office, they said, "The way to win this is to say, 'That is a hell of a way to run a railroad.'"

That is the wrong way to make decisions on where railroad transportation and railroad traffic should go. Mrs. Bedell made her decision on the basis of putting traffic through the north, but she did not use the same criteria to put the traffic through Montana. That is why we are asking for an opportunity to let the trains run at a time when they will make a profit. Every train going through southern Montana will be loaded every day.

The distinguished Senator from Vermont, if he will continue to yield, knows that this country was settled from east to west. The Northern Pacific, the Milwaukee, the Great Northern, the Union Pacific, and the Southern Pacific are all great transcontinental railroads; but there are very few transportation systems running from north to south. One of the few will be completely abandoned, the Oregon Short Line, from Butte, Mont., to Salt Lake City, Utah, through Blackfoot, Idaho. There is no other way between the Twin Cities and the Pacific coast to get from north to south in that huge western area except through this established railroad system, and yet we are going to abandon that kind of railroad passenger service for the people who live in a tremendous western area.

Mr. PROUTY. Mr. President, the comments of the Senator from Montana, which he has just presented, and which will be discussed by the distinguished majority leader as well, I am sure will be most helpful to those of us who serve on the Committee on Commerce and to the members of the Corporation. I am convinced that we will give superior railroad service, even though some of it will be discontinued temporarily. I sympathize completely with the Senator from Montana. It may be that some of these trains will be taken off temporarily, but hopefully not for a long, protracted period of time.

Mr. METCALF. Will the Senator from Vermont continue to yield?

Mr. PROUTY. I yield.

Mr. METCALF. For many, many weeks, those of us being deprived of our railroad transportation in the West have protested to the members of the Board, have protested to the Department of Transportation, and everyone else that we could get to listen to us. This is the first opportunity we really have had to get a quorum to discuss the transportation problems with which we are confronted.

It would seem to me that in this summer season where every one of the railroads will show a passenger traffic profit, if they choose to run the railroads and run the trains during the summer season, we should say to them, "Continue to run the trains. Continue to make the profit. Continue to operate the railroads and give service to the people in the vast areas that have not any service now, and then, after a study maybe we can reach an agreement, on some of these trains, that passenger service should be taken off."

We are not saying to a single railroad that I am talking about that it has to operate at a loss. Sometimes the Main Streeter operates with people in the baggage cars because there is no more room in the passenger cars to take care of these people traveling to Yellowstone Park and other parts of the country.

It would seem to me that this is exactly the wrong time to abandon these trains and exactly the wrong time to say to the people who reside in huge areas of the United States, "We will not give you passenger service." This is just as the vacation season starts and just as they want to travel into the Western areas in which they own half of the public land of the United States. It is just at this time that we are going to say, "We are not going to give you railroad passenger service into those huge areas."

Mr. PROUTY. Mr. President, I will suggest the absence of a quorum in a minute. However, I promised to yield first to the distinguished Senator from Arkansas for a brief statement. We might as well find out whether we have a quorum.

Mr. MAGNUSON. Mr. President, would the Senator yield first for a question?

Mr. PROUTY. I yield.

Mr. MAGNUSON. There is no question of time as I understand it. If this were postponed 10 days, 20 days, 60 days, or 6 months, the railroads would continue to run as they are running now. They cannot abandon any line until the ICC tells them to do so.

I do not see any great deal of harm in this. The Northern Pacific has been running over half a century.

Mr. METCALF. And every summer it makes a substantial profit over these passenger routes.

Mr. MAGNUSON. It merely means that they will continue to run all the passenger lines we are talking about until we can arrive at a reasonable agreement. I do not see why they should have to quit running them at midnight. They have been running them for years. Some of them have been operating for three-

fourths of a century. To run them for an additional 60 days is not going to make much difference.

The problem that bothers me is that I know that once they cut them off on Monday, they will say, "If you make a good case, we will put them back."

This is what the railroads have been wanting for years. They will not put them back on the tracks at all. If we can hold off until we can discuss these matters and see if we can work them out, it will be the same situation as today. The trains will be running. They cannot abandon the lines on all of the railroads. They cannot do that until the ICC gives them permission.

Mr. President, I do not see any harm in trying to work this out. It gives us a little more time. We would have had some time if they had come up 3 months ago and told us what they were going to do. However, they came at the last minute. They never discussed it with anyone. Then we received a lot of frantic telephone calls within the last 24 hours.

The ICC would allow some of the railroads to abandon some of the lines. However, most of them will be running next week and next month just as they are now. They will not quit at all. I want that to be clear. That is my understanding of the law, and I am sure that I am pretty correct about it.

Mr. PROUTY. Mr. President, I yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I associate myself with what has just been said by the distinguished chairman of the Commerce Committee.

Mr. President, as I have stated on a number of previous occasions, I strongly believe that the basic system of the National Railroad Passenger Corporation should truly be national in scope. Quite clearly the system scheduled to begin operation on May 1 is not a national system.

The people of Arkansas, as well as the people of other States and major cities that have not been included in Amtrak, are entitled to this service. I have previously cited the reasons why passenger rail service is important to Arkansas and called attention to the widespread feeling in the State that Arkansas should be included in Amtrak.

It should not be necessary to repeat this point, but one of the obvious needs in this Nation is to help bring about the orderly development of our rural and less-populated areas, which would enable us to ease the pressure on our heavily burdened urban areas. The proposed Amtrak system seems to completely ignore this basic tenet.

Even though Arkansas is not one of the most heavily populated States, it still ranks as 32d among the 50 in population. There is no reason why a growing State, with a population of 2 million, should be penalized and left without a service that could and should be increasingly important in the future.

As the Arkansas Gazette in Little Rock recently editorialized:

In Arkansas's case the inescapable indication is that pains had to be taken to exclude us. The route lines form a loop around Arkansas . . . Arkansas, in plain language, got a raw deal out of the initial routing of Railpax.

Mr. President, I feel that there is strong justification for a Chicago-St. Louis-Texas route that would service Arkansas. I think it should be recognized that there can be no fair test of profitability and utilization until the people are provided with comfortable, reliable, and efficient service.

Whatever happens with regard to the scheduled beginning of the Amtrak system, I believe that it is imperative that prompt and serious consideration be given to the expansion of this system to make it the national system it is supposed to be. One means of achieving this is the legislation—S. 1018—proposed by Senator CHURCH, which I am cosponsoring, which would require that the basic system be extended "to provide adequate intercity rail passenger service to a major population area in each of the contiguous 48 States."

Mr. President, it is obviously difficult for me to support a supposedly national system that clearly excludes my State. I shall therefore continue to support efforts to insure that Arkansas and other excluded regions are included in this system.

I repeat that I would hope that the matter could be left in status quo as the Senator from Washington has suggested until we have further time to consider the matter. It would be extremely difficult to undo. I anticipate that if this sort of action is taken and the reaction that I anticipate comes from it, there will be the development of an ever-growing demand for the nationalization of the railroads.

Mr. President, this matter came up when the Penn Central matter was before the Senate at the time they came and asked for an authorization of \$125 million. The Senate approved it.

I would hope that we do not go down that road. If this is as arbitrary as I think it is and as I believe it to be with respect to my State of Arkansas, I think there will grow a further demand and an increasing demand for the Government to generate and to develop or take over, or whatever one wants to call it, the railroad system, inspired by the necessity for passenger service.

I would hope that the matter could rest as the Senator said and that we could reach a more acceptable understanding for everyone in the United States.

Mr. PROUTY. Mr. President, I will make a brief statement and then suggest the absence of a quorum.

Mr. President, as I previously indicated, I am very sympathetic to the motives of the distinguished Senator from Montana and can well understand his disappointment with respect to the fact that his State will not be provided all of the rail passenger service which he desires. I, too, was disappointed that the only existing service in my State, that from New York and Boston to Montreal, will

be discontinued on May 1, 1971. However, I must oppose any attempt to forestall the May 1, 1971, deadline contained in the Rail Passenger Service Act because of the inevitably chaotic situation which would result from moving that date at this time.

Mr. President, I am not a lawyer but I understand that the most single important consideration for the 20 railroads who have entered contracts with the new Corporation to provide service under the direction of the Corporation was the fact that they were promised relief from the running of intercity passenger trains other than those which will be run under contract with and the direction of the Corporation. What this means as a practical matter was that the railroads were promised relief from a crushing loss of nearly \$250 million each year which they have been sustaining in providing the passenger service that it is the purpose of the legislative proposal of the Senator from Montana to require be continued for another 7 months. In the case of the Penn Central alone, I am told that losses from operating such service are in excess of \$5 million each month.

The situation confronting Penn Central was most graphically portrayed in Judge Fullan's recent decision approving the Penn Central trustees entry into a contract with Amtrak.

As I understand it, the Corporation not only has the right to request additional service but the railroads are required to preserve their lines for such use so that it will be possible for the Corporation to request such additional service at least up until July 1, 1973.

First, section 403(a) of the Rail Passenger Service Act of 1970 specifically authorized the Corporation to provide service above and beyond that contained within the basic system, for which they have already entered into contracts. They have obviously kept their options to do so open by virtue of a number of contract provisions, the most important of which are section 3.2 of the contract which provides that "NRPC shall have the right from time to time to request and subject to and in accordance with the terms and conditions of this agreement, railroad hereby agrees to provide modified or additional service."

Perhaps more significant, in view of our common concern is the fact that under the terms of section 4.1 the agreement each railroad entering into a contract with the Corporation agrees to preserve until July 1, 1973, "its rights with respect to any of its rail lines not included in clause I above—those over which service will be initially provided—which were used by it for intercity rail passenger service on or during the 12 months preceding April 30, 1971."

I think that may answer some of the fears which have been expressed.

RAILPAX SYSTEM INADEQUATE TO WISCONSIN'S NEEDS

Mr. PROXMIRE. Mr. President, I want to associate myself with the remarks made by the distinguished majority leader today regarding the gross inadequacies of the Railpax system which

has been renamed Amtrak. Just a few illustrations from my State of Wisconsin make the point.

The health of the Railpax system is going to depend in a very large degree to the short-haul feeder lines that hook into the main, or backbone, system. These feeder lines inject additional passengers into the system. These new passengers naturally infuse additional revenue into the backbone system, make sure that it is operating at a high level of efficiency, and improve the profit picture.

Three feeder corridors could have been included in the system to serve three large segments of the Wisconsin population, but Railpax failed to approve these feeder lines. One would have fed Green Bay traffic into the Milwaukee connection; a second would have linked Madison with Chicago, thus assuring the availability of rail transportation between Wisconsin's capital and the Nations Capital; a third would have connected the Superior-Duluth market with Minneapolis-St. Paul.

The failure to provide for these feeder lines represents three more reasons why the Railpax system is completely inadequate to the needs it was meant to fulfill. I can assure the distinguished majority leader that I fully support his efforts to gain reconsideration of the system as it is presently constituted.

THE CRISIS STAGE IN RAIL PASSENGER SERVICE

Mr. CURTIS. Mr. President, we have reached the crisis stage in rail passenger service for many parts of the United States, among which the Western States will be hardest hit.

It is necessary to cast aside old enigmas and try something entirely new, for without drastically changing the methods we will lose all passenger service and thus all forms of public transportation in many areas.

The method which I am going to propose to meet this need is practical and reasonable. There is no reason why the railroads could not have adopted it, except that they were laboring under contract provisions and work rules which made management entirely inflexible in meeting the changing transportation conditions across the country.

I believe the railroads should be required to operate a few freight trains on fixed schedules, and should be required to pull a passenger car or two on each of those regularly scheduled freight trains.

The Railroad Passenger Corporation could contract with the railroads to pull the passenger cars in areas where there is not sufficient passenger revenue to support a separate passenger train.

The railroads thus would retain a certain responsibility for maintaining passenger service, instead of chucking it entirely and making it the responsibility of a Government-run corporation. Some of the mail could continue to move by train to remote areas of the country where airline service is poor or nonexistent.

For my own State of Nebraska, this would mean the retention of passenger service along the Union Pacific line from Omaha west through such communities

as Fremont, Columbus, Grand Island, Kearney, Lexington, North Platte, Ogallala, Sidney, and Kimball.

For Senators HANSEN and MCGEE of Wyoming, and for Senators MANSFIELD and METCALF of Montana, it would save railroad passenger service.

It is simple, it is reasonable, and it will work, Mr. President. It ought to be tried.

CALL OF THE ROLL

Mr. PROUTY. Mr. President, I suggest the absence of a quorum, and it will be a live quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 55 Leg.]		
Baker	McGee	Sparkman
Bayh	Metcalfe	Spong
Byrd, Va.	Moss	Talmadge
Byrd, W. Va.	Pastore	
Case	Prouty	

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Mr. LONG), and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

Mr. PROUTY. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senators from Kentucky (Mr. COOK and Mr. COOPER), the Senator from New Hampshire (Mr. CORTON), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr.

SAXBE and Mr. TAFT), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Maine (Mrs. SMITH), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant-at-Arms is directed to execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Inouye	Nelson
Allen	Jackson	Pearson
Allott	Javits	Pell
Anderson	Jordan, N.C.	Proxmire
Bible	Jordan, Idaho	Randolph
Chiles	Magnuson	Roth
Church	Mansfield	Schweiker
Eagleton	Mathias	Stennis
Ellender	McClellan	Stevenson
Fulbright	McGovern	Symington
Hart	McIntyre	Young

Thomas J. Mulcahy
 Leslie C. Eaton
 Charles F. Walsh
 James H. Henderson
 Tony M. Robinson
 Lee T. Jones
 Norman A. Summers
 William A. Gregory
 Herman S. Loper
 Edwin B. Ray
 Daryl V. Orey
 George W. Truntich
 Paul F. Pearson
 William E. Ambrose
 Stephen T. Pitro
 Robert W. Cason
 William D. Saunders
 Clovis B. Hickey
 Gerald J. Lambert
 Clark P. Kippenberger
 Alfred M. Perry
 John H. Larson
 Richard R. Trompke
 Wesson B. Williams, Jr.
 Charles M. Cate
 Leonard J. Bobrowski
 Egbert F. Williams
 Roy Lindley
 Albert W. Joynes
 Perry W. Gines
 Harold T. Wright
 Harold D. Davis
 Robert J. Silva
 Dennis K. P. Lee
 Claude C. Charley
 James M. Meehan
 George A. Matheson
 Eugene V. Bowles
 John A. Hagelin
 Dominick F. Medico
 Leland T. Davis
 Fred H. Finkel
 Thomas H. Bernhardt, Jr.

William E. Leistner
 Theodore J. Falter
 John W. Simpson
 Robert W. Holley
 Norman E. Caribo
 Thomas B. Grimes
 Richard W. Bowmer
 Donald R. Clapp
 Rodney N. Strelau
 James A. Heckler
 Robert E. Carmen
 William D. Woodbury
 David D. Beattie, Sr.
 Curtis R. Neal
 Harold L. Coel
 Bobby A. Swindell
 Lyle L. Cosner
 Edward H. Lapinski, Jr.
 Lafayette G. Duke
 Edwin C. Price, Jr.
 Victor A. Zink, Jr.
 Richard L. Benson
 Robert H. Marx
 Lynn C. Helm
 Larry G. Longbottom
 Paul S. Grimes
 William A. Wiggins, Jr.

The following named officers of the Coast Guard to be permanent commissioned officers in the grade of chief warrant officer, W3:

Robert C. Herold
 Malcolm W. Gray
 Lavere E. Amundson
 John F. Weseman
 Karl Kaufman
 Donald L. Dobbs
 Robert B. Swart
 Philip K. Hauenstein
 Donald A. Kirkham
 John H. McLaughlin
 Theodore T. Musselman
 John S. Wenter
 Dalton M. Sheppard

Forest H. Mayer
 Richard L. Trevallee
 Richard C. McDowell
 Thomas S. Mitchell
 Philip A. Montminy
 Charles D. Sprague
 Thomas M. Creighton
 Ervin S. Whitaker
 William F. McGlone
 Thomas J. Shubbuck
 Kenneth E. Leland
 Darrell L. Collier
 Charles R. Robinette
 Ralph E. Huck
 Leo A. Coakley
 John A. Hilmer
 Joseph R. Oliver
 Nerius Collazo
 Kenneth J. Olsen
 Gary C. Koehler
 Royce G. Young
 Edward J. Norris
 Joseph C. Berry
 Daniel E. Fowler
 Gary L. Hopkins
 Robert Berry
 Cecil G. Bryan
 Gary A. Lappier
 Roger O. Lake
 Irwin L. Gaines
 Daniel C. Schueler
 James B. Griggs
 Ernest L. Styron
 Vance M. Miller
 Huey D. Grandstaff
 George N. Batey
 Thomas A. Pitkin
 Charles W. Slaughter
 James T. Lanier
 Freddie J. Porter
 Vernon M. McClellan
 James F. Brown
 Ronald Grant
 Timothy G. Flavin
 Cleo F. Metty
 Douglas G. Wade
 Robert L. Clark, Sr.
 Donald W. Hale
 Fernando F. Gispert
 Carl B. Seale
 Gerald J. Schramski
 Clayton L. Swearingen
 Jerry W. Lewis
 Joseph C. Ehrenberg, Jr.
 Walter J. Capps
 Nelson M. Tavares
 Lancy L. Bostwick
 William J. O'Boyle, Jr.
 David A. Handy
 Jerome J. Koenig
 James L. White
 Dayl W. Moore
 William Gray
 Robert Frates
 Theodore T. Musselman
 Gerald L. Ranes
 Robert B. Millson
 Gary A. Bird
 Richard L. Youdal
 Carl R. Sosna

The following named officers of the Coast Guard to be permanent commissioned officers in the grade of chief warrant officer, W4:

Richard B. Petersen
 John G. Gaskill
 Kenneth H. Kramer, Jr.
 Francis G. O'Hearn
 Charles H. Thompson
 Roland E. Miller, Jr.
 Manuel G. Macara, Jr.
 Ellis A. Gray, Jr.
 Carl A. Wade
 Joseph F. Newsome
 Arthur W. Stokes
 John R. Koehler
 John T. Crowe

John R. Lehman
 Hubert C. Jackson
 James G. Kirby
 Richard E. Carrier
 James L. Herron
 Herman J. Murphy
 Frank D. Goolsby
 Alfred G. Addy
 Jack R. Kirk
 Jerry D. Fisch
 Steve J. Avilla
 Mark C. Dennis
 William F. Doyle, Jr.
 Harold E. Helfrich
 Roger L. Lanier
 Harold Z. Parker
 Gary L. Elliott
 Rexford W. Altman
 Dan G. Lents
 Donald M. Hanley
 Dale S. Draa
 Oscar N. Skelton
 Floyd W. Hayden
 Stuart W. Clarke
 Robert O. Horst
 David H. Martin
 Julius Alama
 John E. Sparrow
 Robert P. Edgar
 Donald E. Bay
 Joseph W. James
 Donald M. Warren
 George E. Cain, Jr.
 Loyd S. Williams
 James C. Tanner
 John H. Fenter
 James A. Walker
 Eugene A. Mellott
 William R. Beers, Jr.
 John D. Klemm
 William A. DeGeorge
 Eugene B. Crawford
 Darwin G. Asch
 Billy F. Rawlinson
 Richard E. Irwin
 Eugene B. Murray
 Irvin J. A. Treadway
 Gerald L. Colton
 Wayne J. Ayers
 Edward T. McArthur
 Thurman L. Knight, Jr.

The following named officers of the Coast Guard to be permanent commissioned officers in the grade of chief warrant officer, W4:

Herbert J. Nuse
 Gary M. Vaughn
 George M. McWilliams
 Jack E. Arrington
 Conrad A. Pasbrig
 John H. Freie
 Charles M. Saylor
 Alan R. Hinds
 Daniel A. Sutyak
 Harold T. Collins
 William R. Shrader
 William H. Spears
 Donald O. Tilton
 John C. Baker
 Doyle S. Porter
 Raymond R. Close
 William S. O'Neill
 William D. Franklin
 John W. Wyatt III
 Henry E. Prentiss
 Paul S. Johnson
 Rex W. Coulson

The following named Reserve officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant:

Frederick N. Gallien
 Roland H. Buxter
 Ernest J. Teichert

John H. Peabody
 James R. Arthur
 Robert J. Covert
 Robert K. Critchlow
 Royce W. Fulcher
 Robert D. Harwell
 Lowell R. Andrews
 Richard D. Rebele
 John W. Harm
 William E. Garrett
 Alvin K. Johnson
 Melvin L. Ferguson
 Edward E. Laycock
 Donald L. McMillin
 David T. Daniels
 John E. O'Donnell
 Aubrey E. Fussell
 Christopher Maropis
 Guy O. Seago
 Gene I. Goodwin
 Clark C. Logsdon
 William C. Henning, Jr.

James D. Grimes, Jr.
 Wilfred J. Laufenberg
 Kent D. Vallier
 Robert E. Dailey
 Robert R. Raby
 Frederick L. Regan
 John W. Babcock, Jr.
 William F. Haygood, Jr.
 Jack L. Elam
 Robert W. Jackson
 Charles L. Kidd, Jr.
 Robert V. Karsela
 Damian T. Sarchiapone

William M. Dukes
 Leroy Rosa
 Stanley M. Pridham
 Weyland D. Logue
 Elmer A. Stevens
 Leo L. Whaley, Jr.
 Pernel J. Perry
 Allen L. Smith
 John R. Hearn
 Delbert A. Riley
 Robert M. St. John
 William A. Sturgis
 James B. Zipfel
 Carl R. Green
 Frederick P. Pitts
 Gene F. Lewis
 William R. Shaffer
 Brian C. Curtis
 John L. Anglin

James A. Bachtell
 Gordon R. Mortensen
 Warren M. Nix
 Donald P. Ivins
 Jack L. Brolliar
 David L. Trax, Jr.
 Chester V. Barrett, Jr.
 Kirk D. Rose
 Oren A. Dinsmore
 Andrew J. Mullins
 Stanley B. Anderson
 William C. Ray
 William F. Hatcher
 Roy E. Olson
 Clarke R. Harwood
 James C. Healan
 Glenn L. Marshall
 Ralph G. Garvin
 Thomas J. Cristiano
 Edward Lienemann
 Howard K. Lualin
 Kenneth W. Lamar

The following named Reserve officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant:

Larry C. Evans
 Ronald A. Simons

ADJOURNMENT UNTIL MONDAY, MAY 3, 1971

Mr. MANSFIELD. Mr. President, in view of the fact that we are having some difficulty in achieving a quorum, I move that the Senate stand in adjournment in accordance with the previous order.

The motion was agreed to; and (at 3 o'clock and 4 minutes p.m.) the Senate adjourned until Monday, May 3, 1971, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate April 30, 1971:

U.S. COAST GUARD

The following named officers of the Coast Guard to be permanent commissioned officers in the grade of chief warrant officer, W2:

Edward A. Howard	Earl J. Rouse
Michael A. Allen	Norman A. Rogers
James L. Carnley	Charlie E. Melanson
Thomas J. Nalley	Robert E. Lee
Donald J. Buotte	John H. M. Douglas
Phillip R. Sheldon	Arthur G. Villar, Jr.
William J. Nielsen	Robert F. Hunt
William H. Shova, Jr.	Richard Findley
Eddie E. Arnold	Duane D. Judkins
Fredric R. Brentson	Daniel A. Hill
Richard S. Flood	Earl L. Portrey
Robert K. Chandler	Jeffrey O. Wenger
Harold H. Hager	Korrol R. Slocum
John Kollar	C. C. Self
John M. Weathers	George W. Allen
Frederick W. I. Shackleton	Joseph G. Kava
James B. Alexander	Roger G. Resor
Walter W. Croft	Ford F. Aumiller
John O. Meekins, Jr.	William C. Hendry, Jr.
Herbert P. Metzger	George F. Fallon
Gail O. Daugherty	Jack L. Shampine
Roger J. Rosie	Ronnie M. Watson
John P. Cajandig, Jr.	James J. Patton
Robert E. Morong	Norman L. Williams
	John P. Lambert, Jr.