The Senate met at 12 o’clock noon and was called to order by the President pro tempore (Mr. ELLENDER).

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

Almighty God, as our fathers trusted in Thee and brought forth “one nation under God” so we would yield ourselves to Thee in our time of trial. Open our minds to the instruction of Thy truth and our hearts to the ways of compassion, mercy, and justice. Amid all that is ugly and brutal in this world grant us not to miss Thy kindness all about us in human existence.

Bestow Thy grace and wisdom upon those who bear the burdens of government. Make us all, both leaders and followers, receptive to new insights for peace and justice, and willing to explore the untired but ofttimes perilous pathways to a new world of freedom and brotherhood. Keep us from that bitterness and hate which enravels the spirit, dissipates creative energy, and extinguishes the light of Thy truth.

O Lord, our God, we beseech Thee to frustrate the ways of the peacebreakers and to prosper the efforts of the peacemakers that all men may dwell together in safety, in the unity of Thy spirit, and in the bonds of love.

We pray in Thy Master’s name. Amen.

The President pro tempore called the roll, and the following Senators answered to their names:

[No. 56 Leg.]

Aiken
Received
Prott

Allott
Heber
Prum

Anderson
Hughes
Ribicoff

Beall
Inouye
Roth

Biddle
Javits
Schweiker

Byrd, Va.
Jordan, N.C.
Scott

Byrd, W. Va.
Jordan, Idaho
Sparkman

Cock
Mansfield
Stevenson

Cotton
McClellan
Symington

Curts
Metcalf
Talmadge

Ellelnder
Packwood
Tower

Ervin
Pearson
Young

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENNET), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CROMWELL), the Senator from Wyoming (Mr. McCOLL), the Senator from New Mexico (Mr. MONTOYA), the Senator from Virginia (Mr. SIMPSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from California (Mr. CRAMSON), the Senator from Georgia (Mr. CAMERILL), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

Mr. GRiffin. I announce that the Senator from Massachusetts (Mr. BASOOCK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Nebraska Mr. HUSKSK), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. SAEKIK), and the Senator from South Carolina (Mr. THURMON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. CAMERILL), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

By Mr. BARING:
H.R. 8018. A bill for the relief of Joseph Atingh; to the Committee on the Judiciary.

By Mr. ROYHILL of Virginia (by request):
H.R. 8019. A bill for the relief of Edna Clarke; to the Committee on the Judiciary.

By Mr. DANIELSON:
H.R. 8020. A bill for the relief of Leonardo Taney Prado; to the Committee on the Judiciary.

By Mr. EDWARDS of California:
H.R. 8021. A bill for the relief of Parvis Farnum; to the Committee on the Judiciary.

By Mr. KEMP:
H.R. 8022. A bill for the relief of Hubert Knapp; to the Committee on the Judiciary.

H.R. 8023. A bill for the relief of Sebastian Okchukwu Muzu; to the Committee on the Judiciary.

By Mr. O’NEILL:
H.R. 8024. A bill for the relief of Joao de Quadros; to the Committee on the Judiciary.

By Mr. ROE:
H.R. 8025. A bill for the relief of Andreas Bouta; to the Committee on the Judiciary.

H.R. 8026. A bill for the relief of Fernando Carreira Martins; to the Committee on the Judiciary.

The motion was agreed to.

The President pro tempore. The motion was agreed to.

The President pro tempore. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Barkley
Johnson
Mondale

Bayh
Gurney
Mose

Bennett
Hansen
Nelson

Brock
Harris
Pastore

Buckley
Hart
Pell

B saver
Hartke
Percy

Chiles
Hatfield
Randolph

Cooper
Jackson
Smith

Eastland
Kennedy
Stennis

Eastland
Long
Stevens

Fannin
Manusson
Taft

Fong
Mathias
Tunney

Fullbright
McGovern
Wetler

Gougeon
McIntyre

The President pro tempore. The quorum is present.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States, submitting the nomination of
James L. Oakes, of Vermont, to be a U.S. circuit judge, second circuit vice Sterry R. Waterman, retired, which was referred to the Committee on the Judiciary.

The Journal

Mr. Mansfield. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, April 30, 1971, be dispensed with.

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

Waiver of Call of Calendar

Mr. Mansfield. Mr. President, I ask unanimous consent to waive the call of the calendar of unobjectioned to bills under rule VIII.

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

Order for Adjournment

Mr. Mansfield. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon on Wednesday.

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

Order for Adjournment from Tomorrow to Wednesday Next

Mr. Mansfield. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 12 o'clock noon on Wednesday.

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

Order for Recognition of Senator Buckley Tomorrow

Mr. Mansfield. Mr. President, I ask unanimous consent that after the prayer by the Chaplain and the recognition of the majority and the minority leaders, the distinguished Senator from New York (Mr. Buckley) be recognized for not to exceed 15 minutes on tomorrow.

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

Committee Meeting During Senate Session Today

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

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

Order for Transaction of Routine Morning Business

Mr. Mansfield. Mr. President, I ask unanimous consent that there be a period for the conduct of routine business within the morning hour, with a time limitation of 3 minutes on statements made thereon.

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

[Disturbance in Public Gallery No. 8.]

The President pro tempore. The galleries will be in order.

Testimonial Dinner in Honor of Senator George D. Aiken

Mr. Mansfield. Mr. President, on Saturday last I had the distinct honor and privilege to speak at a testimonial dinner in honor of our distinguished Vermont Senator, with a special emphasis on the second member of this body, the second in seniority, the distinguished senior Senator from Vermont, George David Aiken. This testimonial will be printed in the Record. The dinner, held at St. Michael's College in Winookski, Vt., one of the outstanding educational institutions in the Northeast, was authorized to meet during the session today.

Mr. President, I ask unanimous consent that the text of my remarks delivered on that happy occasion be incorporated at this point in the Record.

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

Remarks of Senator Mike Mansfield

I am delighted to have an opportunity to come to Vermont for this tribute to George Aiken. George Aiken has been, for me, a close personal association such as I have with Senator Aiken bridges the gap between this particular Senate and the nation that we share breakfast almost daily in the Senate cafeteria. It is served at an early hour and in the morning the problems of the nation have always seemed to stand in clear perspective. At least the breadth of vision of George Aiken makes them so appear. Having been exposed to his judgments for many years, I can understand the basis of his reputation for sharp perception. In the annals of the Senate, George Aiken is catalogued as neither hawk nor dove but as a very wise owl.

Rather than heap redundant praise on his shoulders, however, I would like to share with you instead a few thoughts on the impact the Senator has had on the State, the nation and the world.

When I first knew Aiken in these delightful surroundings and among old friends, I find it difficult to understand why he ever left home. It is much easier to understand why he comes back so often; he is of the very top of your highest mountain. Perhaps, I should say, especially from that mountain, since I have the honor to share its name. There being no objection, the text of my remarks delivered on that happy occasion be incorporated at this point in the Record.

Mr. President, I ask unanimous consent that after the prayer by the Chaplain and the recognition of the majority and the minority leaders, the distinguished Senator from New York (Mr. Buckley) be recognized for not to exceed 15 minutes on tomorrow.

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

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

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

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

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

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

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The President pro tempore. Without objection, it is so ordered.
May 3, 1971

CONGRESSIONAL RECORD — SENATE

He would be the first to reject the label "super-man or super-Senator." There are none and never have been in the Senate. Achievements are put together in that body out of the tiny grain of individual members, and many members participate in their creation. But someone has to set the train in motion. When Mike Mansfield speaks in East Asia, he speaks as one of George Aiken's vision of the future, as seen from Vermont, has been a compelling inspiration. The goal he champions is not to hide behind the rhetoric. The philosophy he adapted to him, and has modified, is the powerful force in giving substance to this vision. In my book and in many others, a man is given his automatic respectability. The fact is that his stamp of approval is a sort of national trademark for reliability.

George Aiken has been one much in thirty years of Senate service to enhance the well-being, not only of those Americans who live the quiet life of farm and hillside but of all the people of the nation. His good sense has stood as a wall against assaults on the integrity of our national life. He has labored incessantly to keep in check the violently divisive forces which tear at the fabric of the nation's unity. At the same time, he has worked to improve the image of Vermont just as one of the most knowledgeable men in the Senate on international affairs. If the word statesman is applied to George Aiken, and George Aiken is one of its finest doctors.

As time goes on, moreover, more attention is also being paid to his views on world affairs and to his efforts to pursue the course of self-righteous isolationism—to use his own phrase. Rather, he has emphasized that the most important factor in determining American foreign policy is the power of those who speak, you know what George Aiken is for youth is more in tune with what the TV commercials refer to as the "now" generation than those who write them.

Because of our long-standing relationship, it has become something of a joke in the Senate to say that when Mike Mansfield speaks, you know what George Aiken is thinking, and you know what Mike Mansfield is thinking. It seems to me that this reciprocity might be given a more enduring form. I noted, in the last two years, the high point in the Green Mountain State bears the name Mansfield but not in any way connected with him. Whatever may have occurred to me, however, that a suitable proprietary in Montana might similarly be credited to the Senator from Vermont.

I am happy to be able to report that the reciprocity, in a sense, already exists. The highest point in Montana is called Granite Peak. I have in mind that the Senate the word "granite" is synonymous with "Aiken." The two words are associated with amazing power by colleagues and journalists alike. Only two weeks ago I had occasion to remind the Senate that granite typifies the character and stature of the man. So I hope that Senator Aiken will accept my suggestion that the highest mountain in Montana is really named after him. And I might just add that the Senate is hearings in that the Senate is three times as high as Mount Mansfield, Vermont, which is the name Mansfield bore in not in any way connected with him. Whatever may have occurred to me, however, that a suitable proprietary in Montana might similarly be credited to the Senator from Vermont.

The approaches to Viet Nam which George Aiken urged long ago have taken too long to find their way into the policies of the government. Thousands more have died or been maimed during the delay. One would hope that his most recent proposal will not go unheeded. He has called for the withdrawal of all forces from the killing zones of Asia and a solution to the problem of peace in Asia. That is a most reasonable suggestion. In the end, we shall only have the greatest stakes in the kind of peace which is restored. It may be that the President's new and welcome initiative has put these on the right direction. In any event, when peace does return to Asia, it will come sooner rather than later, because George Aiken has spoken out on the basis of his insights into the problems of that region.

We might well inquire into the source of the granite which George Aiken so often sees clearly into so many situations whether they are on the banks of the Mekong or Mekongham. The secret was revealed many years ago by someone who said: "Youth is not radical; only embittered and frustrated youth (or any age for that matter) wants to overturn a social order that will give them no foothold or security. Nor is youth apt to be stand.p.-pat. Given reasonable access to a normal and open-minded mind, that is why folks can be young at twenty-one or forty-five or eighty, for young folks have one thing in common before they and there they have a vast energy for doing..."

Today the author of these lines is the senior Senator from Vermont. He is second ranking Member of the United States Senate in age of service. He is the Dean of the Republican side of the Senate. Except for the vagaries of politics he would be the President Pro Tempore of the Senate and third in line of succession to the Presidency. He would also be chairman of either the Foreign Relations Committee or the Committee on Agriculture. As a Senator, he has been candidate for President of the U.S. in the late 30's and early 40's.

The years have not dimmed the youthfulness of George Aiken's vision. They have not slowed the vigor of his step. In outlook, George Aiken remains more in tune with what the TV commercials refer to as the "now" generation than those who write them.

Mr. JAVITS. Mr. President, I am happy to be able to deliver this resolution. In a free country, but it will not work. It never has worked, and it is not going to work this time. I yield back the remainder of my time.

SENATE RESOLUTION 112—SUBMISSION OF A RESOLUTION PROVIDING FOR APPOINTMENT OF FEMALE SENATE PAGES

Mr. JAVITS. Mr. President, on behalf of myself and 23 other cosponsors, including the Senator from Illinois (Mr. PROCTOR), the Senator from Oklahoma (Mr. HARRIS), who are similarly situated with me, having appointed girl pages, I send to the desk a resolution and ask for its immediate consideration.

The resolution is as follows:

SENATE RESOLUTION 112

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

The President pro tempore. The clerk will state the resolution by title, Mr. MANSFIELD. Mr. President, I object.

The President pro tempore. Objection is heard, and the resolution goes over under the rule.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I would like to state:

Mr. JAVITS. May we have the resolution read first?

The President pro tempore. The clerk will state the resolution. The assistant legislative clerk read the resolution (S. Res. 112) as follows:

SENATE RESOLUTION 112

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

The President pro tempore. The Senator from New York may proceed. Mr. JAVITS. Mr. President, we understand that the procedure followed by the majority leader is absolutely correct. I
had been advised that the Senator from Vermont (Mr. Prouty) would object. We expect to discuss the matter tomorrow. If the Senate wishes to take action on it then, that is fine. If not, it will go on the calendar. So the sole purpose was to bring the matter before the Senate. I know the majority leader and the Senator from Vermont (Mr. Prouty) know that we gave notice and intended no surprise or anything else here in proposing a resolution, but we gave notice and intended no surprise or anything else here in proposing any legislation to amend the Motor Vehicle Safety Responsibility Act of the District of Columbia and the District of Columbia Traffic Act of 1926, in order to promote increased traffic safety, and for other purposes (with accompanying papers); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to the direction of the Committee on Government Operations and Governmentwide Purchasing of Automatic Data Processing Equipment Should Result in Significant Savings (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, pursuant to the request for a report on the impact of employment ceilings on management of civilian personnel in the Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Director, Administrative Office of the U.S. Courts, submitting a draft of proposed legislation to amend title 18, United States Code, to provide for the protection of U.S. probation officers (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the President pro tempore:

A joint resolution of the Legislature of the State of Nevada; to the Committee on Agriculture and Forestry:

"ASSEMBLY JOINT RESOLUTION NO. 49

"Memorializing the Congress of the United States to institute programs to reforest America"

"Whereas, The first Americans once gazed upon vast, inspiring forests that seemed unending; and

"Whereas, Over many years our ancestors cleared and otherwise used up much of this great reservoir of timber, wildlife and recreation; and

"Whereas, Each tree planted is a small contribution towards restoring our environment, source of natural fertilizer and humus and home for wildlife; and

"Whereas, Each tree planted can beautify rural and urban America; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, jointly, That the members of Nevada's congressional delegation are hereby memorialized to urge the Congress of the United States to institute programs to:"

1. Reforest federally owned land capable of being reforested;
2. Assist the several states to reforest state lands;
3. Provide additional incentives to reforest privately owned lands; and
4. Plant more trees in urban areas.

A joint resolution of the Legislature of the State of Oregon; to the Committee on Government Operations:

"PROPOSED LEGISLATION TO PROVIDE FOR THE USE OF FEDERAL FUNDS TO SOFTEN THE EFFECTS OF FLOODING;

"WHEREAS, The President, pursuant to the provisions of the Disaster Relief Act of 1972, signed into law, has declared a national emergency and the request for a special session of Congress in an attempt to forestall flooding in the United States; now, therefore, be it

"Resolved by the Senate and House of Representatives in the Congress of the United States as one people, That the Congress do now, in accordance with the provisions of the Disaster Relief Act of 1972, hereby declare the following:

1. That the President declared a national emergency and the request for a special session of Congress in an attempt to forestall flooding in the United States; and
2. That the Congress do now, in accordance with the provisions of the Disaster Relief Act of 1972, hereby declare the following:

PROPOSED LEGISLATION TO PROVIDE FOR THE USE OF FEDERAL FUNDS TO SOFTEN THE EFFECTS OF FLOODING;
two daily trains in each direction between Portland and Seattle which will leave Portland at 8 a.m. and 3:40 p.m. and Seattle at 9:30 a.m. and 2:25 p.m., respectively.

"Whereas, The Seattle-San Diego tri-weekly train is scheduled to stop at Kelso where passenger and mail trains can arrive in Seattle at 5:15 p.m. and the only daily Seattle-Chicago train will depart from Seattle at 6:15 a.m.

"Whereas, From the above schedule it will be impossible for persons of the Kelso-Langley area to reach Kelso when the passenger trains stop only at Vancouver and Tacoma; and

"Whereas, The Seattle-San Diego tri-weekly train is scheduled to stop at Kelso where passenger and mail trains can arrive in Seattle at 5:15 p.m. and the only daily Seattle-Chicago train will depart from Seattle at 6:15 a.m.

"Whereas, The proposed reduction of train service under Railpax will place greater traffic burdens on the already over-crowded Interstate 5 highway, and will reduce the work force in our area by 108 persons including several persons from the Kelso depot.

"Now, therefore, be it resolved, That the Senate of the State of Washington do hereby instruct the Railpax organization, the Interstate Commerce Commission, the Department of Transportation, and the Federal Railroad Administration to consider the petition of the Kelsowritey of Washington reexamin the proposed Railpax schedule and provide a more favorable welfare program to the citizens of Washington.

"Be it further resolved, That copies of this resolution be transmitted to the Secretary of the Senate of the State of Washington, to the Director of the Bureau of Indian Affairs, to the Speaker of the House of Representatives and to each member of Congress from the state of Washington.

A concurrent resolution of the Legislative Assembly of the Commonwealth of Puerto Rico; to the Committee on Commerce:

"To request the Congress of the United States of America and the National Meteorological Service of the Department of Commerce of the United States of America to take the necessary measures so that there be an International Station in Puerto Rico, a radar for meteorological signals.

"BE IT RESOLVED, That the Senate of the State of New Jersey; to the Committee on Finance:

"J OINT RESOLUTION

Memorializing Congress to lower retirement age under social security from 65 to 62 years.

"Whereas, The Senate of the State of New Jersey, and the other communities within the State of New Jersey, request the Congress of the United States, the Senate and House of Representatives, to lower the retirement age under social security from 65 to 62 years.

"Resolved, That we, your Memorialists, recommend and urge that the Congress of the United States give immediate and favorable consideration to the lowering the retirement age for receiving full benefits under social security from 65 to 62 years; and be it further resolved, That a copy of this Memorial, duly authenticated by the Secretary of State, be transmitted forthwith by the Secretary of State to the President of the Senate and to the Speaker of the House of Representatives in the Congress of the United States and to the United States Senate and House of Representatives from this State.

Two joint resolutions of the Legislature of the State of New Jersey: to the Committee on Interior and Insular Affairs:

"ASSEMBLY J OINT RESOLUTION No. 33

Memorializing the United States Bureau of Indian Affairs to seek appropriations for and to build a new multipurpose gymnasium building at the Stewart Indian School.

"Whereas, The Stewart Indian School is a home and an educational and cultural center for Indians of many tribes throughout the West; and

"Whereas, The Stewart Indian School is the focal point of this interface between two cultures trying to increase their mutual understanding through cultural exchanges and other programs; and

"Whereas, There is an unequivocal need for a new multipurpose gymnasium building in which to hold sports events, assemblies, concerts, stage productions and other presentations, and to which the public could be invited, and it.

"Whereas, The present gymnasium was built in 1950 to serve far fewer students than are presently enrolled and will, in fact, even seat two-thirds of the present student body of 800, much less provide adequate room for accommodations; and

"Whereas, The Stewart Indian School is a charter member of the Nevada Interscholastic Activities Association sponsoring activities in football, basketball, wrestling, track, golf, tennis, baseball, gymnastics, music, speech and debate, and yet the present gymnasium is inadequate in every way to accommodate most of the major activities; now, therefore, be it

Resolved, That copies of this resolution be prepared by the legislative counsel and dispatched forthwith to the president officer of each house of the United States Congress to the director of the Bureau of Indian Affairs and to each member of the Nevada congressional delegation.

"S E N A T E J O I N T R E S O L U T I O N No. 2

Memorializing the Congress to amend the tax laws to provide a personal exemption for survivors of the deceased, from the tax on their personal use of the disabled, and for whom the personal exemption is allowed as of August 1971. Presumably, such tax laws to be enacted prior to the end of the fiscal year.

"Whereas, By an act to promote the development of the mining resources of the United States, 17 Public Acts, 286, on December 4, 1971, the United States on May 10, 1872, made available all valuable mineral deposits in Federal lands for exploration and purchase and

"Whereas, Certain speculators have taken improper advantage of such Act of Congress and are filing large claims in the United States without following proper locating procedures and

"Whereas, Although most of such claims may be proven to be invalid, they create a cloud of title for valid locator, now, therefore, be it
"Resolved by the Senate and Assembly of the State of Nevada, jointly, That the legislative State of Nevada urges the Congress of the United States to take steps to promote the development of the mining resources of the United States," 17 Stat. 91, and acting in the capacity of Secretary of State, hereby directs the Secretary of State to transmit an enrolled copy of this resolution to each member of the congressional delegation from the State, and the legislative State of Nevada to the Secretary of State, and to the Bureau of Motor Carrier Safety of the Federal Highway Administration.

Mr. PEARSON. Mr. President, the recent decision by Congress to terminate our supersonic transport program has and will have a devastating effect on thousands of dedicated workers, scientists, technologists, and engineers, not only in my State, but in many parts of the Nation. As I have indicated here before, that decision, in my judgment, was not made with full comprehension of the facts or with full appreciation for the impact it would have.

Consequently, Mr. President, the legislature of my State, in a joint resolution, has petitioned the Congress to reconsider its action to deny funds for the design and construction of a supersonic aircraft to test for the problems which were so casually proclaimed to be insurmountable. I ask unanimous consent that it be received and printed in the Record at the conclusion of my remarks.

I invite the attention of the Senate to this expression of disappointment and concern by the elected representatives of the people of the State of Kansas.

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

The joint resolution of the Legislature of the State of Nevada that was referred to the Committee on Appropriations, reads as follows:

HOUSE CONCURRENT RESOLUTION NO. 1048
A Concurrent Resolution memorializing the United States Department of Transportation and the Congress of the United States concerning interstate transportation of farm vehicles and regulation thereof, hereby disapproves the rules of the Bureau of Motor Carrier Safety of the Federal Highway Administration.

Whereas, The motor carrier safety regulations of the Bureau of Motor Carrier Safety of the Federal Highway Administration of the United States Department of Transportation applicable to farm vehicles traveling in interstate commerce have been modified to gravely restrict the traditional interstate travel of farm trucks; and

Whereas, Under such modified rules:
1. All drivers in interstate commerce must pass a road test (no exception for drivers of farm trucks).
2. All drivers in interstate commerce must take an examination in the federal motor carrier safety regulations. (No exception for drivers of farm trucks).
3. All drivers in interstate commerce must be at least 21 years of age. (No exception for drivers of farm trucks).
4. All drivers in interstate commerce must carry with them a medical certificate executed within the past 24 months evidencing they meet prescribed physical standards. (No exception for drivers of farm trucks).
5. All drivers must file with the employer a complete history of his driving employment and experience, including violations; and the employer must verify this experience. (No exception for drivers of farm trucks).
6. Administrative Law Judges are designated by the Secretary of Transportation to hold hearings in interstate commerce; and

Whereas, The above modified rules referred to above fail to fit the operating conditions of farmers and are unrealistic and unworkable as applied to farms and the approximately three million (3,000,000) trucks operated by farmers: Now, therefore,

Be it resolved by the House of Representa­tives of the State of Kansas, the Senate concurring therein: The United States Department of Transportation and the Congress of the United States are hereby respectively memorialized to cause the rules of the Bureau of Motor Carrier Safety of the Federal Highway Administration to be further modified to realistically accommodate and balance the safety needs of the public and the public's need for the farm products necessary to wholesome life in the United States.

Petition was presented to the Senate and referred as indicated:

MR. PEARSON. Mr. President, the Bureau of Motor Vehicles Safety of the Federal Highway Administration in the Department of Transportation has recently proposed regulations which would, in effect, prohibit a great portion of the farm work force from operating farm trucks essential to the normal operations of our Nation's farms. As one who has been intensely interested in this matter, as one who has offered legislation providing for the consideration and acceptance of a decision indicating their opposition to the proposed regulations, and those views known to appropriate officials at the Federal level.

Accordingly, Mr. President, I ask unanimous consent that this resolution be referred to the appropriate committees, and the responsible officials within the Department of Transportation to this effect.

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

The joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Appropriations, reads as follows:

HOUSE JOINT RESOLUTION NO. 1092
A Joint Resolution memorializing the Congress of the United States to reconsider the funding development of the supersonic transport program.

Whereas, The State of Nevada has long been a leader in the aerospace industry; and

Whereas, Wichita in Sedgwick county is the home of many thousands of highly skilled, dedicated and experienced workers, scientists, technologists and engineers who are employed in the large aircraft manufacturing plants; and

Whereas, In the City of Wichita there is a large manufacturing company, a manufacturing plant which has contributed magnificently to the military efforts and peaceful activities of the United States and the free world; and

Whereas, The economy of Wichita, its surrounding area and the state of Kansas are gripped by depression and unemployment is high and the economy weak; and

Whereas, The skills and talents of the people in Kansas must be preserved now and for the future; and

Whereas, The United States will lose markets and important sources of prestige should it not be competitive in the world markets; Now, therefore,

Be it resolved by the House of Representa­tives of the State of Nevada, the Senate agreeing thereto:

Section 1. The legislature of the State of Kansas hereby requests that the Congress of the United States to reconsider its actions on denial of funds for design, prototype construction and flight demonstration of the supersonic transport. The legislature further urges that all conclusions in effect by the supersonic transport upon the environment be held in abeyance.
BILLS AND JOINT RESOLUTIONS
INTRODUCED

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

By Mr. McCLELLAN:
S. 1733. A bill for the relief of Elmer St. Louis Southwestern Railway Lines. Referred to the Committee on the Judiciary.

By Mr. GRAVES (for himself, Mr. RAPPORT, Mr. COOPER, Mr. BOOES, Mr. JORDAN of North Carolina, and Mr. TURNEY):
S. 1734. A bill to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes. Referred to the Committee on Public Works.

By Mr. FONG:
S. 1737. A bill for the relief of Kwok Kwong Wong.
S. 1739. A bill for the relief of Romeo Parley Tanjusquio; and
S. 1740. A bill for the relief of Renato Gella Ramil. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:
S. 1741. A bill to provide increased unemployment compensation benefits for Vietnam era veterans. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, today I am introducing legislation to provide supplemental benefits to unemployed Vietnam era veterans which would guarantee them a minimum weekly benefit of $75 for up to 52 weeks.

The largest single problem facing our returning veterans today is that of unemployment. The normal problems of readjustment to civilian life are compounded by those from the tightest job market in years. The current unemployment rate among returning servicemen is 12 percent—about 352,000 are without jobs. This is double the national unemployment rate of 6 percent, and portends to get even worse.

During the fiscal year 1970, 431,000 recently separated veterans filed claims for unemployment compensation—up 40 percent from the previous year. New claims for unemployment compensation filed by recently separated veterans are now running at the rate of more than 40,000 a month. The Department of Labor reports that veterans' applications for employment are up sharply but placements are down. Nearly 2 million veterans filed new applications for employment in the last fiscal year, and the bill is expected to be by about 300,000 in the current year.

After World War II and the Korean war, special legislation was enacted by Congress to provide special unemployment compensation to veterans who had difficulty in finding work. The "52-20 Club" after World War II provided relief of $20 a week for 52 weeks for the unemployed veteran. The bill I am introducing today could be labeled one for the "52-75 Club."

While expanding the unemployment benefits for veterans is only a stopgap measure until we can improve programs for veteran employment, it is a necessary one. Last year, in the employment and manpower bill of 1970, Congress provided for an expanded job counseling, training, and placement for veterans, but that act was vetoed by the President. Recently, the President announced his jobs for veterans program, but it is too early to tell if it will have a substantial effect on the problem. Meanwhile, something must be done for the veteran who returns from service and finds himself unemployed.

The problem with unemployment compensation as it now exists is twofold: First, there is a great variation in the benefits to which the veteran is entitled, depending on his State, although they are uniformly inadequate; and, second, the period of entitlement is too short, usually 26 weeks. The following table shows the minimum and maximum amount of benefits for each State, along with the numerator of weeks which a veteran is eligible for such compensation:

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*U.S. Department of Labor*

SIGNIFICANT PROVISIONS OF STATE UNEMPLOYMENT INSURANCE LAWS, JAN. 4, 1971

[Prepared for ready reference. Consult the State laws and State employment security agency for authoritative information]
unemployment compensation in effect in their
Our per week.
For unemployment benefits rarely ex­
compensation. For the quarter ending
in December 1970, 19.3 percent of those
justment problems are more difficult
the returning veteran’s alternative is
without having found a job. At this point
I am introducing a bill to provide unem­
obil unemployment compensation, after
I believe that this country owes a
greater obligation to those who were
uprooted from civilian life and thrust in­
support from my colleagues and ask
unanimous consent that the bill be
omitted. (a) Notwithstanding any other provision of
this Act, no payment may be made under any agreement under this Act, or in the case of a Vietnam era veteran under this Act to a Vietnam era veteran,
respect to entitlement to supplementary un­
ment compensation law; or
Sec. 11. Effective Date.—Supplementary unemploy­
ment compensation may be paid to a Vietnam era veteran for any week beginning on a date which is more than
three years after the sixtieth day after such date of enactment, (2) three years after the date on which such veteran is terminated pursuant to section 101(29) of title 38, United States Code.
10. Definitions.—As used in this Act—
(1) The term “Secretary” means the Sec­
etary of Labor of the United States,
(2) The term “State agency or the Secretary of Labor of
the District of Columbia and the Commonwealth of Puerto Rico,
(3) The term “State agency” means the agency of the State which administers its unemployment compensation law.
(4) The term “State unemployment compensation law” means the state unemployment compensation law of the State, approved
representations of a material fact, or knowingly has failed, or caused another to fail, to dis­
close a material fact; and
If such a claim action has received an
amount as supplementary unemployment compensation under this Act to which he was not entitled, the individual shall repay the amount to the State agency or the Secretary. Instead of re­
the amount by deductions from supplementary unemployment compensation payable to the individual during the two-year period after the date of the finding. A finding by a State agency or the Secretary may be made after an opportunity for a fair hearing, subject to such review as may be ap­
propriate under section 2(b) of this Act.
(1) Any amount paid under subsection (a) of this section shall be—
(1) deposited in the fund from which pay­
ment was made, if the repayment was to a
State agency; or
(2) returned to the Treasury of the United States and credited to the current applicable appropriation account from which payment was made, if the repayment was to the
Secretary.
7. NONREPLICATION OF BENEFITS.—(a) Notwithstanding any other provision of this Act, no payment shall be made under any agreement under this Act, or in the case of a Vietnam era veteran under this Act, to receive unemployment benefits at a rate equal to or in excess of $75 per week under any Federal or State unemploy­
ment compensation law.
(b) Any such agreement, as the Secretary may find necessary,
United States Code.
8. EFFECTIVE PEACE.—Supplementary unemployment compensation may be paid to a Vietnam era veteran for any week beginning on a date which is more than
three years after the sixtieth day after such date of enactment, (2) three years after the date on which such veteran is terminated pursuant to section 101(29) of title 38, United States Code.
9. EFFECTIVE PEACE.—Supplementary unemployment compensation may be paid to a Vietnam era veteran for any week beginning on a date which is more than
three years after the sixtieth day after such date of enactment, (2) three years after the date on which such veteran is terminated pursuant to section 101(29) of title 38, United States Code.
Sec. 3. UNEMPLOYMENT COMPENSATION IN ABSENCE OF STATE AGREEMENTS.—(a) In the case of a Vietnam era veteran in a State which has no agreement under this
Act with the Secretary, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for supplementary unemployment compensation under this Act, make payments of supplementary unemployment compensation to such veteran, after the same periods as provided for in this Act. Any determination by the Secretary with respect to entitlement to supplementary unemployment compensation under this sub­
section shall be made in accordance with the State unemployment compensation law of the State which administers its unemployment compensation law.
(b) In the case of a Vietnam era veteran who is in the Virgin Islands, the Secretary, upon the filing of a claim for supplementary unemployment compensation by such veteran, shall, upon the filing by such veteran of a claim for supplementary unemployment compensation under this subsection, make payments of supplementary unemployment compensation to such veteran, after the same periods as provided for in this Act. Any determination by the Secretary with respect to entitlement to supplementary unemployment compensation under this sub­
section shall be made in accordance with the Unemployment Compensation law of the State of Columbia insofar as such law is applicable.
Any determination by the Secretary under this section, which results in a finding that such veteran is entitled to payments of supplementary unemployment compensation shall be subject to review by the courts in the same manner and to the extent provided under section 405(g) of title 42, United States Code, with respect to final decisions of the Secretary of Health, Education, and Welfare under subsection I of such section. The Secretary shall notify the State agency or the Secretary of Labor of the District of Columbia of any such determination by the Secretary.
(2) The Secretary may utilize for the pur­
purposes of this section the personnel and facili­
ties of the agency in the Virgin Islands for unemployment compensation.
(3) The Secretary may utilize for the pur­
purposes of this section the personnel and facili­
ties of the agency in the Virgin Islands for
The term “States” includes the District of Columbia.
(1) Each Federal de­
partments and agencies shall make available to State agencies which have agreements under this Act or the Secretary, the case information that it may be necessary for the determination of such veteran’s entitlement to supplementary unem­
ployment compensation under this Act.
(2) The Secretary shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carry­
ing out his duties under this section. Such information shall be deemed reports required by the Secretary for the purposes of para­
phrase (2) of section 305 of title 42, United States Code.
(3) The term “State agency” means the agency of the State which administers its unemployment compensation law.
(4) The term “State unemployment compensation law” means the state unemployment compensation law of the State, approved
by the Secretary under section 3304 of the Internal Revenue Code of 1964.

5. "Military unemploy­ment compensation" means cash benefits payable to Vietnam era veterans with respect to their unemployment in an amount necessary to increase the weekly benefits to which any such veteran is entitled under any State unemployment compensation law (including the Federal-State Extended Unemploy­ment Compensation Act of 1970) to a rate of $78 per week for a total of fifty-two weeks.

The term "Vietnam era veteran" means a person who is a veteran within the meaning of section 101(2) of title 38, United States Code, who served on continuous active duty for ninety days or more during the Vietnam era as defined in section 101(29) of such title.

The term "week" means a week as defined in the applicable State law.

By Mr. ERVIN:

S. 1743. A bill to further protect the constitutional rights of members of the Armed Forces by requiring that pretrial confinement be deducted from the term of any sentence to confinement adjudged by a court-martial. Referred to the Committee on Armed Services.

CREDIT FOR PRETRIAL DETENTION OF MILITARY PERSONNEL

Mr. ERVIN. Mr. President, I send to the desk for appropriate reference a bill to further protect the constitutional rights of members of the Armed Forces by requiring that pretrial confinement be deducted from the terms of any sentence to confinement adjudged by a court-martial.

This bill would grant to the military defendant the same right that a civilian defendant has—to have time spent in jail before conviction counted on any sentence that is imposed. My bill would bring military practice into line with that of civilian practice embodied in a 1966 amendment to section 3568 of title 18, United States Code.

There is no apparent reason why the same constitutional rights should not apply in the administration of military as well as civilian justice, and I urge Congress to act speedily to enact this legislation.

By Mr. ERVIN:

S. 1744. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial who have not been tried for such offenses and who are no longer subject to trial by court-martial; and

S. 1745. A bill to provide for compliance with constitutional requirements in the trials of persons who, while serving as employees of the United States or while accompanying the Armed Forces, commit crimes outside the United States. Referred to the Committee on the Judiciary.

JURISDICTION TO TRY FORMER SERVICEMEN AND CIVILIAN EMPLOYEES OF THE DEFENSE DEPARTMENT

Mr. ERVIN. Mr. President, the recent conviction of Lieutenant Calley for the murder of civilians in Vietnam and the public allegations of other instances of crimes having been committed by American servicemen in Southeast Asia have brought to public attention a serious defect in the operation of the law which has existed since 1959. There is no apparent jurisdiction in any American court, either State, Federal, or military, to try offenses committed by persons who are Defense Department employees stationed with the military overseas or in the United States. The bills are different from those I have introduced in the past in that they now amend title 18, United States Code, rather than title 10. As I first did in 1962 and 1966, I am again asking Congress to eliminate the limitation from the bill applicable to ex-servicemen which made the legislation effective only as to offenses committed while accompanying the Armed Forces outside the United States to commit acts which if committed within the special maritime and territorial jurisdiction of the United States would have been criminal offenses punishable under title 18 and makes them subject to the same punishment. This bill is not made retroactive.

Whether the legislation can properly be made retroactive is a question which when I last introduced similar bills, one of many difficult questions which must be resolved. I believe that a strong case can be made that the legislation can withstand a challenge that it is an ex post facto law.

The ex post facto clause is contained in article I, section 9, as respects Congress, and in article I, section 10, of the Constitution.

The Supreme Court in the early case of Calder v. Bull, 3 Dall. 388, 390 (1798) stated what laws come within the prohibition:

First. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action.

Second. Every law that aggravates a crime, or makes it greater than it was, when committed.

Third. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed.

Fourth. Every law that alters the legal rules respecting evidence, and receives less, or different testimony, than the law required at the time of the commission of the offense, in order to convict the offender.

The constitutional aversion to retrospective criminal legislation is based on two fundamental principles: First, that people are entitled to know what they are prohibited from doing so that they may shape their conduct accordingly; and second, that the legislature must be precluded from prospective criminal legislation in order to secure evenhandedness in the administration of justice and to eliminate the possibilities of oppression.
and arbitrariness inherent in retrospective legislating.

It is clear from this leading case plus the rationale underlying the principle of ex post facto laws that every statute operating retrospectively in the criminal justice area is not automatically prohibited by the Constitution. Operating principles, therefore, it becomes incumbent on me to offer a judgment that the bill is unconstitutional. Certain things are clear about the bill:

If one were to make criminal any conduct which was innocent when done. The crimes which would be triable are defined by the Uniform Code of Military Justice and are offenses against the United States. They were prohibited by law when the alleged unlawful acts were committed.

The punishment permitted would not be increased by the prospect. It would not aggravate a crime, nor make it greater than it was when committed.

It would not alter any rule of evidence so that the defendant could be convicted on rational evidence than if he had been tried by court-martial.

What the bill does is to provide a forum for an act which was punishable by Federal law when committed.

The Supreme Court has had occasion to consider the application of the ex post facto prohibition to this very same kind of statute. In Cook v. United States (182 U.S. 1 (1901)), the court held that a change in the place of trial of an offense after its commission is not an ex post facto law.

In an unanimous opinion the Court stated:

This principle (ex post facto) has no application to the present case. The act of 1869 does not touch the offense nor change the punishment therefor. It only includes the place of the commission of the alleged offense within a particular judicial district, and subjects the accused to trial in that district rather than in the court of some other judicial district established by the government against whose laws the offense was committed. It does not alter the situation of the defendants in respect to their offense or its consequences. "An ex post facto law is a law passing for a crime after its commission." (182 U.S. at 139.)

The Cook case can also be read as being foursquare on the issue. Although the facts of the case are somewhat obscure, it appears that the statute in question was not merely a change in court jurisdiction, but in fact the creation of jurisdiction when none had existed when the offense was committed. If so, then the case is almost identical to the situation presented by this proposal.

It would thus appear at least arguable that Congress can retroactively provide for a different place of trial for offenses against the United States without violating the Constitution against ex post facto laws. Whether Congress can indeed do so, or whether it should even if it constitutionally may, are questions upon which I reserve final judgment for the time being. Given the numerous allegations of serious crime having been committed by servicemen who are no longer subject to trial by court-martial, it is not likely that this legislation, or some viable alternative is urgently needed. There has been a serious gap in jurisdiction since 1865. Despite repeated prodding from the Constitutional Rights Committee and de facto a public clamor over the past year, the executive branch has refused to suggest a solution. I hope that Congress will exercise its responsibilities to make laws and end up leaving these cases that great jurisprudence was engendered.

For the guidance of the Senate, I ask unanimous consent that the bills and section analyses thereof, and the cases cited in support thereof, State and Calder against Bull be printed in full at this point in the Record.

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

S. 1744

A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed offenses, and for the trial of persons who have not been tried for such offenses, and who are no longer subject to court-martial.

"(a) Subject to the provisions of subsection (b) of this section, any person who is charged with having committed while subject to trial by court-martial an offense punishable under chapter 47 of title 10, United States Code, by confinement for five years or more, and who has not been tried for such offense and is not subject to trial by court-martial for such offense may be tried upon indictment for such offense:

"(1) in the United States district court for the judicial district in which such offense was committed, in which any act or omission constituting an element of such offense was committed, if such offense was committed in the United States or in the District of Columbia; or

"(2) in the United States district court for the military district in which such person is found or into which he is first brought, if such offense was committed outside the United States or within the special maritime and territorial jurisdiction of the United States.

"(b) An indictment may be found at any time without limitation with respect to any offense referred to in section 648(a) of title 10, United States Code, for which the death penalty may be imposed. Except as provided in subsection (c) of this section, if an indictment is found under this section (1) for any offense referred to in section 648 (b) of such title unless an indictment is found or an information is instituted within three years next after such offense shall have been committed, or (2) for any offense referred to in section 648 (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed, no person may be tried or punished under authority of this section for any offense referred to in sections 648(a), (b), or (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed. No person may be tried or punished under authority of this section for any offense referred to in sections 648(a), (b), or (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed. No person may be tried or punished under authority of this section for any offense referred to in sections 648(a), (b), or (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed. No person may be tried or punished under authority of this section for any offense referred to in sections 648(a), (b), or (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed. 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No person may be tried or punished under authority of this section for any offense referred to in sections 648(a), (b), or (c) of such title unless an indictment is found or an information is instituted within two years next after such offense shall have been committed.

The amendments made by the first section of this Act shall be effective with respect to offenses committed prior to, on, and subsequent to the date of the enactment of this Act.

S. 1744—SECTIONAL ANALYSIS

The bill adds a new section to chapter 1 of Title 18, United States Code.

Subsection (b) provides that trial in a United States District Court of a person charged with having committed a crime punishable by five years confinement or more, while a member of the armed services, has been discharged without having been tried, if the offense was committed in the United States, trial is in the district where the offense was committed. If committed outside the United States, in the district where the offense was committed.

Subsection (c) states that the maximum punishment shall be the same as that applicable to any person for the same offense under the Uniform Code of Military Justice, as amended.

Subsection (d) provides that for all other purposes, the trial of any person for an offense referred to in subsection (a) shall be considered to be a trial by a court-martial, military commission, provost court, or any other court-martial tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute are punishable by five years confinement or more, military commissions, provost courts, or military tribunals.

As used in this section the term "outside the United States" means outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

S. 1744—SECTIONAL ANALYSIS

The bill adds a new section to chapter 1 of Title 18, United States Code.
A bill to provide for compliance with constitutional requirements in the trials of persons who, while serving in a civil capacity with or accompanying the Armed Forces, commit certain offenses outside the United States.

Sec. 1745. Sectional Analysis

This bill adds a new section to Title 18, United States Code, which provides jurisdiction for the trial and punishment of offenses committed outside the United States.

Subsection (a) makes it a crime against the United States to commit an offense outside the United States while serving in a civilian capacity with or accompanying the Armed Forces, and while outside the United States.

Subsection (b) gives jurisdiction to try such cases to the United States District Court for the judicial district in which such person is found or into which he is first brought.

Subsection (c) provides against trial if the person has been tried for substantially the same offense by a court of competent jurisdiction in a foreign country.

Subsection (d) provides that nothing in this section shall be deemed to deprive courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses for which a law of war may be tried by such tribunals.

Subsection (e) defines the term 'outside the United States' as meaning outside the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, possessions, and the special maritime and territorial jurisdiction of the United States.

Section (b) adds an appropriate item to the table of sections at the beginning of Chapter 1 of Title 18.

This bill is a new section to Title 18, United States Code, and subjects him to the same punishment.

Section 1745. Sectional Analysis

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against the will of Normand Morrison. By the existing law of Connecticut, a right to recover certain property had vested in Calder and Overton as a result of a decision of a court of justice, but in virtue of a subsequent resolution or law, and the effect of that law, that right was divested, and in consequence, this right to recover certain property was divested, and the right to the property declared to be in Bull and wife, the appellees. The sole inquiry is, whether this resolution or law of Connecticut, having such operation, is an ex post facto law, within the words and intent of the prohibition.

Whether the legislature of any of the states can revise and correct by law, a decision of any of its courts of justice, although rendered according to the authority of the legislature, is a question of very great importance, and not necessary now to be determined; because the resolution or law in question does not go so far. I cannot subscribe to the omnipotence of a state legislature, or that it is absolute and without control; although its authority should not be expressly restrained by the constitution, or fundamental law of the state. The people of the United States erected their constitutions or forms of government, to establish justice, to promote the general welfare, to secure the blessings of liberty, and to protect their persons and property from violence. The purposes for which men enter into society will determine the limits of the legislative power; and as they are the foundation of the legislative power, they will decide what are the proper objects of the exercise of legislative power. The purposes of legislative power will limit the exercise of it. This fundamental principle flows from the nature and terms of the social compact; of citizens; or the government so insecure! With very few exceptions, the advocates of such laws were unnecessary, and therefore, improper; for both of them are retrospective; but the restriction not to pass any ex post facto laws was introduced for the purpose of guarding the rights of persons who are not before charged with any crime; or the right of private property. To maintain that our constitutions have not power to pass such laws, if they had not been expressly restrained, would, in my opinion, be a political heresy, which is not permissible in our free republican governments.

All the restrictions contained in the constitution of the United States on the power of the state legislatures, were provided in favor of the authority of the federal government. It is a maxim of law, that ex post facto laws were prohibited by the federal Constitution, and the states were prohibited from enacting them. Great Britain claimed and exercised a power to pass such laws, under the denomination of: bills of attainder, or bills of pains and penalties; and for other offenses the like. There can be no other laws less constitutional. In consequence of such law, if the prohibition against making ex post facto laws was introduced for the purpose of guarding the rights of persons who are not before charged with any crime, it would be nonsense to say, that such laws could be passed affecting or injured by such laws, and the prohibition is sufficiently extensive for that object. The purposes of making such laws were unnecessary, and therefore, improper; for both of them are retrospective.

I will state what laws I consider ex post facto laws, within the words and the intent of the prohibition. 1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the commission of the offense, in order to convict the offender. All these, and similar laws, are prohibited. In my opinion, the true distinction is between ex post facto laws, and retrospective laws. Every ex post facto law must necessarily be retrospective; but every retrospective law is not an ex post facto law: the former only are prohibited. Every law that makes or impairs rights vested, agreeable to existing laws, is retrospective, and is generally unjust, and may be oppressive; and it is a good ground for its supposition, that there are no retrospective laws; but there are cases in which laws may justly, and for the benefit of the community, and of individuals, relate to a time antecedent to their commencement; as statutes of oblivion or of pardon. They are certainly retrospective, and literally both concerning and after the facts committed. But I do not consider any law ex post facto, within the graver, that which makes a crime of what is innocent; or aggravates the punishment; or removes the protection of the criminal law: but only those that create a crime, or increase the punishment, or change the rules of evidence, for the punishment of a crime. It is not necessary, that a law have an operation before the making thereof, as to commence at an antecedent time; or to save from punishment, or to excuse acts which were unlawful, and before committed, and the like, is retrospective. But such laws may be proper or necessary, as the case may be. There is a great and apparent difference between making an unlawful act lawful; as an act that is making an innocent action criminal; and aggravating a crime. The expressions ex post facto laws, are technical; they had been in use long before the revolution, and have an appropriate meaning, by legislators, lawyers and authors. The celebrated and judicious Sir William Blackstone, in his commentaries on the laws of England, that Louis XVI, late king of France, was gulletoned; are all facts that have happened; but which are not to be supposed, that the states were prohibited from making any law, after either of these events; but that the law shall pass ex post facto, in the letter, is not to pass any law concerning, and after the fact; but the plain commissions, and the like, is the prohibition is this: that the legislatures of the several states, shall not pass laws, after a fact done and punished, which shall have relation to such fact, and shall punish him for having done it. The prohibition considered in this light, is an additional but of the subject, to protect his person from punish-
conventions of Massachusetts, Maryland and North Carolina. In their several constitutions or forms of government. In the declaration of rights, by the convention of Maryland, art. 15th, it is stated, "laws punishing offenses (instead of actions or facts) committed before the existence of such laws, and by them only declared criminal, are oppressive, &c." In the declaration of rights, by the convention of North Carolina, art. 24th, I find the same definition, precisely in the same words, as in the Maryland constitution. In the declaration of rights, by the convention of Delaware, art. 11th, the same definition was clearly intended, but in accurately expressing it, by saying "laws punishing offenses (instead of actions or facts) committed before the existence of such laws, and by them only declared criminal, are oppressive, &c." I am of opinion, that the fact, contemplated by the prohibition, and not to be affected by a subsequent law, was some fact to be done by a citizen or subject. In 2 Lord Raymond "382, Raynolds, Justice, called the stat. 7 Geo. I. stat. 2. par. 8, about registering of land, the resolution, and in that sense, was affected by a subsequent law; but the judges of Great Britain always considered penal statutes, that created crimes, or increased crimes, as "ex post facto" law; because it affected contracts made before the statute.

In the present case, there is no fact done by a citizen or subject, in error, in that it is in any manner affected by the law or resolution of Connecticut: it does not concern, or relate to any act done by them, and was the decree of the court of probate of Hartford (on the 21st March), in consequence of which Calder and wife claim a right to the property in question, was given before the said law or resolution, and in that sense, was affected and set aside by it; and in consequence of the act, the question of the power of the state legislature, in favor of the will, they have lost what they would have been entitled to, if the law had not been passed; and the consequence thereof, had not been made. The decree of the court of probate is the only fact, on which the law or resolution operates. In my judgment, the case of the plaintiffs in error, is not within the letter of the prohibition; and for the reasons assigned, I am under a necessity to give a construction of the prohibition, that it is not within the intention of the prohibition; and if within the intention, but out of the letter, I should not, therefore, consider myself justified in construing it within the prohibition, and therefore, that the whole was void.

In the case of the plaintiffs in error, it is contended, that the legislature of Connecticut had no constitutional power to make the decree mentioned, in the case of the particular individuals in question. I am of opinion, that the resolution (or law) in question, is contrary to the charter of Connecticut, or its constitution; and the power of the state legislature was comprised of its acts of assembly, and usages and customs. I should think, that the courts of Connecticut are the proper tribunal to determine whether any law, contrary to the constitution of the United States, is void: I am fully satisfied, that this court has jurisdiction to determine that any law of any state or legislature, contrary to the constitution of such state, is void.* Further, if this court had such jurisdiction, I should agree, that the resolution (or law) in question, is contrary to the charter of Connecticut, or its constitution; and the power of the state legislature was comprised of its acts of assembly, and usages and customs. I should think, that the courts of Connecticut are the proper tribunal to determine whether any law, contrary to the constitution of the United States, is void: I am fully satisfied, that this court has jurisdiction to determine that any law of any state or legislature, contrary to the constitution of such state, is void.* Further, if this court had such jurisdiction, I should agree, that the resolution (or law) in question, is contrary to the charter of Connecticut, or its constitution; and the power of the state legislature was comprised of its acts of assembly, and usages and customs. I should think, that the courts of Connecticut are the proper tribunal to determine whether any law, contrary to the constitution of such state, is void.

It is not to be presumed, that the federal or state legislatures will pass laws to deprive citizens of rights vested in them, by existing laws, unless the benefit of those rights is to be extended to the community; and on making full satisfaction. The restraint against making any ex post facto law was designed to prevent the framers of the constitution, as extending to prohibit the depriving a citizen even of a vested right to property; or the provision "that private rights and privileges may not be destroyed or impaired, without just compensation," was unnecessary.

It seems to me, that the right of property, in its original, could only arise from compact, express or implied, and I think it the better opinion, that the right, as well as the mode, of acquisition should not be intruded upon. The legislature cannot alienating or transferring, inheriting or transmitting it, is conferred by society; is regulated by civil institution, and is always and only subject to the legislative power, as a legislative power. When I say, that a right is vested in a citizen, I mean, that he has the power to do certain actions; or to possess certain things, according to the law of the land.

If any one has a right to property, such a right cannot be impaired, without the consent of the owner; and one can have such right, before he has acquired a better right to the property, than any law or action of the government. Therefore, only to recover property, cannot be called a perfect and exclusive right. I cannot agree, that a right to property, in the full legal sense, is an absolute right; and I am clearly of opinion, that it is not vested in the state, is void. 9 Further, if this court had such jurisdiction, I should not, therefore, consider myself justified in construing it within the prohibition, and therefore, that the whole was void.

I am under a necessity to give a construction of the words, "ex post facto law," because they have no meaning attached to them. But I will not go further than I feel myself bound to do; and if I ever exercise the jurisdiction, I will not decide any law to be void, but in a very clear case.

I am of opinion, that the decree of the supreme court of errors of Connecticut be affirmed, with costs.

Patterson. Justice.—The constitution of Connecticut is made up of usages, and it is evident, that its legislature have, from the beginning, exercised the power of granting new trials. This has been uniformly the case, and in the year 1712, a new trial was granted, by a legislative act, imparted to the superior and county courts. But the act does not contain the power of granting a new trial, and the legislature itself has the determining power of the legislature, in this particular; it only communicates to other authorities a concurrence of jurisdiction, as to the awarding of new trials. And the fact is, that the legislature have, in two instances, exercised this power, since the passing of the law. They are facts, in a double capacity, as a house of legislation, with undefined authority, and also as a court of justice, in which the power of the latter, is given to the latter for the indefinite nature of their legislative powers, or in some other way, it is evident, that the legislative act of Connecticut, originally possessed and exercised all legislative, executive and judicial authority; and that, from time to time, they distributed the two latter in such manner as they thought proper; but without parting with the general superintending power, or the right of exercising the same, whenever they should judge it expedient. But be this as it may, it is sufficient for the present, to observe, that they have, on various occasions, exercised judicial authority, from the commencement of their civil polity. This usage may be considered as the root of the power of Connecticut, and we are bound to consider it as such, unless it be inconsistent with the constitution of the state. If it be consistent, then it is, that the awarding of new trials falls properly within the province of the judiciary; but that the legislature of Connecticut, have been in the uninterrupted exercise of this authority, in certain cases, we must, in such cases, respect their decisions, as flowing from a court that has judicial authority, as an organ. And therefore, we may, in the present instance, consider the legislature of the state, as having the subject vested in their legislative capacity. If so, there is an end of the question, and we should proceed more properly within the description of a judicial than of a legislative power; and

* Hunt v. Lamplier, 3 Pet. 280; Watson v. Mercer, 8 Id. 88; Gilchrist v Little Rock, 1 Dill. 261; Runnett v. Leavenworth, Id. 2d. 383.
if by usage or the constitution, which, in Connecticut, are synonymous terms, the legislature of that state acted in both capacities, and the case against the plaintiffs in error, their action, and that it

In the meaning of these terms, I will consider the constitution of the general court of Connecticut as one whole, and not a legislative and not a judicial authority. The question, then, which arises on the pleadings in this case, is, whether the resolution of the legislature of Connecticut, be an ex post facto law, within the meaning of the constitution of the United States? I am of opinion, that it is not. The words, ex post facto, when applied to a law, have a technical meaning, and, in legal phraseology, refer to crimes, pains and penalties. Judge Blackstone's description of the terms is clear and accurate. “There is,” says he, “a still more unreasonable method of punishing a past act called a law, ex post facto, when, after an action, indifferent in itself, is committed, the legislature, then, for the first time, declares it to have been a crime, and punishes it, in such manner as the person who has committed it. Here, it is impossible, that the party could foresee, that an act which was innocent when it was done, afterwards would be condemned to a subsequent law; he had, therefore, no cause of being arrayed, of being punished, of being penalized, of being afflicted; must, of consequence, be cruel and unjust.” 1 Bl. Com. 48. Here, the meaning seems to be that terms ex post facto laws, unquestionably required, must be resoluted on this other side. The historic page abundantly evinces, that the power of passing such laws should be absolutely, and in itself, inexcusable. It is a dangerous instrument in the hands of bold, unprincipled, aspiring and party men, and has been too often used to effect the most detestable purposes.

On inspecting such of our state constitutions, as take notice of laws made ex post facto, we shall find, that they are not to the same sense. The constitution of Massachusetts, article 24th of the declaration of rights, with reference to the crimes committed before the existence of such laws, and which have not been declared crimes by pre-existing laws, are called retrospective laws, which are inconsistent with the fundamental principles of a free government.” The constitution of Maryland, article 15th of the declaration of rights: “That retrospective laws, punishing offenses committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty.” The constitution of North Carolina, article 24th of the declaration of rights: “That retrospective laws, punishing offenses committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty.” The constitution of Connecticut, no ex post facto law ought to be made.”

From the above passages, it appears that ex post facto laws have an appropriate signification, and that they are to be viewed, in one light, as no further; they are restricted, in legal estimation, to the creation, and perhaps, enhancement of crimes or penalties. The enhancement of a crime or penalty seems to come within the same mischief as the creation of a crime or penalty; and therefore, is to be considered ex post facto.

Again, the words of the constitution of the United States are, “That no state shall pass any ex post facto law, or law impairing the obligation of contracts.” Article I., § 10. From the latter words, if a law impairing the obligation of contracts, be comprehended within the terms ex post facto law? It is obvious.

The constitution of Connecticut, and the last member of the clause, that the framers of the constitution did not understand or, if they did understand it, did not intend it, on the part of the plaintiffs in error. They understood and used the words in their known and usual signification, as referring to crimes, pains and penalties, and no further. The arrangement of the distinct members of this section, necessarily points to this meaning.

I had an ardent desire to have extended the provision in the constitution to retrospectively in the United States? I am of opinion, that it is not. The words, ex post facto, when applied to a law, have a technical meaning, and, in legal phraseology, refer to crimes, pains and penalties. Judge Blackstone's description of the terms is clear and accurate. “There is,” says he, “a still more unreasonable method of punishing a past act called a law, ex post facto, when, after an action, indifferent in itself, is committed, the legislature, then, for the first time, declares it to have been a crime, and punishes it, in such manner as the person who has committed it. Here, it is impossible, that the party could foresee, that an act which was innocent when it was done, afterwards would be afterwards convicted to a subsequent law; he had, therefore, no cause of being arrayed, of being punished, of being penalized, of being afflicted; must, of consequence, be cruel and unjust.” 1 Bl. Com. 48. Here, the meaning seems to be that terms ex post facto laws, unquestionably required, must be resoluted on this other side. The historic page abundantly evinces, that the power of passing such laws should be absolutely, and in itself, inexcusable. It is a dangerous instrument in the hands of bold, unprincipled, aspiring and party men, and has been too often used to effect the most detestable purposes.

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property of citizens. Some of the most necessary and important acts of legislation are, on the contrary, those which recognize that private rights must yield to public exigencies. Highways are run through private grounds; fortifications, light-houses, and other public works are, at times, built upon the soil owned by individuals. In such, and similar cases, if the owners should refuse to yield, it would be necessary to immodate the public, they must be constrained, so far as the public necessities require; and justice is done, by allowing them a reason­grounds; fortifications, light-houses, and urge, that the power may be abused, for ings in the pound. We must be pose a tax to the amount of nineteen shill­it would often be obstructed, and society itself would be more free from danger in this respect, than the whole. There can be no case, in which an ex post facto law in crimi­nial matters is requisite or justifiable (for providence never can intend to promote the ous are not sufficient to 1, 889, 26 Stat. 783, c. 333, as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it vested, ought not to be granted, because the legislature, disregarding its true objects might, by various and useless projects, im­pose a tax to the amount of nineteen shill­ings in the pound. We must be prepared to object, that there never existed a government which the discretion of the body in which it is, cannot, consistently with its use, we must be Prospective operation where vested provision in Article 3 of the Constitu­tion of the United States as is not sufficient to 1, 889, 26 Stat. 783, c. 333, because as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it is, cannot, consistently with its use, we must be.

The Circuit Court of the United States for the Eastern District of Texas, held at Paris, In that District, at the October Term, in 1889, heretofore committed to a jury, of which the act of March 1, 1889, 26 Stat. 783, c. 333, as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it is, cannot, consistently with its use, we must be.

The act of March 1, 1889, 26 Stat. 783, c. 333, although it subjects persons charged with murder committed in a place under the exclusive jurisdiction of the United States, but not within any State, to trial in a judi­cial district different from the one in which they might have been tried at the time the different to the hundredth meridian of longitude, commonly called the Neutral Strip or 'No Man's Land,' by the act of March 1, 1889, 26 Stat. 783, c. 333, as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it is, cannot, consistently with its use, we must be.

The trial, at which various exceptions to the ruling of the court were duly taken, referred to the report of Attorney General Bradford in the hearing of the jury certain statements, of which the act of March 1, 1889, 26 Stat. 783, c. 333, as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it is, cannot, consistently with its use, we must be.

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The trial, at which various exceptions to the ruling of the court were duly taken, referred to the report of Attorney General Bradford in the hearing of the jury certain statements, of which the act of March 1, 1889, 26 Stat. 783, c. 333, as fairly be said, that the power of taxation, which, is only circumscribed by the discretion of the body in which it is, cannot, consistently with its use, we must be.
The allocation in the indictment on which the court below assumed jurisdiction, viz., that on the 25th day of July, 1888, the Northern Death Strip, known as "No Man's Land," in Indian Territory, the same being attached to and constituting part of the Eastern District of Texas, if an offense committed on land shall be at the jurisdiction of this court," is untrue in point of fact and of law.

If "No Man's Land" was, at the date of the commission of the alleged homicide (July 25, 1888), within or attached to any judicial district of the United States, it was the Northern Death Strip in No Man's Land and not the Eastern District of Texas. The following is a true fact: That on January 31, 1888, No Man's Land was, by act of Congress, 400 Stat. 323, c. 103; 19 Stat. 446, c. 49; 4 Stat. 730, Sec. 783, which was passed after the date of the alleged offense, and that the same was attached to and constituted part of the Eastern District of Texas as it was by the act of January 31, 1888, to the District of Arkansas; it was not part of the jurisdiction of this court, or annexed to any judicial district of the United States, in 1888, the date of the alleged homicide, nor at any time, and that the same was attached to and constituted part of the Eastern District of Texas, as of January 6, 1883, which divided the jurisdiction of the United States into the Northern District of Texas, and the Western District of Arkansas, and that the same was attached to and constituted part of the Western District of Arkansas, as of January 6, 1833, which divided the jurisdiction of the Indian Territory between Kansas and the Northern District of Texas.

The only true fact is that on January 31, 1888, No Man's Land was, or had been, a part of the Indian Territory, and that the same was attached to and constituted part of the Eastern District of Texas, as of January 6, 1883, which divided the jurisdiction of the Indian Territory between Kansas and the Northern District of Texas, and the Western District of Arkansas, and that it was no part of the Western District of Arkansas, as of January 31, 1888, noticed above, to the District of Arkansas, and that it was no part of the "Indian Territory," as it was by the act of January 31, 1888, to the District of Arkansas, and that it was no part of the "Indian Territory," as it was by the act of January 6, 1883, which divided the jurisdiction of the Indian Territory between Kansas and the Northern District of Texas, between January 6, 1883, and March 1, 1889, 25 Stat. 783, the date of the alleged homicide, and that it was no part of the "Indian Territory" within the meaning of the Act of June 1, 1889, 25 Stat. 783, as it was by the act of January 31, 1888, which act was the admission of the Attorney General of Kansas upon the murder, and the charge of the court to the jury with respect to the effect thereof, were error prejudicial.

If it be, then, the admission of the report of the Attorney General in Kansas, and the charge of the court to the jury, were prejudicial, it will be seen from the foregoing that the government was permitted to contradict and refute the objection which had been made, by using a written statement signed by him, not dated at the time, and that this was done without any prejudicial statement to the court to counsel for the government that they were surprised and misled into calling him. Such a course is contrary to all the rules of evidence. . . . It is not necessary to discuss the question whether the charge was erroneous. It was grossly so, and must have been very prejudicial. It was the admission of the purest hearsay evidence upon the crucial point in the case.

Mr. Justice HARLAN delivered the opinion of the court.

The plaintiffs in error, with others, were indicted in the court below at its October term, 1889, for the crime of murder, alleged to have been committed on the Northern Death Strip, in the District of Texas, as it was by the act of January 31, 1888, and the charge of the court to the jury with respect to the effect thereof, were error prejudicial.

There is no reason to suppose that Congress in the use of the words of the phrase, "as the Congress may by law have directed," meant to authorize the Congress to legislate in respect to foreign or public places, or to confer on the District of Texas exclusive jurisdiction in the matter of the deaths of persons, and persons injured, in the Northern Death Strip, in the District of Texas, as it was by the act of January 31, 1888, and the charge of the court to the jury with respect to the effect thereof, were error prejudicial.

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The principal assignment of error is based upon section 5339 of the Revised Statutes, providing that "every person who commits murder within any fortress, arsenal, dock-yard, magazine, or any other place, or in any foreign place, or upon the high seas, or the territorial sea of the United States, shall suffer death," and upon the contention that by the act of March 1, 1889, 25 Stat. 783, c. 103, 400 Stat. 323, c. 103, 19 Stat. 446, c. 49, 4 Stat. 730, Sec. 783, which was passed after the date of the alleged offense, and that the same was attached to and constituted part of the Eastern District of Texas, as it was by the act of January 31, 1888, 25 Stat. 783, the date of the alleged homicide, and that the Public Land Strip was not within the jurisdiction of any particular state or district, and to have been intended to apply to offenses committed in "No Man's Land," prior to the passage of that act, the said act is void because in conflict with Sec. 2, Art. III, of the Constitution of the United States. It is a sound rule of construction that a statute should have a prospective operation only, unless its terms show clearly a legislative intention that it should operate retrospectively.
tion to try the alleged offense, or if any court had jurisdiction it was not the court below, but the Circuit Court of the United States for the Northern District of Texas. The District of Kansas in which the defendants were fined was not recognized; and that if the act of March 1, 1889, and the act of March 3, 1891, and the act of March 30, 1893, permitted the United States to conduct the prosecution, the Circuit Court was not the court below, but the Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States could not, give the Circuit Court for that district jurisdiction of offenses committed in said counties.

Did Congress intend to attach the Public Land Strip to the Eastern District of Texas for any purpose? That necessarily is the question. It is said that the act is to be determined without reference to the act of May 2, 1860, providing a temporary government for Oklahoma Territory, including this strip within the Territory of Oklahoma, declares that all "crimes committed in said Territory" passed prior to its passage "shall be tried and prosecuted, and proceeded with until finally disposed of, in the courts now [then] having jurisdiction thereof, and not set apart and occupied by the United States, in such manner as Congress may hereafter be operative therein." It was further provided: "§ 3. That all that portion of the Indian Territory lying north of the Canadian River and east of said Strip of the Public Land Strip, and not set apart and occupied by the Cherokee, Creek and Seminole Indian tribes, was an jurisdiction of said District of Kansas and the United States District Courts at Wichita and Fort Scott in that district were given from and after the passage of this act, be annexed to and constitute a part of the United States judicial districts known as the Northern District of Texas, and the United States District Court at Graham, in said Northern District of Texas, shall have exclusive original jurisdiction of all offenses committed within the limits of the territory hereby annexed to said District of Kansas against any of the laws of the United States or any greater jurisdiction in that part of said District of Kansas by and under the name of the Circuit Court of the said District of Kansas, or the United States District Court at Graham, in said Northern District of Texas, than might have been exercised by said District Court at Graham, in said Northern District of Texas, as to said District of Kansas, and said Northern District of Texas, than might herefore have been lawfully exercised therein by the Western District of Kansas; that the said court may hereafter be operative therein. § 4. That nothing contained in this act shall be construed as a sanction or proceeding now pending in the Circuit Court for the Western District of Kansas, to extend over the Indian Territory, or to affect in any manner any action or proceeding now pending in the said court below, but the Circuit Court for the District of Kansas and the United States District Court at Graham, in said Northern District of Texas, shall have exclusive original jurisdiction of all offenses committed within the limits of the Indian Territory annexed to said District of Kansas by and under the name of the Circuit Court of the said District of Kansas, or the United States District Court at Graham, in said Northern District of Texas, as to said District of Kansas, and said Northern District of Texas, than might herefore have been lawfully exercised therein by the Western District of Kansas; that the said court may hereafter be operative therein. § 5. That this act be construed to give to said District Courts of Kansas and Texas, respectively, to said District of Kansas, and the United States District Court at Graham, in said Northern District of Texas, and the United States District Court at Wichita and Fort Scott in that district, exclusive jurisdiction of all crimes, civil actions, and suits, and petitioes, and not set apart and occupied by the five tribes of the Creek, Chocatas, Chilimac, and Red River and Delta, and the State of Texas, all that part of the Indian Territory, or between citizens of the United States, or of said District, or between citizens of the United States and persons of or persons residing or found in the Indian Territory, and which may be tried by any greater jurisdiction in that part of said District of Kansas than may hereafter be operative therein. § 6. That said Black Fork to the junction of the said Black Fork with Buffalo Creek; thence northwest-Ing the said road to where the main track of the said river to the Gulf of Mexico.

The proposition was not that said court below should have jurisdiction of offenses committed in the said counties of Lamar, Fannin, Red River, and Delta, as well as the Territories of New Mexico, Texas, and that all that part of the Indian Territory attached to the said said court below for the purposes of the preceding act, of which jurisdiction as declared, is not given by this act of March 30, 1893, to the court established in the Indian Territory; and all civil process, issued against persons resident in said Black Fork, in the counties of Lamar, Fannin, Red River and Delta, &c., to be in accordance with the United States courts, shall be made returnable to the Circuit Court of the Fifth Circuit for the City of Paris, Texas. All prosecutions for

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with courts at Waco, Dallas County, and Graham, Young County, embracing one hundred and ten counties by name, including the Texas and Lipscomb in the panhandle, immediately south of the Public Land Strip, and Humph, Wheeler, Clay, Red River, and Bowie, 20 Stat. 318, c. 57.

An act of Congress was passed January 6, 1883, for the holding at Wichita of a term of the District Court of the United States for the District of Kansas and for other purposes, 22 Stat. 400, c. 15. By this act (§ 2) all that portion of the Indian Territory lying north of the Canadian River and east of said Strip of the Public Land Strip, and not set apart and occupied by the Cherokee, Creek and Seminole Indian tribes, was an jurisdiction of said District of Kansas and the United States District Courts at Wichita and Fort Scott in that district were given from and after the passage of this act, be annexed to and constitute a part of the United States judicial districts known as the Northern District of Texas, and the United States District Court at Graham, in said Northern District of Texas, shall have exclusive original jurisdiction of all offenses committed within the limits of the territory hereby annexed to said District of Kansas against any of the laws of the United States or any greater jurisdiction in that part of said District of Kansas by and under the name of the Circuit Court of the said District of Kansas, or the United States District Court at Graham, in said Northern District of Texas, than might have been exercised by said District Court at Graham, in said Northern District of Texas, as to said District of Kansas, and said Northern District of Texas, than might herefore have been lawfully exercised therein by the Western District of Kansas; that the said court may hereafter be operative therein. § 4. That nothing contained in this act shall be construed as a sanction or proceeding now pending in the Circuit Court for the Western District of Kansas, to extend over the Indian Territory, or to affect in any manner any action or proceeding now pending in the said court below, but the Circuit Court for the District of Kansas and the United States District Court at Graham, in said Northern District of Texas, shall have exclusive original jurisdiction of all offenses committed within the limits of the Indian Territory annexed to said District of Kansas by and under the name of the Circuit Court of the said District of Kansas, or the United States District Court at Graham, in said Northern District of Texas, as to said District of Kansas, and said Northern District of Texas, than might herefore have been lawfully exercised therein by the Western District of Kansas; that the said court may hereafter be operative therein. § 5. That this act be construed to give to said District Courts of Kansas and Texas, respectively, to said District of Kansas, and the United States District Court at Graham, in said Northern District of Texas, and the United States District Court at Wichita and Fort Scott in that district, exclusive jurisdiction of all crimes, civil actions, and suits, and petitioes, and not set apart and occupied by the five tribes of the Creek, Chocatas, Chilimac, and Red River and Delta, and the State of Texas, all that part of the Indian Territory, or between citizens of the United States, or of said District, or between citizens of the United States and persons of or persons residing or found in the Indian Territory, and which may be tried by any greater jurisdiction in that part of said District of Kansas than may hereafter be operative therein. § 6. That said Black Fork to the junction of the said Black Fork with Buffalo Creek; thence northwest-Ing the said road to where the main track of the said river to the Gulf of Mexico.

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offences committed in either of said last-mentioned counties shall be tried in the division of said eastern district of which said county is a part, in the circuit or district court for the Western District of Arkansas.

From this history of the Public Land Strip it appears: 1. That by the act of 1883 all of the territory on the north of the Canadian River and east of Texas and the 100th meridian, not set apart and occupied by the Cherokee, Creek, Chickasaw and Seminole Indian tribes, was annexed to the District of Kansas, while the portion not so annexed and not set apart and occupied by the Cherokee, Creek, Chickasaw and Seminole Indian tribes, was annexed to the Northern District of Texas, saying actions or proceedings pending in the Circuit or District Court for the Western District of Arkansas. 2. That, by the act of 1888, the court established for the Indian Territory, given exclusive jurisdiction over all offenses against the laws of the United States committed within the Indian Territory, as defined by that act, was not punishable by exclusion of any officers committed to any judicial district. 3. That exclusive original jurisdiction was given by the act of 1889 to the United States district court sitting at Paris, Texas, of all such offenses, committed within the portion of the Indian Territory which is not set apart and occupied by the said State, of which jurisdiction was not given to the court established in and for the Indian Territory.

In reply to the discussion by counsel was directed to the inquiry whether the act of 1883 attached the Public Land Strip to the Northern District of Texas, unless the latter act is construed as having any application to offenses committed prior to its passage. The act of 1883 is chiefly important in the present inquiry as it may serve to explain the provisions of the act of 1889.

It is certain that after, as well as before, the passage of the act of 1883, various public officers and committees in Congress described the Territory north of the 100th meridian as being unattached to any judicial district. The most significant, perhaps, of all these statements is that of the letter of the Attorney General of the United States to the President under date of November 15, 1887, and that of the Secretary of the Treasury to the Speaker of the House of Representatives, May 19, 1888. The former describes the Public Land Strip as "bounded on the north by the States of Kansas and the Indian Territory, on the south by Texas, and, on the west by New Mexico," and says that it was not then "embraced in any district court established by law of the United States," and the latter, speaking of the urgent need of legislation to enforce the revenue laws of the United States on the Public Land Strip, says that the "land referred to is not embraced in any judicial district, and not being within the jurisdiction of the courts of the United States, the laws of the United States are inoperative, or, at least, cannot be enforced therein.

The public documents to which reference has been made undoubtedly show that, in the opinion of many gentlemen in the legislative and executive branches of the government, the "Indian Territory" did not extend further west than the one hundredth meridian, and that, even after the passage of the act of 1883 it remained unattached to any judicial district. So that, if Congress intended by the act of 1883 to annex the Public Land Strip to the Northern District of Texas, it is obvious that such documents clearly indicated that that act was not so construed by certain officers of the government. But I was unable to find a careful scrutiny of the act of 1889, giving full effect to all of its clauses, according to the reasonable meaning of the words used, yet interpreting it in the light of the previous history of the Public Land Strip, and of the information communicated to Congress by public officials, we do not doubt that Congress intended to bring that strip within the jurisdiction of the court established for the Indian Territory, and to give it full effect to the provisions of the act of 1889, the Public Land Strip should not have been brought within some judicial district.

Upon a careful scrutiny of the act of 1889, it cannot be suggested why, at the time of the passage of that act, all offenses of the public domain should no longer remain unattached to any judicial district, or why, as well as of individuals, could be enforced against criminals and wrongdoers of every class. No possible reason can be suggested why, at the time of the passage of the act of 1883, the United States court for the Indian Territory, on the south by Texas, and, on the west by New Mexico," to be meaningless, simply because the northern boundary of that strip was not described with precision and fullness. Unless, therefore, Congress intended to have that part of the public domain should no longer be left without concerning the protection of the government and the people.

It is contended that this interpretation of the Public Land Strip was intended to bring all of the act of 1889 is wholly unanswerable by anything in the history of the Public Land Strip; for, it is certain that the public officers and committees, in their statements, did not make those words at all inappropriate as embracing that strip. This broad statement is scarcely justified by the facts. The boundaries of the United States, described by the treaty with Port Atkinson, in the Indian Territory, 10 Stat. 1013, between the United States and the Camanche, Kiowa and Apache tribes or nations, "inhabiting the said territory south of the Arkansas River," it was provided that the annuities stipulated to be given by the United States should be delivered yearly in July to those tribes, collectively, at, or in the vicinity of Beaver Creek, a large part of which is within the Indian Territory. By another treaty with those tribes, October 18, 1855, 14 Stat. 717-721, the United States agreed to cede to the same tribes such parts as the President should from time to time designate, should be and was set apart for the use and occupation, of the citizens of the United States, and each of such tribes shall have the right to time to agree to admit them, and that no white person, except officers, agents and employees of the government, shall go upon or settle within the country embraced within said limits, unless formally admitted and incorporated into some one of those tribes lawfully residing within the said country and subject to its laws and usages. The boundaries of said district were: "Commencing at the mouth of Beaver Creek, on the north bank of said river; thence down said river to the 98th degree of west longitude; hence due north, on said meridian to the Cimarron River; thence up said river to the same place where the same crosses the southern boundary of the said District, and thence along said southern boundary of Kansas, from said place to the southwest corner of the said District, and thence west to the place of beginning." These boundaries, it is true, included all of the Public Land Strip, but the treaty was, in that respect, ineffectual. Nevertheless, the cession included the Public Land Strip, then a part of the public domain of the United States, not punishable by death or by imprisonment at hard labor, committed, not simply within the Indian Territory, but "in this [that] act defined," while the court at Paris was given exclusive original jurisdiction over all offenses committed within the United States within the limits of that portion of the Indian Territory attached to the Northern District of Texas, and that portion of the Indian Territory comprised in the Public Land Strip, with the exception of the treaty of July 27, 1853, made by the United States with the Kiowa, Comanche, and Apache, by which the United States ceded to the United States, in addition to certain other lands, a line of a part of the Public Land Strip, lying between New Mexico and the 100th meridian.

The Public Land Strip, as described in the treaty of July 27, 1853, was a part of the Public Land Strip, lying between New Mexico and the 100th meridian; and the treaty contained a provision that all offenses committed by the Kiowa, Comanche and Apache nations, collectively, and of the information communicated to Congress by public officials, we do not doubt that Congress intended to bring that strip within the jurisdiction of the court established for the Indian Territory, and to give it full effect to the provisions of the act of 1889, the Public Land Strip should not have been brought within some judicial district.

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falo herds were regarded, at different times, by public officers to be part of the Indian Territory, as com­
municating with the lands west of the 100th meridian, and in con­
nection with the lands east of the 100th meridian, where various tribes of Indians had been ac­
quired, and the states, as made

These circumstances are referred to as conclusive, nor as in themselves, persuasive, but as evidence of an irre­
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January 29, 1886, embodied in the land office, as a part of the Indian Territory, as com­
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The following is a brief summary of the arguments presented by the respective parties.

The Senate proceeded to consider the question whether or not the United States, by virtue of the treaty of February 2, 1868, had acquired title to the land described in the treaty of February 2, 1868.

It is argued that Congress, in enacting the act of March 3, 1889, did not intend to make the act of March 3, 1889, applicable to the land described in the treaty of February 2, 1868.

It is further argued that Congress, in enacting the act of March 3, 1889, did not intend to make the act of March 3, 1889, applicable to the land described in the treaty of February 2, 1868.

It is also argued that Congress, in enacting the act of March 3, 1889, did not intend to make the act of March 3, 1889, applicable to the land described in the treaty of February 2, 1868.

It is contended that the act, so construed, is in violation of section two, article three, of the Constitution, supplemented by the Sixth Amendment. The former provides that the "trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, such trial shall be at such place or places as the Congress may by law have directed." The latter provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law." In respect to that clause of the Sixth Amendment declaring that the "district shall have been previously ascertained by law," it need only be said that if those words import immunity from prosecution where the district is not ascertained by law before the commission of the offense, or that the accused can be tried in any district in which the offense was committed, (such district having been established before the offense was committed,) that amendment has reference only to offenses committed within a State, and that the United States, as a completely independent government, was not mentioned as part of the Indian Territory. The Senate proceeded to consider the question whether or not the United States, by virtue of the treaty of February 2, 1868, had acquired title to the land described in the treaty of February 2, 1868.

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of the jurisdiction of any particular defendants is, in effect, that Congress may tried in the district of Kansas, where they was committed.

shall be in the district where the offender is apprehended, or into which he may first be committed.

And such was the law when the crime with which the defendants are charged was committed on the high seas, or in the high seas and elsewhere, out of the territory upon this section, Congress from providing a place of trial upon the second section of article three, the Constitution from the one in which the accused committed against the laws of the United States, or its consequences, alters the law.

The act of 1889, where it was committed, or change the place of trial the death of Cross immediately after it occurred, was called, in rebuttal, as a witness for the defense, and upon examination of the authorities cited by the defendants to show the present indictment was a fact, that the witness stated that the report was based upon hearsay evidence merely, was thrown upon the deceased pamphlet, and was incorrect, and that the defendant had not made the statements therein attributed to them, certain parts of it were incorrect, against the testimony of the defendants, and denying the truth of the statements therein contained: and as to whether or not these statements were ever made to said Bradford, is a question of fact to be considered by you from all the evidence upon that subject; and if you believe the statements were not made to said Bradford, you are to disregard the same. But if you believe from the evidence that they were so made to said Bradford, then you are instructed to consider them as evidence, but only as to such parties by whom they were made.

The leadtime required by schools in the Health Professions Education Act and the Nurse Training Act and nursing schools say is a gap measure, and will be extended to Congress, emphasized the need to in the bill is designed to stave off what the government against whose laws it was committed. This does not mean to deny a defendant in respect to their offence or its consequences. "An ex post facto law," this court said in O'Conner v. Fourteenth Jurisdiction, involve, in any of its definitions, a change of the place of trial of an alleged offence after its commission.

Another contention of the defendants is that the indictment is fatally defective, in that it fails to sufficiently show when Cross— the person named therein, was killed, or that he died within a year and a day from the infliction upon him of the alleged injuries and wounds, or within the territory in the jurisdiction of the court in which they were tried. As the indictment is, and the district attorney General submits this question without argument, and without any suggestion in support of the indictment, and as the judgment must, for reasons to be presently stated, be reversed, leaving the government at liberty to find a new indictment, if its officers shall be so advised, and may hold an examination of the authorities cited by the defendants to show the present indictment is defective.

At the trial below, one of the defendants counsel, who had been attorney general of Kansas, who, in that capacity, made the report to the governor in support thereof touching the death of Cross immediately after it occurred, was called, in rebuttal, as a witness for the defense, and upon examination of the authorities cited by the defendants to show the present indictment was a fact, that the witness stated that the report was based upon hearsay evidence merely, was thrown upon the deceased pamphlet, and was incorrect, and that the defendant had not made the statements therein attributed to them, certain parts of it were incorrect, against the testimony of the defendants, and denying the truth of the statements therein contained: and as to whether or not these statements were ever made to said Bradford, is a question of fact to be considered by you from all the evidence upon that subject; and if you believe the statements were not made to said Bradford, you are to disregard the same. But if you believe from the evidence that they were so made to said Bradford, then you are instructed to consider them as evidence, but only as to such parties by whom they were made.

The leadtime required by schools in the Health Professions Education Act and the Nurse Training Act is an important measure.
Because the present uncertainty is jeopardizing the plans of students and medical schools, I am introducing this bill to extend the loan and scholarship provisions of the Public Health Service Act for 1 year, at the same fiscal level authorized for 1971. Congress appropriated $40 million for health professions students assistance programs in fiscal 1971, about $25 million, and scholarships about $15.5 million.

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

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

S. 1746
A bill to amend the Public Health Service Act to extend for one year the student loan and scholarship provisions of titles VII and VIII of such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STUDENT LOAN PROGRAM UNDER TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

SECTION 1. (a)(1) The first sentence of section 742(a) of the Public Health Service Act is amended by striking out “the next fiscal year” and inserting in lieu thereof “the next two fiscal years.

(b) The third sentence of such section is amended by (A) striking out “1972” and inserting in lieu thereof “1973”, and (B) by striking out “1971” and inserting in lieu thereof “1972”.

(c) The first sentence of section 744(1)(1) of such Act (42 U.S.C. 264d) is amended by striking out “next three fiscal years” and inserting in lieu thereof “next four fiscal years.

SCHOLARSHIP PROGRAM UNDER TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Sec. 2. (a) Section 780b of the Public Health Service Act is amended by striking out “the next two fiscal years” in the first sentence and inserting in lieu thereof “the next three fiscal years”, (b) by striking out “1972” in the last sentence and inserting in lieu thereof “1973”, and (3) by striking out “1971” in such sentence and inserting in lieu thereof “1972”.

(b) Section 780(c)(1)(D) of such Act is amended by striking out “the next two fiscal years” and inserting in lieu thereof “the next three fiscal years”.

(c) The first sentence of section 780(c)(1)(D) of such Act is amended by striking out “1972” and inserting in lieu thereof “1973”.

STUDENT LOAN PROGRAM UNDER TITLE VIII OF THE PUBLIC HEALTH SERVICE ACT

Sec. 3. (a) Section 824 of the Public Health Service Act (42 U.S.C. 297c) is amended by striking out “the fiscal year ending June 30, 1971, and the next fiscal year”, (b) by striking out “1972” and inserting in lieu thereof “1973”, and (3) by striking out “July 1, 1971” and inserting in lieu thereof “July 1, 1972”.

(b) Section 826 of such Act (42 U.S.C. 297e) is amended by striking out “1974” each place it occurs and inserting in lieu thereof “1975”.

SCHOLARSHIP PROGRAM UNDER TITLE VIII OF THE PUBLIC HEALTH SERVICE ACT

Sec. 4. (a) Section 860(b) of the Public Health Service Act is amended by (1) striking out “the next fiscal year” and inserting in lieu thereof “the next two fiscal years”, (2) by striking out “1972” in the last sentence and inserting in lieu thereof “1973”, and (3) by striking out “1971” in such sentence and inserting in lieu thereof “1972”.

(b) Section 860(c)(1)(A) of such Act is amended by (A) by striking out “1972” and inserting in lieu thereof “1973”, and (B) by striking out “1972” and inserting in lieu thereof “1974”.

TRAINERSHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

Sec. 5. Section 821 of the Public Health Service Act is amended by striking out “for the fiscal year ending June 30, 1971 and the next fiscal year.

By Mr. KENNEDY:
S. 1747. A bill to amend title VIII of the Public Health Service Act to extend, expand, and improve the various programs thereunder relating to nurse training, and for other purposes. Referred to the Committee on Labor and Public Welfare.

NURSE TRAINING AMENDMENTS OF 1971

Mr. KENNEDY, Mr. President, I send in the desiderata that the bill I am introducing today, is to assure that America gives the highest priority to the development of nursing personnel as a key element in our overall strategy to end the health manpower crisis. The committee intends to expedite these measures concurrently with the extension of the Health Professions Education Assistance Act, and I am hopeful that major new measures relating to this legislation will clear Congress promptly.

Mr. President, I ask unanimous consent that the bill may be printed in the Record at this point.

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

S. 1747
A bill to amend title VIII of the Public Health Service Act to extend, expand, and improve the various programs thereunder relating to nurse training, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Sec. 1. This Act may be cited as the “Nurse Training Amendments of 1971”.

TITLE I—AMENDMENTS TO TITLE VIII OF THE PUBLIC HEALTH SERVICE ACT

GRANTS FOR CONSTRUCTION OF SCHOOLS OF NURSING

Sec. 101. (a) The heading to part A of title VIII of the Public Health Service Act is amended to read as follows:

"PART A—Grants, Loans, and Interest Subsidies for Construction of Schools of Nursing"

"SUBPART I—Construction Grants to Schools of Nursing"

(b) Section 801 of such Act is amended by (A) by striking out “and” after “1970”, and (B) by inserting in lieu thereof the period at the end thereof the following: “, $40,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year end-
ing June 30, 1973, and $850,000,000 for the fiscal year ending June 30, 1974".

"Sec. 803. (a) of such Act is amended—

(A) by striking out "Surgeon General" and inserting in lieu thereof "Secretary"; and

(B) by striking out "1970" and inserting in lieu thereof "1975".

"(2) Subsections (b) and (c) of section 802 of such Act are each amended by striking out "Surgeon General" wherever it appears therein and inserting in lieu thereof "Secretary".

"(3) Section 802 of such Act is further amended by inserting a new subpart with respect to such project, the United States shall submit to the Secretary a guarantee of the principal amount thereof, or in lieu thereof, an amount of the cost of such project.

"(4) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"(d) (1) In the case of any loan to a school of nursing under this subpart, the United States shall require from the applicant the amount of any payments made pursuant to any guarantee of such loan under this subpart, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(2) Guarantee of loans to schools of nursing established under this subpart with respect to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subpart will be fully achieved. Subsection (e) of section 808 of such Act is amended by inserting in lieu thereof "Secretary".

"(e) Sections 808 and 809 of such Act are each amended—

(1) by striking out "part" wherever it appears therein and inserting in lieu thereof "this part"; and

(2) by striking out "Surgeon General" wherever it appears therein and inserting in lieu thereof "Secretary".

CONSTRUCTION LOAN GUARANTEES AND INTEREST SUBSIDY PAYMENTS

"Sec. 808. (a) In order to assist public and nonprofit private schools of nursing to carry out needed projects for the modernization of their facilities, including the construction of such schools, the Secretary, during the period commencing July 1, 1971, and ending June 30, 1974, may, in accordance with the provisions of section 803 of this Act or in lieu thereof, require such lenders making loans to such schools for such projects, payment of principal and interest on such loans, made by such lenders, which are approved under this subpart.

"(b) No loan guarantee under this subpart, with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant under subpart I of this title, exceeds 90 percent of the cost of such project.

"(c) The Secretary, with the consent of the Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance as is necessary, with respect to the administration of this subpart as will promote efficiency and economy thereof.

"(d) For each project for which a guarantee of a loan to a public or nonprofit private school of nursing is sought under this subpart, there shall be submitted to the Secretary an application by such school. Such application shall (1) set forth all of the data and information and contain or be supported by all of the assurances required under section 802 with respect to applications for grants under subpart I of this part, and (2) contain such additional information as the Secretary may require to carry out the purposes of this subpart.

"(e) The Secretary may approve such application only if—

(1) he makes the findings which are required by clauses (1) through (6) of section 802 with respect to applications for grants under subpart I of this part;

(2) he obtains assurances that the application contains sufficient and accurate information as to such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require; and

(3) he also determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan for which a guarantee is sought are such as to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations prescribed by the Secretary that the rate of interest does not exceed such per centum per annum on the principal obligation guaranteed as to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks associated with modernization or construction of such facilities.

"(f) The Secretary shall have such powers and duties as are necessary to carry into effect the provisions of this subpart, including the power to alter, amend, or rescind such rules and regulations as he may deem proper to effect the purposes of this subpart.

"(g) In the event the Secretary waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(h) Any part of a loan to a school of nursing made by the Secretary pursuant to this subpart shall be inconvertible in the hands of the individual or entity on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to a sufficient amount, in reliance thereon, except for the part of such loan to a school of nursing under this subsection, as may be provided in appropriation Acts.

"PAYMENT OF INTEREST ON GUARANTEED LOANS

Sec. 807. (a) Subject to the provisions of subsections (b) and (c) of section 808, the Secretary shall provide, in any case in which a guarantee of any loan to a school of nursing, under this subpart with respect to any project, the Secretary shall pay, to the holder of such loan and for and on behalf of such school, amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise applicable to such holder and the proceeds of such loan, to a school of nursing, which is guaranteed under this subpart, shall have a continuing right to receive from the United States interest payments required by the preceding sentence.

"(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriation Acts.

"LIMITATION ON AMOUNT OF LOANS

"Sec. 808. The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been made under this subpart, and such limitations as may be provided in appropriation Acts. 

"LOAN GUARANTEE FUND

"Sec. 809. (a) Any guarantee established in the Treasury a loan guarantee fund (hereinafter in this section referred to as the 'fund') which shall be available to the Secretary for the purpose of providing in such amounts as may be specified from time to time in appropriation Acts, (i) to enable eligible applicants for guarantees under guarantees issued by him under this subpart, and (ii) for payment of interest on loans guaranteed under this subpart. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be in such fund amounts received by the Secretary from the sale of securities issued by the Secretary, or assets derived by him from his operations under this subpart, including any moneys derived under similar authority.

"(b) At any time the moneys in the fund are insufficient to enable the Secretary to meet his responsibilities under this subpart—

(1) to make payments of interest on loans to schools of nursing which he has guaranteed under this subpart, and

(2) otherwise to comply with guarantees issued by him under this subpart; such additional moneys may be issued to the Secretary by the Treasury, to the extent necessary to enable the Secretary to meet his responsibilities under this subpart.

"SPECIAL PROJECT GRANTS

"Sec. 810. (a) A part of title VIII of such Act is further amended—

(1) by striking out section 808 of such Act;

(2) by adding after section 809 of such Act (added by section 102 of this Act) the following:

"(b) Special Project Grants; Institutional Grants; and Financial Distress Grants

"SPECIAL PROJECT GRANTS

"Sec. 810. Grants may be made from sums available therefrom for payments in cases of need for financial assistance to the Secretary for the purpose of assisting in the planning and development of special projects to plan, develop, or establish new schools or to modernize or maintain programs of nursing education or to effect significant improvements in curriculums of schools of nursing. The Secretary shall submit to Congress a comprehensive research in the various fields related to nursing education, or to develop training for new levels or types of personnel, or to assist such schools of nursing to modernize, or to remain in the status of nonprofit educational institutions in meeting the cost of special projects to plan, develop, or establish new schools or to modernize or maintain programs of nursing education or to effect significant improvements in curriculums of schools of nursing. The Secretary shall review the costs of planning experimental teaching facilities or experimental design thereof, or to increase educational opportunities for disadvantaged students, or to provide continuing education for nurses, or to provide appropriate retraining opportunities.
for nurses who (a) come to such school of training in the nursing profession, or which will otherwise strengthen, improve or expand programs to train nurses or their supervisors to help to increase the supply or improve the distribution by geographic area or by specialty group of adequate numbers of nurses who are determined by the Secretary to meet the health needs of the Nation, including the need to increase the availability of personal to carry out their functions, and the need to promote preventive health care. In determining eligibility of such school to receive a grant under this section and the amount of such grant, the Secretary shall consider the needs of such school, the nature and scope of the Nation's health manpower needs and the need to give adequate consideration to the need for alternative programs for helping to fill these needs.

(b) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under this section for any fiscal year must be filed.

(c) A grant under this section may be made only to a school of nursing.

(d) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section; and

(e) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section.

(f) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section.

(g) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section.

(h) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section.

(i) Provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section.

Sec. 104. Part A of title VIII of the Public Health Service Act is further amended—

(1) by striking out sections 806, 807, and 808.

(2) by adding after section 810 as added by section 103 of this Act the following:

"INSTITUTIONAL GRANTS"

"Sec. 811. (a) The sums appropriated under subsections (a) and (c) for any fiscal year shall be distributed to schools with approved applications for fiscal years ending after June 30, 1971, that the Secretary determines as being necessary for such purposes as may be necessary to carry out the purposes of this section."

(b) The amendments made by subsection (a) of this section shall be effective with respect to grants from any fiscal year after June 30, 1971.

Sec. 105. Part A of title VIII of the Public Health Service Act is further amended—

(a) by striking out sections 822, 823, and 824.

(b) by adding after section 823 as added by section 104 of this Act the following:

"FINANCIAL DISTRESS GRANTS"

"Sec. 826. There are authorized to be appropriated such sums as may be necessary for grants under this section to assist any schools of nursing which are in financial distress and to meet the costs of operation."

(b) Any such grant may be made upon such terms and conditions as the Secretary determines to be necessary and necessary, including requirements that the school agree to such terms and conditions and to furnish such data as the Secretary may require to determine the source of funds of such school and to conduct a comprehensive cost analysis study in cooperation with the Department of Health, Education, and Welfare, that will lead to an implementation of such operational and financial reforms as are recommended by the Secretary for meeting the needs of the students and the school, and to be used in the course of the comprehensive cost analysis study or other relevant information."
three fiscal years" and inserting in lieu thereof of "next six fiscal years".

NURSING SCHOLARSHIP GRANTS

Sec. 108. (a) Effective with respect to scholarship grants made under subsection (a) of section 438 of the Public Health Service Act for fiscal years beginning after June 30, 1971, subsection (b) of such section is amended to read as follows:

"(b) The amount of the grant under subsection (a) for the fiscal year ending June 30, 1971, for each of the next two fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending before July 1, 1974."

(b) Effective with respect to scholarship grants made under subsection (a) of section 809 of the Public Health Service Act for fiscal years beginning after June 30, 1971, subsection (e) of such section is amended to read as follows:

"(e) There is authorized to be appropriated for each fiscal year ending June 30, 1972, and for each of the next two fiscal years, such sums as may be necessary to carry out the provisions of this section."

"(1) Identifying qualified youths (with emphasis given to identifying those youths of exceptional financial need) and encouraging such students to apply and undertake post secondary educational training in the field of nursing, or

"(2) Reimbursement of costs (or reimbursement for costs) for post secondary educational training in the field of nursing."

TITLE II—AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

Sec. 201. Part B of title IV of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new section:

"DIRECT LOANS TO CERTAIN STUDENTS IN NURSING SCHOOLS"

"Sec. 438. The Commissioner may make a direct loan to any student in any public or other non-profit college or associate degree school of nursing under this part if—

"(1) there is a fund established pursuant to an agreement under part B of title VIII of the Public Health Service Act in effect at such school, and

"(2) The student is eligible for but has been unable to obtain a loan from such fund.

"(b) Loans made under this section shall bear interest at the rate prescribed by the Secretary under section 427(a) (2) (D) for the area where the student resides, and shall be made on such other terms and conditions as the Commissioner shall prescribe, which shall conform as nearly as practicable to the terms and conditions of loans insured under this Act.

"(c) There is authorized to be appropriated for each fiscal year ending June 30, 1972, and for each of the next two fiscal years, such sums as may be necessary to carry out the provisions of this section."

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 1479. A bill to amend section 7 of the Flood Control Act approved June 28, 1938 (52 Stat. 1215, 1225), as amended. Referred to the Committee on Public Works.

Mr. JACKSON. Mr. President, I introduce for appropriate reference, a bill to amend the Flood Control Act of 1938 (52 Stat. 1215, 1225), as amended. The purpose of the bill is to increase authority for the expenditure of emergency funds by the Secretary of Agriculture from $300,000 to $3,500,000 each fiscal year. These funds would be available for emergency measures whenever a fire, flood, or other natural disaster has created a sudden and urgent need for funds to mitigate a disaster threat the lives and property of our citizens. It is imperative that sufficient funds be provided to counter the potentially ravaging aftereffects of fires, floods, and other natural elements or forces which slowly deteriorate certain watersheds.

In the past we have dealt with forest fires rehabilitation and flood control measures on a piecemeal basis only. Two days ago we received a statement from a representative from the Forest Service, stating that the federal funds for work on Federal lands, as a direct result of Hurricane Camille, Congress passed another supplemental appropriations of $9.5 million for emergency measures primarily in severely damaged areas of Virginia. These moneys were expended during fiscal year 1970. What we have been doing is merely reacting to the crisis and then providing sufficient funds through legislation to immediately rehabilitate areas when unforeseen disasters strike. In many instances the current procedure for determining the damages caused to property by natural elements or forces which slowly deteriorate certain watersheds. This bill would provide the funds necessary to carry out the provisions of this section."

MISCELLANEOUS PROVISIONS

Sec. 110. Section 686 (a) of the Public Health Service Act is amended to read as follows:

"(a) To assist in achieving the purposes of this part the Secretary is authorized to enter into contracts with grants to be made pursuant to this part to the States and other nonprofit or nonprofit organizations and institutions for the purpose of—"
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that we received funding in time, but next time we may not be as fortunate unless sufficient funds are provided through legislation to meet these problems.

Mr. President, during the 91st Congress the Disaster Relief Acts of 1969 and 1970—Public Law 91-106—became law. Both these laws contain provisions for grants and loans to any State to assist in the suppression of any fire on publicly or privately owned forest or grass lands which threatens such destruction as to constitute a major disaster. In many instances, however, the real disaster does not present itself until after the fire has been extinguished. Only where an area devastated by fire has been proclaimed a major disaster area was not deemed hurt enough to be eligible for relief. As severe as the fires were in Washington State last year, the area was not deemed hurt enough to be classified as a major disaster area. In addition, the relief is intended to provide relief for State and private lands only. The federally owned lands and property require equal protection.

Mr. President, I am unanimous in presenting this bill to be printed in the Record at this point. There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1749

A bill to amend section 7 of the Flood Control Act approved June 28, 1938 (52 Stat. 1218, 1225), as amended by section 306 of the Flood Control Act of 1950 (60 Stat. 291, 296), to provide that the text of this bill be printed in the Record.

By Mr. PACKWOOD:

S. 1750. A bill to authorize abortions in the United States. Referred to the Committee on Labor and Public Welfare; and


Mr. PACKWOOD. Mr. President, I rise today to introduce two bills designed to take government out of the business of enforcing compulsory pregnancy. The National Abortion Act would permit women nationwide to control their own fertility, by early termination of pregnancy if necessary, and the District of Columbia Abortion Act would do the same for legislation. May I take a few minutes to explain why I believe Congress should deal with this controversial subject and why I think such legislation is both necessary and timely.

Certainly abortion is a controversial issue—and has been so for thousands of years. Through the centuries, the debate has been basically a debate over the role of men. Claire Booth Luce, reviewing two recent books on abortion, points out that—

"So many of the books which learned men have written about 'women's problems,' this is really a book about the problem men are having with other men who refuse to do the "women's problem" as they do.

The problem of the seven authors reviewed here is how to convince other moralists, other women, and "women's men" that they should unite to prevent women (who else?) from getting abortions—legal or illegal.

The debate on abortion has also been centered almost entirely on theological discussions of the meaning of life—or personhood—begins. Churches and theologians have disagreed; most have changed their positions at some time; perhaps they will again. The question becomes even more complex as science moves into new areas of genetic engineering and cell reproduction. There seems no likelihood that moral aspects of the abortion question can ever be settled so as to be accorded unreserved acceptance by all.

Meanwhile, as the debate rages on, often obscure, frequently shrill, the reality of what is happening in the world is almost lost sight of. Real women suffer here and now. The move to abortion is not made in a vacuum, but rather in an atmosphere of frustration, confusion, anger, and despair. Real women are caught in tragic dilemmas—and the state has usually been in the position of trying to compel them to bear unwanted children.

The reality is that abortion takes place on a massive scale almost everywhere. It is estimated that some 30 to 35 million abortions take place each year around the world, millions of them in countries with laws against the procedure. "There is no statistic that is not disputed," says the United Nations, estimates of induced abortions range from 200,000 to over 1 million a year. Mrs. Luce in the review cited above says that 500,000 to 600,000 may be a reasonable figure. But even if the low estimate were correct, it is sadly clear that the problem is enormous.

In the first 8 months of the repeal of the strict law against abortion in New York State, some 96,000 legal abortions were performed in New York City, a fact which horrified those opposed. But we must remember that it did not create a demand for abortion. The Reverend Howard Moody, one of the founders of the Clergy Consultation Service on Abortion, which counseled women with unwanted pregnancies, says that, at the time the new law went into effect, that organization alone was getting 100 calls a day asking for help. So the desire for abortion exists, regardless of what the law says. The question is not whether, but how society should best deal with it.

There are those who think we should stand aside and hope the courts will decide. The Supreme Court, in Roe v. Wade, the Court issued a ruling on the District of Columbia's abortion statute, but the decision spoke only to the question of unconstitutional legislation, and did not deal with the substantive issue involved, the right of a woman to control her own body and her own fertility, in accordance with her own ethical and religious convictions.

There are several cases coming before the Court which do deal with the substantive rights involved in abortion, but we cannot foresee whether the decisions rendered will be narrow or broad in scope, or in what direction they will move. It is an evasion of our responsibility as legislators to fail to act in the hope that some court will move in the direction we desire.

I am submitting this national abortion law today because the present laws are such a hedgehogise that the current situation in this country is chaotic, incomprehensible, discriminatory and full of injustice.

In a majority of States, abortion is permissible only when it is necessary to preserve the life of the mother, this leaving doctors, hospitals or courts with the job of wrestling with just what that phrase means and where that condition prevails. At the opposite end of the spectrum are the laws of Alaska, Hawaii, Washington State, and New York which make the decision a matter between physician and patient. The other States have varying definitions of when abortion is permissible.

Furthermore, the situation is in a state of flux, with State legislatures moving in different directions—and legislatures changing from one session to the next, moving them in the opposite direction. What is permissible this year may not be permissible next year; what is criminal today may be sanctioned tomorrow. Does this show respect for life? What is a confused woman—or her husband—or her doctor to make of all this?

What the present system means in practice is that a middle- or upper-class woman can usually get an abortion performed by a physician, no matter what the law says. She may have it in her own hospital with the procedure disguised under some other medical term, or she can go to another State or another country where practice is more liberal. A national survey by Dr. Robert E. Hall find that 200,000 legal abortions are performed four times as often in the private services as in the ward services.

Is a woman, deeply mired in poverty, frantic with concern over what another baby will mean in an already overcrowded household, given no family planning assistance—is this woman less entitled to access to abortion than the equally frantic middle-aged woman of means who finds herself unexpectedly pregnant because of contraceptive failure at an age when she cannot think of coping with a baby?

A recent issue of a national news magazine carried a story about a new national computerized referral service, which will refer any woman applying for guidance to the nearest place she can go to have an abortion. With the confused legal situation, this is an inadequate, if not unacceptable, developement. But what of the woman who does not read national news magazines—and who would not have the money anyway to consult the service? What happens then?

In States with supposedly liberalized laws, as well as in States with rigid ones, we require doctors' and hospitals' boards

Abortion practices vary not only from hospital to hospital but also from service to service within the same hospital. Even if a patient is sent to the same service of the same hospital by those who oppose liberalizing their laws, they are free to advocate their positions as ferociously as they wish. It is not possible because thousands of women believe they have a right to abortion, and they are supported by important professional, legal and medical groups. Restrictive laws may not be enforced. Many will believe themselves gravely injured by such laws and in terms of their moral convictions they will believe they have a right to abortion and they are protected by the First Amendment. As per the laws, women believe they have a right to abortion, so they continue to have them. The courts are not only from hospitals but also from the state. The legislature is interested in obtaining an abortion. A woman may spend precious time seeking out psychiatrists and appearing before a hospital board, awaiting the decision of the board—and then perhaps being rejected. More time then is consumed in seeking approval at another hospital. And of those who oppose liberalizing their laws are, to the extent of that inconsistency, not superseded.

a bill to authorize abortions in 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 "National Abortion Act". Sec. 1. As used in this Act, (1) "physician" means any person licensed under the laws of any State to practice medicine; (a) any person who practices medicine in the employment of the Government of the United States or of any State; and (2) "State" means any of the several States of the United States, the District of Columbia, any area within any of the several States over which the United States has exclusive or concurrent jurisdiction, the commonwealth of Puerto Rico, and the territories and possessions of the United States.

Sec. 2. (a) Subject to the provisions of subsection (b), any physician is authorized to perform, by such means as he deems appropriate, an abortion on any female person who has become pregnant as a result of sexual intercourse with any male person on or after the first day of the last normal menstrual period, and who shall be permitted to perform such abortion if he deems it likely to endanger the life or health of such female person.

(b) A physician other than a physician who practices medicine in the employment of the Government of the United States or any State shall perform an abortion in accordance with this Act only in a State in which he is licensed under the laws thereof to practice medicine.

Sec. 3. The laws of any State or political subdivision thereof inconsistent with any provision of this Act are, to the extent of that inconsistency, not superseded.

A bill to authorize abortions in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any physician is authorized to perform, by such means as he deems appropriate, an abortion on any female person who requests that action. No abortion shall be performed by any physician on any female person under the authority of this Act unless performed within the first one hundred and forty days of such person's pregnancy. As per the laws, women believe they have a right to abortion, so they continue to have them. The courts are not only from hospitals but also from the state. The legislature is interested in obtaining an abortion. A woman may spend precious time seeking out psychiatrists and appearing before a hospital board, awaiting the decision of the board—and then perhaps being rejected. More time then is consumed in seeking approval at another hospital. And of those who oppose liberalizing their laws are, to the extent of that inconsistency, not superseded.

Religion, Mortality, and Abortion: A Constitutional Appraisal

by Mr. C. Clark

Thought without action is an abortion; action without thought is folly.

Our society is currently in the midst of a
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sal revolution which has cast the prob­lem of birth control in a new light. The American Medical Association had a negative policy respecting abortion. The A.M.A. often sought the prosecution of any doctor who was involved in abortions. The American Bar Association, on the other hand, was concerned that the doctor was disregarded. As in so many other facets of its moral code, however, society was lagging behind the times. Public pronouncements against its practice, abortions increased, especially among married women, and judicial action against the par­ticipants decreased in proportion.

Some social commentators argue that Prend prepared the way for the Kinsey Re­port, which in turn set the stage for the sexual permissiveness that Reinhold Niebuhr called “moral anarchism.” This permeating permissiveness engendered a need for more efficient birth control methods, such as “the pill,” and precipitated the doom of the old hypocrisies.

The law, lagging behind as usual, began to emerge from its quagmire and rid itself of the anachronistic restrictions. In 1962 the American Law Institute proposed an affir­mative policy declaring that the termina­tion of pregnancy is justified whenever (1) its continuance would gravely impair the physical or mental health of the mother, (2) the child would be born with grave physical or mental defect, or (3) the pregnancy is the result of rape, incest, or other felonious intercourse.

Within five years of this proposal, the A.M.A. reversed its negative policy and adopted the A.L.I. proposal with only a few nuances. During the next two years, five states passed legislation on abortion laws and adopted the A.L.I. proposal.4

A further liberalization occurred in Great Britain with the adoption of the 1967 Abor­tion Act, which permits doctors to consider the mother’s “actual or foreseeable environ­ment” in deciding whether an abortion is necessary.5 The American College of Obstet­ricians and Gynecologists (A.C.O.G.) recently advocated enactment of similar legislation in the United States. The proposed legislation would contradict existing laws in all states, the A.C.O.G. made it clear that it does not endorse the A.L.I. proposal. It merely recommended liberalization and repeal of inconsistent laws. It did not, how­ever, recommend an exception for any unwanted pregnancy or as a popula­tion control device.

Various religious, medical, psychological, and legal organizations have been striving to reach some level of accord on the issues in­volved in promulgating a realistic and ac­ceptable policy toward abortion. Emphasis on this topic is the result of many factors including the chaotic state of thinking that prevails among the professions and the pub­lic, and the medical, emotional, and legal consequences which abortion has on to­day’s society.

The Christian Medical Society’s symposium on controlling human reproduction provided a recent illustration of the disagree­ment and difference of opinion concerning abortion. Distinguished clergymen, psychologists, doctors, and lawyers sought to determine “whether society is confronted with the need to create laws concerning human reproduction, whether existing laws should be followed. They were unable to answer many important questions, such as: Is the control of conception a problem in the context of the spirit of God? At what stage of the gesta­tion period does the fetus acquire human status? On what basis shall limitations be im­posed on the State in prohibiting or limit­ing the control of reproduction?” 6

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edge and use of abortion. This attitude of permissiveness is replacing the hypocrisy that prevailed in the last generation.

A major contributing factor to this change in attitude has been the growing antagonism toward the double standards which permits those with social status and financial ability to procure abortion for themselves, while the underprivileged, with social and economic classes are denied this opportunity. We are in the midst of a world-wide revolution in this area, and the public's awareness of this issue is available in the stumps as well as on Fifth Avenue. The statistics illustrate the disparity between the affluent and the nonaffluent. This differential is not only more marked but is also becoming more apparent.

There are relatively affluent. These counties account for sixteen percent of the live births and fifty percent of the abortions in California. The less affluent Los Angeles County with its widespread stumps accounts for sixty percent of thelive births but only thirty-three percent of the abortions in California. These facts demonstrate quite clearly that the affluent area accounts for a number of abortions disproportionate to their population density.

The increasing number of abortions subjects doctors to increased dangers of liability for incorrectly interpreting a statute. It appears that doctors face an uncertain fate when performing an abortion. Even though the court has declared that the legislatures or courts provide relief from liability. Very few states, if any, will repeal all abortion laws as the Supreme Court declared in Griswold. If they have already repealed them, it means that in states such as California this is an inadequate remedy in many respects. If the medical profession is to be accorded complete protection, it will have to come through the judicial system.

The Supreme Court of the United States has extended the content of the guarantees of the Fourteenth Amendment.

In 1925 a public school statute requiring attendance exclusively at state schools was declared unconstitutional on the ground that it unreasonably interfered with "the liberty of parents and guardians to direct the upbringing and education of their children."

This concept was later extended to include the private realm of family life which the state cannot enter. And in 1960 the Court declared, in very broad language, that where State action significantly encroached upon personal liberty, its action would be invalid unless the State had a compelling subordinating interest. The Constitution prohibits the use of contraceptives. The statute was found to operate upon "an individual's right to privacy, which right, ... in certain instances, is created by the Constitution. Unless the State has a compelling subordinating interest that out weighs, and is not limited by, the individual's interest in freedom. It may not interfere with a person's marriage, home, children, and day-to-day living habits, unless it is necessary, as a last resort, to do so in the interest of the public welfare."

The Court struck down the state's "medical regulation and therefore regulatory action is an invasion of privacy. The Court's holding in Griswold asked whether a decree requiring all husbands and wives to be sterilized after their third or fourth child was constitutional. He answered the question in the negative. But suppose that the husband and wife voluntarily submitted to sterilization. Would it not be perfectly all right for them to think so? Does it therefore know that voluntary destruction of the fetus is also protected from interference by the State? Perhaps not. Procreation is life present, the time that life is present, the State could not interfere with the termination of that life even if performed in a hospital or under appropriate clinical conditions. I say this because State interference is permissible only if reasonably necessary to the effectuation of a legitimate and compelling State interest. Prior to the time that life is present in the fetus, what interest does the State have? Procreation is certainly no longer a legitimate and compelling State interest in these days of burgeoning populations. Moreover, abortion falls within that sensitive area of privacy—the marital relation. One of the basic values of marriage is the procreation of children. The decision in Griswold struck down the State's act to prevent formation of the fetus. This, the Court found, was constitutionally protected. The Court's holding may address itself to the necessities of the common law, abortion could not be murder. Therefore, under the common law, abortion could not be murder. Therefore, a State's act to prevent formation of the fetus was unconstitutional. The concept of abortion uniformly held that an infant could not be the subject of a homicide until its complete expulsion from the body of the mother and the establishment of an independent existence. The distinction between fetal life and independent existence was an independent circulatory system. Hence, in the evidence showed that an infant was killed before its birth was complete or was killed by means which would necessarily have destroyed the child was not deemed a homicide. Therefore, under the common law, abortion could not be murder. These decisions and have been somewhat eroded in recent years. At present the courts do not agree on the time when an illegitimate fetus is not an "unborn infant." They have held an accouché responsible for prenatal damage to an infant in a viable state. In this pro-choice state of the law we have found that the unborn infant was a separate legal entity and hence a legal one in contemplation of law. The State is now required to deal with the problem of an independent existence. From this reasoning the courts may well take the unborn child into its protective custody. Indications of such a trend are that doctors face an uncertain fate when performing an abortion. Even though the Court has declared that the State has a compelling subordinating interest that out weighs, and is not limited by, the individual's interest in freedom. It may not interfere with a person's marriage, home, children, and day-to-day living habits, unless it is necessary, as a last resort, to do so in the interest of the public welfare."

The result of these decisions is the evolution of the concept that there is a certain right to privacy protected by the Constitution. Unless the State has a compelling subordinating interest that out weights, and is not limited by, the individual's interest in freedom. It may not interfere with a person's marriage, home, children, and day-to-day living habits, unless it is necessary, as a last resort, to do so in the interest of the public welfare.

The law does not deal in speculation. The phenomenon of life takes time to develop, and if it is actually present, it cannot be destroyed. Its interference by the State would hardly be homicide, and as we have seen, society does not regard it as such. The right to privacy, as we have seen, includes the right of the State to decide whether the taking of the life of a fetus. This would not be the case if the fetus constituted a legitimate interest. This is not a question that will be easily resolved. Few questions that reach the Supreme Court are. As was stated at the Christian Medical Society's Symposium on Abortion and the Professionals . . . do not wish to play God with human lives, whether in being or inchoate with life. But we cannot afford to the judgment by a widest interchange, airing and consensus. 'Humility is a large part of every profession. People have been remembered that many imponderables are a part of Supreme Court adjudication.

Accommodation of conflicting doctrine is more difficult to achieve in the judicial than in the legislative process. Courts cannot reach out to reform our society. A problem comes to the Court in the form of a justifiable issue and is narrowly drawn, rendering the Courts ruling contracted and finespun. Legislatures, on the other hand, have such opportunities for investigation as hearings and existing. As Mr. Justíce Cardozo said, "Legislation can eradicate a cancer, right some hoary wrong, correct some injustice, and relieve the sicker of its affections, the feebler remedies, the distinctions and the fictions familiar to the judicial processes.

The courts work on a case-by-case system which deals with the past rather than the future. Society would not have the benefit of the sweeping effect of a statute, nor would the doctor have the protection that he is entitled to receive. The case method would be slow, expensive, and possibly disastrous. It is for the legislature to determine the proper balance, i.e., that point between prevention of the viability of the fetus which would give the State the compelling subordinating interest so that it may regulate and protect abortion is a deliberate and fundamental right protected by the Constitution in some jurisdictions and the repudiation of the "live birth" doctrine by fourteen states. The notion that life begins at conception is to give recognition to the human life of the actual. The unfertilized egg has life, and if fertilized, it takes on human proportions. When the court has held that the life of an infant begins at birth. The law does not deal in speculation. The phenomenon of life takes time to develop, and if it is actually present, it cannot be destroyed. Its interference by the State would hardly be homicide, and as we have seen, society does not regard it as such. The right to privacy, as we have seen, includes the right of the State to decide whether the taking of the life of a fetus. This would not be the case if the fetus constituted a legitimate interest.

The present climate seems favorable for immediate legislative action. Five States have already led the way. With appropriate action, many more will follow suit in liberalizing the law. The courts will take less talk and more action. As Nehru once said, "There are people who merely talk about things. However wise you may be, you can never enter into the spirit of a thing if you only talk about it."

Footnotes at end of article.
ABORTION AND RELIGION

(By Rabbi Israel R. Margolies)

The moral implications and desperate need for legalizing abortion were dramatically demonstrated a little over three years ago in the Finkbine case in Arizona. Doctors were confronted with a decision by the spectacle of a decent, intelligent American woman vainly seeking court sanction for an abortion, not because of a failure to fulfill the birth of a child who probably would be, as events later proved, actually was, horribly deformed. The moral and barbarous cruelty of the abortion laws in the U.S. was clearly exposed when Mrs. Finkbine was compelled to seek the compassion and help abroad that were denied in her own country. This was the only alternative to the very real threat of bringing into the world a pitiful creature whose life would be darkened with such pain, sorrow, and frustration as no one could possibly calculate, and whose very existence would be a curse upon his own existence.

Judaism considers man the active, responsible partner of God in the task or establishing the Kingdom of God—not in some far-off celestial sphere, or in some distant apocalyptic age under the leadership of a Messianic miracle-man—but right here on earth. In this world, Judaism is the closest aspect of the universe, God, while vitally concerned about all that occurs on this planet, has delegated the work of human history and creativity to man. I believe that the ideal world that all of us yearn to see, the world of universal justice and lasting peace, will not be bestowed by God upon man, but rather must be created by man to the greater glory of God.

Surely man, who was endowed by God with the intelligence to master nature, and the spiritual strength to bend that intelligence to the fulfillment of the Divine plan, was also intended to control it to the degree of determining whether or not to bring the fruit of his seed into the world. If the sexual function was meant only to serve the purpose of procreation, then, like other members of the animal kingdom, he would have learned to use it solely on regular, set occasions, devised by nature for the perpetuation of the species.

However, the fact is that man alone has been endowed with the unquenchable sexual appetite as an intimate expression of love that is unlimited by time or season. This is the privilege that has under­standably of some moral and legal concern to the community—but, as long as a man and woman find it appropriate to fulfill their love for and joy in each other through sexual intercourse, there is no law of nature or of God that requires that such love and joy must perforce lead to conception and birth. It is a man and a woman who must decide whether or not they wish the child to be born. This is not for the church, nor the synagogue, and certainly not the state.

Until a child is actually born into the world, it does not belong to society, nor has it been accepted into any faith. Its existence is purely private and individual. The concern of its parents, whether they are married or not. They and they alone have the right to decide whether or not to bring that child into a competitive society. In the January 31st edition of the magazine section of the New York Times, a little over three years ago, there appeared an article entitled, “The Arithmetic of Delinequency,” quotes women who want no more children, but who, on bringing a new baby home from the hospital, “hate him for being alive.” These are the rejected and neglected children who make up the vast majority of our delinquents, and then proliferate and repeat the vicious cycle further.

According to traditional Jewish law, and to quote from the Talmudic tractate of the Mishnah: 7: 6: “If a woman has great difficulty in giving birth to her child, it is permitted to destroy the child to save the life.” This law continues: “It is required of the child or its head or most of its body, it may no longer be destroyed to save its mother, since, as long as the child is pure, it is true: ‘we do not push aside one life for another.’” From this statement, we may conclude that abortion during the first trimester or pre-natal period is permissible, even in cases where the mother’s survival is not the prime purpose. Only when a child is about to be born, and has actually begun to live, is it permissible to destroy a human soul: and then only may we not “push aside one life for another.” Prior to actual birth, the unborn infant is not deemed a truly
to be a living soul, a human being. If it should die during birth, or even during the first 30 days of infancy, no funeral service is held, no Kaddish, or memorial prayer for the dead is recited; but this is not considered to have lived at all.

Rabbi Jacob Emden, the most brilliant Talmudic scholar of the 18th century, asked whether a pregnant adultress may have an abortion. This great authority, who regarded it as his sacred mission to collect and codify all previous statements on the affirmative, and went on in his explanation to suggest that we may destroy the fetus at any time the woman chooses... but even to save her excessive torture in childbirth. The most liberal statement on the general subject of abortion was given by the late Sephardic Talmudic scholar of the 18th century, Uziel. He concluded, after a broad analysis of the subject, that an unborn foetus is not a "neshamah"—a soul—at all, and has no independent life. It is part of its mother, and just as a person may choose to sacrifice a limb of his body in order to be cured of a worse malady, so may the foetus be destroyed for the sake of its mother.

While there are, to be sure, differences of opinion among some other Jewish scholars with regard to abortion, the position of the men whom I have cited is, in my care­full observation, nothing short of enlightened and acute interpretation of Jewish law. It is all too easy to dismiss the economist, moralist, abortionist, and many holier-than-thou religious leaders do, under the ominous heading of "sin." I believe, however, that the death and travail of the servitude to the dogmatism of theologians who speculate with fine detachment upon such matters in their cloistered ivory tow­ers, is unbecoming the rational and largely moral society of a great nation. In truth, the caring civilized mind would be hard put to devise, in the quest of outer space are profoundly concerned with regard to abortion, the moral society of a great nation. In truth, the caring civilized mind would be hard put to devise, in the quest of outer space are profoundly concerned with regard to abortion, the moral society of a great nation. In truth, the caring civilized mind would be hard put to devise, in the quest of outer space are profoundly concerned with regard to abortion, the moral society of a great nation. In truth, the caring civilized mind would be hard put to devise, in the quest of outer space are profoundly concerned with regard to abortion, the moral society of a great nation.
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NATIONAL INSTITUTE OF ADVERTISING, MARKETING, AND SOCIETY.

By Mr. MOSS.


ABORTION RESOLUTIONS

UNITARIAN UNIVERSALIST ASSOCIATION (May 1968).

American Baptist Convention (June 1968).

United Methodist Church (April 1970).

Presbyterian Church in the U.S. (December 1968).

Friends Service Committee (October 1969).

Universalist National Convention of America (February 1970).

American Medical Women's Association (November 1969).

American Psychiatric Association (December 1969).

New York Academy of Medicine (December 1969).

American Protestant Hospital Association (March 1970).

American Medical Association (June 1970).

National Council of Obstetricians & Gynecologists (June 1970).

American Psychoanalytic Association (May 1970).

Medical Committee for Human Rights (1967).

Student American Medical Association (1970).

OTHER CITIZENS ADVISORY COUNCIL ON STATUS OF WOMEN (April 1968).

American Ethical Union (January 1969).


The Isaak Walton League of America (July 1970).

American Society of Mammalogists (June 1970).

American Civil Liberties Union (March 1968).

seem to carry a hint of coercion or of a kind of persuasion that would be dishonorable or unworthy. . . . On the assumption that belief in the inviolability of life is de facto a religious belief, can Catholic spokesmen be open to the accusation that they are attempting to convert or to persuade in a way which clearly "might seem to carry a hint of coercion"?

The therapeutical options now available to those who are opposed on moral grounds to abortion offer at best a Hobson's choice. A request by a healthy mother for the abortion of a healthy fetus is all too often, in the words of the Reverend Professor Paul Ramsey's phrase, "fetal euthanasia.

The consequences to morality, however, of a change in the abortion laws should not blind Catholic spokesmen to the other unfortunate results of their intervention in the political order.

In June 1968 this author in an address to the Catholic Theological Society of America, made a recommendation as follows:

It is submitted that episcopal statements going beyond the morality of abortion and entering into the question of jurisprudence or the best legal arrangement are inappropriate intrusions in a pluralistic society by an organized church who wrongly assumes that he can pronounce a moral and uniform position for his church on a legal-political question.

This recommendation is now more relevant and more urgent after the action by the Hawaii Legislature to repeal all criminal sanctions against abortions done by licensed physicians.

By Mr. MOSS.


NATIONAL INSTITUTE OF ADVERTISING, MARKETING, AND SOCIETY.

Mr. MOSS. Mr. President, I introduce for appropriate reference a bill to establish a National Institute of Advertising, Marketing, and Society.

During the last Congress, three distinct initiatives undertaken by the Senate Subcommittee for Consumers—cigarette advertising, food and nutritional literacy, and advertising and drug abuse—led along separate paths to a suspect role for advertising and marketing. In varying degrees, each initiative was frustrated by a lack of basic scientific literature accurately describing the psychosocial impact of advertising.

Competent data-based testimony on the role which cigarette advertising played in creating the smoking habit could not be obtained. We could not measure the extent to which the "hardsell" promotion of cereals and snack foods with relatively low nutritional value contributed to nutritionally damaging attitudes among young people. And no probative data exists relating the aggressive promotion of over-the-counter drugs and other products to teenagers' attitudes toward the use of illicit drugs.

Put in another way, we are approaching the end of the 20th century knee-deep in a marketing economy and a consumer culture which we barely comprehend. To the child growing up in America, marketing messages are as pervasive as the air he breathes, by a lack of a basic scientific literature accurately describing the psychosocial impact of advertising.

For more than 50 years, through the Federal Trade Commission, we have sought to regulate marketing practices but we have never thought of developing a systematic understanding of the costs of marketing and advertising. Yet we are beset with profound and unsettling questions concerning the social role of advertising.

The repetitive pattern in much advertising promises instant gratification through the swallowing, tasting, touching, hearing, and even the smelling of an extraordinary variety of material goods. The incessant hammering of these themes has led critics to lay at advertising's door blame for the erosion of our traditional value system based upon the intrinsic rewards of effort, discipline, and responsibility.

It is marketing that teaches, in FCC Commissioner Nicholas Johnson's words:

That troubles are dissolved by the "fast, fast, fast" world; that personal satisfaction comes from passivity of possession and consumption, conspicuous whenever possible of cars, appliances, and toys, cigarettes, soft drinks, and beer, and not from the activity of commitment.

Of course, there exists a substantial body of knowledge concerning the behavior of individuals subjected to advertising. Market research in this country is a refined art if not a science. There has been some behavioral research on the impact of advertising performed in the Universities. However, much of it is being done in isolation and a great proportion of the work is funded by business naturally interested in a fairly narrow range of information. Nevertheless, the significance of much of the corpus of knowledge which does exist is obscured by the economic self-interest of the sponsors of the research.

What is clearly needed is an institution, above all independent of the distortions of economic self-interest, with adequate resources to draw upon the full range of disciplines and competencies in the social and mass communications, social historians, anthropologists—all of those necessary to bring us to the point where we can begin to make rational judgments on the need for limiting, curtailing or rechanneling marketing activities away from socially destructive paths.

The National Institute of Marketing and Advertising, which is proposed in the Federal Trade Commission.

The institute would be given a broad mandate to consider the social impact of the consumer culture. It would be encouraged to engage in numerous specific marketing themes and techniques and behavioral problems, such as drug abuse, as well as broad studies illustrating the fundamental conflicts between the consumer culture and national goals and ideals.

Mr. President, the Institute might undertake a series of studies to evaluate the behavioral costs related to the marketing of different lines of products, such as over-the-counter drugs or automobiles. It would be encouraged to undertake cross-cultural studies comparing the impact of advertising on different cultures. Certainly much could be learned from a study of social problems in countries such as those of Eastern Europe and the Soviet Union which press marketing as ideologically abhorrent.

The Institute would make creative use of the vast store of data generated by private market research in the universities to develop an understanding of the role of advertising and marketing in our society. Additionally, the enabling legislation contains a congressional mandate for three specific studies; these are:

First. A study of the relationship between the themes and techniques of advertising and drug abuse.

Second. A study of the relationship between marketing techniques and advertising and alienation of young persons from society; and

Third. A study of the relationship between advertising and the knowledge, attitude, and behavior of the American citizen.

In the end, the Institute will provide the important long range insight necessary to maintain advertising on a socially constructive path rather than degrading from this role which may at times be the case in some instances. In doing so, the Institute would provide the public for the very first time an adequate, competent, objective understanding of marketing.

Mr. President, I ask unanimous con-
sent that following my remarks the text of the bill and additional material be printed in the Record.

There being no objection, the 6, 11 and 12, as ordered to be printed in the Record, as follows:

S. 1783

A bill to establish a National Institute of Advertising, Marketing, and Society.

May 3, 1971

POLICY AND PURPOSE

Sec. 2. (a) The Congress hereby finds that—

(1) there is increasing concern in the United States and in other industrialized countries over the partially hidden, imperfectly understood psychological and social costs of mass marketing and advertising techniques;

(2) local, State, and Federal governments do not have the capacity to integrate and evaluate the psychological and social effects of advertising and marketing;

(3) national, international, and local advertising and marketing organizations and officials of Federal, local, State, and international governments have utilized high-quality refined techniques about which little information of significance is available to the public, and accordingly have failed to provide a viable basis for obtaining additional scientific and intellectual resources available, the Director shall, at such times as the Director may deem advisable, request, not less than annually, and at such other times as the Director may deem appropriate a report concerning its activities to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Institute, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute; and

(4) in the discretion of the Institute, receive and utilize the services of experts and consultants, and local, State, and Federal governments in accordance with the General Schedule under section 5332 of title 5, United States Code, and local governments as he deems desirable to advise the Institute with respect to its functions under this Act;

(5) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the civil service, but not more than three individuals so appointed shall receive compensation in excess of the rates prescribed for GS-18 in the General Schedule under section 5332 of title 5, United States Code;

(b) The Institute shall be headed by a Director, by and with the advice and consent of the Senate for a term of 6 years. The Deputy Director shall have authority and control over all personnel and activities of the Institute. The Deputy Director, by and with the advice and consent of the Senate, for a term of 6 years. The Deputy Director shall have authority and control over all personnel and activities of the Institute.

ADDITIONAL PROVISIONS

Sec. 5. (a) In addition to any authority vested in it by other provisions of this Act, the Institute, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary, regarding the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute; and

(3) in the discretion of the Institute, receive, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(4) in the discretion of the Institute, receive, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute; and

(b) in carrying out the functions of the Institute under this section, the Director may establish such laboratories and facilities as it deems necessary to be operated by the Institute in the public interest; and

(c) Whenever necessary, enter into contracts with public or private educational or research institutions for the purpose of undertaking any particular study or research project authorized by this Act.

FUNCTIONS OF THE INSTITUTE

Sec. 4. (a) In order to carry out the objectives of this Act, the Institute shall—

(1) undertake, on its own initiative, research projects concerning the impact of advertising and marketing upon society, particularly the government and social effects of advertising and marketing techniques upon the consumer; and

(2) intervene in any of its own initiative or upon the request of any agency represented on the Advisory Council, research projects concerning the impact of advertising and marketing upon society, and

(3) intervene in any of its own initiative or upon the request of any agency represented on the Advisory Council, research projects concerning the impact of advertising and marketing upon society; and

(4) conduct a study of the relationship between the existing advertising and drug abuse;

(5) conduct a study of the relationship between advertising and the knowledge, attitudes and perception of children;

(6) collect, analyze, and disseminate to the public, relevant information on behavior and advertising practices; and

(7) collect, analyze, and disseminate to the public, relevant information on behavior and advertising practices; and

(8) prepare at least annually, and at such other times as the Director may deem advisable, a report concerning its activities to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(b) The Institute shall be headed by a Director, by and with the advice and consent of the Senate for a term of 6 years. The Deputy Director shall have authority and control over all personnel and activities of the Institute.

SEC. 3. (a) There is hereby established within the Federal Trade Commission an agency to be known as the "National Institute of Advertising, Marketing, and Society."
Ads and Addiction: Television Commercials, Drug Culture, and Society

I. Television, Advertising, and Drugs

In the past few years, drugs have become a national problem. Drug addiction has spread to the middle classes, and the use of "hard" drugs such as heroin has grown greatly, as shown in the statistics on marijuana use. It now appears that large numbers of people smoke marijuana and there is a "great debate" on whether marijuana should be made legal.

The fear is that marijuana will not lead to a loss of respect for law and order and increased social disorganization. Also, it is hoped that if marijuana is legalized, some of the more serious criminal activities will be deprived of revenues made from it.

With all of this for background, an interesting question arises: any kind of a relationship between television and drug use? Is the drug problem, which, in its present intensity, seems to have reached an all time high, any way to the recent and phenomenal growth of television? In a recent column (August 27, 1971) of the San Francisco Chronicle, a discussion was made of the role television plays in cultivating attitudes, to diminish the range and variety of choices, and in terms of abundance.
These figures become more impressive when we see how large a proportion they are of total household advertising expenditures. In 1964, the $306 million spent on spots and network advertising for "Drugs and Remedies" accounted for about a ninth of all television advertising, which totalled about $2.1 billion. But if you add smoking and liquor, you find the following:

<table>
<thead>
<tr>
<th>Product</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs, tobacco, liquor</td>
<td>$297,000,000</td>
</tr>
<tr>
<td>Spot advertising</td>
<td>$495,000,000</td>
</tr>
</tbody>
</table>

Total network advertising = 1,000,000,000
Total spot advertising = 1,100,000,000

What these figures show, then, is that if you define drug advertisements broadly, to cover nicotine and alcohol, we spend about half a billion dollars a year on these ads, out of a total of $2.1 billion spent on all television advertising for 1964. Approximately one ad out of four, then, is a "drug" ad.

If you accept the notion that we are at times a nation of drug addicts—conscious of and cannot control, the significance of all this advertising becomes apparent, perhaps even "conditioned," or whatever "programmed," though we are unaware of it, all which makes things even more terrible in the illusion that freedom, we are the more easily manipulated.

And if all of these ads with all the phenomena associated with them (as described above) occur at a time when there is widespread anxiety about our involvement in Vietnam, many great crises at home and a government whose sense of fee is not directed to solve our social problems and restore the currently distressed social fabric, then government and law, in general, lose their effectiveness. Thus we find a society which thrives on drugs in prodigious quantities (but which tells some people not to) seeking to "escape" from life in society when the society itself does not seem able (or willing, perhaps) to solve its own problems.

The devolution of law and the continued social chaos both nourish the drug culture. In a certain sense our drug addicts are casualties of our society, who have become desperate and have lost hope in politics and have to turn to drugs in general, playmates, parents, grandparents or strangers.

1. "The Child who watches television for four hours daily between the ages of three and eighteen spends something like 22,000 hours in passive contemplation of the screen—hours stolen from the time needed to learn to read, write, grow, play games, parents, grandparents or strangers.

2. "All happiness, all significance, all values that we can ever acquire must be medi­ated by advertising into purchasable commodities."

3. "Even as they reject the culture as they understand it, they often feel that they miss the pleasant fantasies they enjoyed as children when they turned on the set. So they "turn on" when they know that they are not there, when they know that they will not be hooked, when they know that they should not be hooked."

What has happened, and it is understandable although quite regrettable, is that we have been slowly and skillfully led to believe that the social and cultural impact and social consequences of advertising, an industry that is now in the $20 billion class.

Many of the people who make the advertisements are probably unaware of the ultimate impact of what they are doing just as advertisements in general, policy decisions do not realize how they are being affected.

In one respect television and drugs are similar: when you hook them on them, it is difficult to get off them. Withdrawal from television, as from drugs, does not happen overnight. If television functions as a kind of narcotic, this kind of addiction has spread widely. And there is something ironic about the term "drug" to describe television. I think it is not only a legal term but perhaps even a medical term and take it away from the police, who have a vested interest now in advertising drugs, and have access to multiply anti-drug messages as long as the society behind the messages subverts everything.

I would, however, like to see something done about all the "drug" commercials I've seen. It would be best if they were prohibited or, if that is not possible, if drug companies were prevented from the kind of ads they do. What has happened is that advertising creates a climate of information, announcing the existence of various products, to a medium of education and persuasion, and some products in very subtle and often pernicious ways.

If we wish to do something about the drug problem, we have to be willing to make some rather fundamental changes in society. There may be a certain amount of economic dislo­cation in the television industry from prohibiting drug advertisements but television stations make great profits, so I understand and also we would be the first to admit, I think, that that is not the most important than revenue loss from these advertisements. There is too much advertising on television to believe that a number of annoying and socially harmful advertisements would be a good thing for our people.

At the very least, we should certainly have some alternatives to the commercial stations, and we need a greater sense of social responsibility on the part of the stations themselves. Perhaps we also need a better regulatory system, which has real power to prevent misleading advertising from being aired and to consider the social and psychological consequences of ads.
May 3, 1971

CONGRESSIONAL RECORD — SENATE

the relationship that exists between advertising and drugs, and advertising and other aspects of our society. We also need new channels of communication that do not have commercials do some social engineering in our society in a number of different ways, so that people will not lose hope but rather see hope in the general, and take the timeline to lotus land.

SOCIAL AND POLITICAL ASPECTS OF DRUG USE *

(By George R. Edison, M.D., the University of Utah)

Those of you concerned about drug use and abuse know that young people turn on for many reasons: pleasure seeking, relief of boredom, tension or depression, rebellion, peer group pressure, and the search for self, among others.

Valid though these may be, they leave a lot unexplained. They do not really tell us why large numbers of young people are repeatedly flaunting the law, jeopardizing their futures and exposing themselves to substantial risks, or why there has been such a startling increase in drug abuse in the last five years.

Figure 1 shows the year in which illegal drugs were first used by the individuals in our study. It is evident that illegal drugs represent drug arrests or hospitalizations for drug-induced psychoses. Curves like this are open to question, both methodological and substantive. We believe that illegal drugs are a cent phenomenon. But, despite the fact that society is more sensitive to the drug issue, the police more active, and the reporting of drug use more reliable, I think most of us regard this increase as a real one, and wonder why.

Looking at the problem epidemiologically, we get interested in three factors: the agent, the host, and the environment. The agent has really not changed much over the years. Amphetamines and LSD are youngsters in their thirties, but most of the others have been around for several thousand years. Human body and brain chemistry is about the same as it was centuries ago, so the host seems to remain fairly constant.

What we most need to study in the epidemiology of drug use is the environment, and those things about the environment which promote psychological disturbance in large numbers of young people, and which allow them to feel that the use of drugs has more advantages than disadvantages.

What is this environment? I see it as the total social and political structure of the country. Out of this environment we select many areas which might theoretically influence drug use in young people, from poverty and minority group oppression to the exploitation of our natural resources and pollution of our waterways and atmosphere. (The imagery of this last example is especially evocative as we deal with the pollution of bodies by drugs.)

We have chosen in this study to focus on the war in Viet-Nam. The reason is clear from Figure 2 which depicts American troop commitment in Viet-Nam. Figure 3 simply superimposes the curves shown in Figures 1 and 2.

Side by side, then, two national crises have developed in a variety of ways over the same five-year period. Is there a relationship between them? If so, how do they influence each other? To determine this we formulated a "Social Issues Survey," a questionnaire probing attitudes and knowledge about drugs, dealers, the war, the Viet-Cong, and the United States position in Viet-Nam (Appendix 1).

We submitted this survey in March and April of 1968 to 156 drug users and 302 nonusers, selected in a variety of ways. Bearing in mind that this is an unsophisticated pilot study, these are some of the results, many of which we have already predicted. Table 1 describes the study group. Males predominate, especially among users, who also tend to be slightly younger than nonusers.

Table 1 — Age, Sex, and Drug Use History of Study Subjects

<table>
<thead>
<tr>
<th>Total sample</th>
<th>Users</th>
<th>Nonusers</th>
</tr>
</thead>
<tbody>
<tr>
<td>(percent)</td>
<td>(percent)</td>
<td>(percent)</td>
</tr>
</tbody>
</table>

Table 1 — Age, Sex, and Drug Use History of Study Subjects

<table>
<thead>
<tr>
<th>Age</th>
<th>Male</th>
<th>Female</th>
<th>Users</th>
<th>Nonusers</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-18</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>18-19</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>20-21</td>
<td>14</td>
<td>2</td>
<td>18</td>
<td>33</td>
</tr>
<tr>
<td>22+</td>
<td>22</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

126 no longer using drugs.

Table 2 compares the feelings of users and nonusers about the war. Users were strongly against the war and held dovish views of which we have unfortunately been deprived. While nonusers were more evenly divided.

Table 2 — Attitude toward Vietnam War

<table>
<thead>
<tr>
<th>Opinion of war</th>
<th>Users (percent)</th>
<th>Nonusers (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti</td>
<td>78</td>
<td>37</td>
</tr>
<tr>
<td>Neutral</td>
<td>7</td>
<td>61</td>
</tr>
<tr>
<td>Dove</td>
<td>5</td>
<td>42</td>
</tr>
<tr>
<td>Dove</td>
<td>63</td>
<td>22</td>
</tr>
</tbody>
</table>

Table 3 — Attitudes toward U.S. Position in Viet-Nam and University Position on Drugs

<table>
<thead>
<tr>
<th>U.S. position in Viet-Nam</th>
<th>Users (percent)</th>
<th>Nonusers (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. position in Viet-Nam</td>
<td>7</td>
<td>50</td>
</tr>
<tr>
<td>Anti</td>
<td>75</td>
<td>30</td>
</tr>
<tr>
<td>Permissive educational</td>
<td>7</td>
<td>68</td>
</tr>
<tr>
<td>University should take no position</td>
<td>83</td>
<td>31</td>
</tr>
</tbody>
</table>

Table 4 — Attitudes toward Drug Dealers and Viet-Cong

<table>
<thead>
<tr>
<th>Opinion of dealers</th>
<th>Users (percent)</th>
<th>Nonusers (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neutral</td>
<td>34</td>
<td>90</td>
</tr>
<tr>
<td>Punitive</td>
<td>40</td>
<td>94</td>
</tr>
<tr>
<td>Positron</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

Table 5 — Opinions of Viet-Nam

<table>
<thead>
<tr>
<th>Opinion of Viet-Nam</th>
<th>Users (percent)</th>
<th>Nonusers (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>20</td>
<td>37</td>
</tr>
<tr>
<td>Neutral</td>
<td>59</td>
<td>43</td>
</tr>
<tr>
<td>Admire Beni</td>
<td>57</td>
<td>42</td>
</tr>
</tbody>
</table>

Table 6 — Final Opinions

<table>
<thead>
<tr>
<th>Opinion of Viet-Nam</th>
<th>Users (percent)</th>
<th>Nonusers (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>68</td>
<td>33</td>
</tr>
<tr>
<td>Neutral</td>
<td>22</td>
<td>48</td>
</tr>
</tbody>
</table>

Table 7 — Final Opinions

What do these results mean? I think they support the following notions.

The war in Viet-Nam has caused a crisis of national conscience, principles and goals. The drugs user rebels to the war, and to the belligerent forces. Viet-Nam presents underdog rebels fighting a formidable military establishment. The Viet-Namee are most ordinary Viet-Namee, apparently uncommitted. Back home in the drug war those of you who have understood the drug use clashing with conservative establishment forces, while neutral nonusers hold the middle ground and try to protect both their reputations and their civil liberties.

Undoubtedly there is a spiritual kinship among rebels everywhere. But these are no Nazi hordes that the Viet-Cong fights and the rebels of the drug scene. What we must understand, and what this discussion is designed to do, we must understand what this discussion is designed to do, is the agony of a generation. This Viet-Nam scene provides the drug user with an ideal model for unconscious identification. In his use of drugs he can share both the exhilaration of the agony of the Viet-Namee and the devastation of the Viet-Cong. As he recreates his experiences in microcosm.

At an age where rebellion, a sense of moral outrage, the need to establish identity and independence are the norm, he becomes aware of the Viet-Namee peasant, a man of the people, a spiritual leader, an effective agrarian culture, a little man who has been struggling for independence for centuries from American and giant foreign domination. This Viet-Nam scene, we learn, is a true prototype underdog. His nonwhiteness reawakens all of the American student's consciousness about the persecution of minority races. It becomes simple for him to transfer his catharsis from our civil rights struggle to the war in Southeast Asia.

Even the religion of the majority of Viet-Namee lends itself to unconscious identification. The spectacles of Buddhist Viet-Nam subjected to systematic destruction by industrialized wealth crystallizes many a young American's rejection of his country's leaders, of the iniquitousness of its militarism, its self-righteousness and aggressiveness. Through drugs he can reflect, disassociate, recreate, understand and share both the kind of reconciliation with reality that Eastern religious teach. At the same time he can absorb guilt.

Observe also the communion between the two rebel groups in the identity crisis of the drug user and of the country of Viet-Nam (even now unless whether it is one or two nations), in the evasive guerrilla game both drug user and Viet-Cong play, and in the drug user's ability to reconcile his goals. Educational programs designed to warn about the hazards of drug use are severely compromised to whatever degree the individual's decision to use or not to use drugs is not based on rational thinking. If his behavior is significantly motivated by his assumption of a Viet-Namee and the Viet-Cong, who are almost daily risking personal and national destruction, maybe this caution can be edgy about it.

Finally, a brief comment about the features common to the establishment response in both wars. We see a disconcerting similarity in both war aims. The Viet-Namee case is limited, Innocuous, and totally acceptable to the public, purporting to help people victimized by ignorance, poverty, and ignorance. Our case is limited, Innocuous, and totally acceptable to the public, purporting to help people victimized by ignorance, poverty, and ignorance. Our case is limited, Innocuous, and totally acceptable to the public, purporting to help people victimized by ignorance, poverty, and ignorance.

* Presented before the General Session, American College Health Association, Forty-seventh Annual Meeting, Oklahoma City, Oklahoma, April 25, 1969.

† Director, University Health Service, The University of Utah, Salt Lake City, Utah 84112.
serious of errors and miscalculations the aims and commitment gradually escalate. Goals become confused. We are not sure what we are trying to achieve. To curtail efforts to help people we find ourselves destroying them. Yet it may turn out that the most devastating and consequently the most effective preventive intervention in Viet-Nam have been on our own society, torn apart as never before. We seem unable to win because we can hardly define the ends much less our goals. Likewise, in the drug war, we establish strike out with heavy artillery at all kinds of targets—dealers, addicts, users, experiments. The most obvious effect of this bombardment is not really reducing drug use, but rather creating very "uptight," while not really reducing drug use itself in Viet-Nam.
watching television as he spends in school...") might, in some way, be related.

Another associated influence of television are assertions about the power of persuasion as a powerful tool of persuasion. This purported influence, however, is one of degree, depending upon which group of people, such influence is being judged. What is being judged for this specific advertisement, the alleged powers of advertising notwithstanding. (3)

It is the area of advertising over the counter nonprescription pharmaceuticals, which both adults and children see, that advertisement has received its severest impressed criticism.

Nicholas Johnson has posed the question: "Has anyone who listens to commercials or reads drug ads knows he can perk up, flowering in the portrait of American society,

forty-four year-old college physician at Lake City, the drug advertising and promotional campaigns, "The purpose of this pilot study is to attempt to determine what are some of the salient, perceivable environmental influences, which may affect drug usage among youth. It will pay special attention to the question of the role advertising may play in influencing drug usage."

The objectives were pursued through three phases:

Phase I. A Recall Study—Respondents were asked to recall the advertisements they remember in their daily television viewing and radio listening. (8)

Phase II. A Survey Study—Respondents were asked their attitudes toward drugs and other hypothetically related factors.

with the exception of the claims made in the cigarette advertisements.

1. There is no indication that pharmaceutical advertisements were easier to recall than other heavily advertised product categories.

2. Advertising had very low salience (was not talked about frequently) among the students when compared to other environmental influences.

3. Many students at all grade levels felt that other people were potentially capable of being influenced by pharmaceutical advertising, as well as advertising for cigarettes and to a lesser extent, beer. In addition, these students felt that elementary school children were more affected by television advertising in general than were students in any of the other grades.

4. In response to a question about what make young people try illegal drugs for the first time, the overwhelming majority of respondents concerned "peer group influence" and "curiosity."

5. The family was generally seen by the students as having the greatest relative influence on their attitudes toward legal and illegal drugs. Other strong influences were teachers, police & courts, and medical subjects.

6. The students felt that advertising was a very strong influence upon their feelings toward medicines, but not on their feelings toward marijuana or illegal drugs. This was seen, especially, in the younger students. (7) That advertisements for stimulants and depressants could lead to misuse of the product.

The Grade 5 students ranked television programs as a relatively strong influence upon their general feelings and knowledge of marijuana and illegal drugs. This was not true for the older students.

In general, the 5th Grade students tended to react most positively and least negatively towards six advertisements for pharmaceuticals and cigarettes. They were drug advertisements than were the older students.

10. The 5th Grade students tended to find the six pharmaceutical and cigarette advertisements in general, significantly the product claims within the advertisements more believable than did the older students (with the exception of the claims made in the cigarette advertisements).

11. The users of marijuana and/or pep pill sales were not more receptive to the six advertisements than were the non-users. This was especially true of the cigarette advertisements.

12. The users of pep pills tended to find the product claims in the six advertisements more believable than did the non-users.

13. One effect of advertising—In conjunction with other environmental influences, advertising may be inferred from the results of this study that the anti-smoking campaigns seem to have helped to develop negative attitudes towards cigarettes among students.
saceuticals might lead to misuse of the product, it is a reasonable hypothesis that such consumer behavior, as a reinforcing element in the entire complex of drug attitudes among the young. Furthermore, since research has revealed that use of drugs tend to be more receptive to pharmaceutical advertisements than non-users also suggests that pharmaceutical advertising functions as a persuading influence, (personal conflicts) by implying, symbolically, to the users that . . . . "Everyone turns on.

The psychological advertising functions of drugs to predispose some students to become illegal drug users.

The mass media may well review their self-regulatory codes to determine if the time and place of exposure is appropriate.

The drug-taking (not necessarily illegal) is commonplace and acceptable. It may just be that pharmaceutical advertising is one more cultural-grip in the maintenance of favorable attitudes toward drug usage among the young.

5. The limitations of the study, in both design and method preclude any cause and effect judgments concerning the influence of pharmaceutical advertising— as a reinforcing or modifying influence— on the drug-taking behavior of the students. However, it is entirely possible that the younger age group would be most receptive to an anti-smoking campaign, given their generally unsophisticated attitude toward advertisements in general and the ostensible effects of the anti-smoking campaign. Whether these effects of the antismoking campaign derive from the receptivity of the younger students vis-a-vis advertising the pharmaceutical campaigns, which include One-a-Day, Excedrin can hardly keep us supplied. Why should we have so many headaches? Dear Mr. Miles (Miles Laboratories),

[Editors Note: This is a preliminary draft of the study on page 6. The results of the study, in both design and method preclude any cause and effect judgments concerning the influence of pharmaceutical advertising—as a reinforcing or modifying influence—on the drug-taking behavior of the students. However, it is entirely possible that the younger age group would be most receptive to an anti-smoking campaign, given their generally unsophisticated attitude toward advertisements in general and the ostensible effects of the anti-smoking campaign. Whether these effects of the antismoking campaign derive from the receptivity of the younger students vis-a-vis advertising the pharmaceutical campaigns, which include One-a-Day, Excedrin can hardly keep us supplied. Why should we have so many headaches? Dear Mr. Miles (Miles Laboratories),
that it draws attention to itself. One might expect controversy and discontent to arise out of this feature alone, and to have important implications for the study of the subject. A reply stated by Taplin: Advertising, because it is ubiquitous and obtrusive, is a subject on which everyone is an expert. This gives encouragement to the serious investigator of the nature of the phenomenon and at the same time points up the need to be realistic. It means that everyone is interested in the subject, but nobody is quite disinterested. Investigation itself, the search for truth, soon becomes a matter of not showing how the facts are at once seized upon by partisans who regard them as potential evidence to support their preconceived opinions (68).

The viability of the institution of advertising in America is extremely high in at least two and more obvious ways: the extraparochial quantity of messages that wash over the population each hour, day, or minute is considerable. In a book published in 1967, Bogart reported: Every day 4.2 billion advertising messages pour forth from 1,754 daily newspapers, millions more from magazines, and from television and radio broadcasts, a billion more each day from 4,147 magazines and periodicals. There are 3,883 AM and 1,138 FM radio stations broadcasting an average of 72,000 commercials in 1964. The television stations broadcast 100,000 commercials a day. Every day millions of people are confronted by twenty-four million obtrusive car cards and posters in buses, subways, and commuter trains, with 51.8 million display items of any size, among millions of display and promotion items (10:2).

Second, in comparison with analogous sectors of the economy such as the political, religious, and educational, the media are also being exposed to communication and influence processes (and, in this society, preconditions) which individuals, in the absence of which they will and will not accept, the intensity of the effort in commercial advertising, to be discussed below. People are confronted, for example, by a brand of laundry detergent likely to have been more funds devoted to it, and to be delivered on a highly repetitious and continuous, rather than an intermittent, basis. There are millions of such commodities being advertised which leads both to a high concentration of economic resources devoted to them, and to a high visibility of the commodity for a wide range in the quality of the messages associated with it. Mass taste, for manipulations, is necessarily a large part of the whole.

People tend to form strong opinions about advertising also for what it represents—it has a high "symbolic" value. At one level, it is perhaps the most visible manifestation of a capitalistic system. It has been described as the natural evolutionary consequence of a free market system—a system in which, on the one hand, the seller is comparatively free to cajole, convince, or persuade the buyer to accept his wares, and, on the other, the buyer is free to accept or not accept them. Disagreement then stems from basic differences among individuals.
in political attitude concerning how an economy should operate. Those who believe in laissez-faire and free market principles tend to believe that the government should play a minimal role and that the market should be the ultimate arbiter of what happens. Those who support more government intervention believe that the government should play a more significant role and that market forces should be supplemented by government policies to achieve certain goals.

Critics may nevertheless find it surprising that even in the United States and Britain on how people feel about advertising generally express negative opinions about it, or see it as "threatening." For a recent comprehensive treatment of this topic see Bauer and Greysy (6).
In addition to these book-length treatments, economists have published numerous journal articles reporting empirical findings on the economic effects of advertising. The works of Telser [64]; Stigler [62]; Kaldor [33]; Comanor and Wilson [14]; and Preston [51] are particularly noteworthy.

Studies that deal with social aspects of advertising from a wide variety of other perspectives fall into the full range of popular novels to serious analytical treatises. The following are of historical interest:


In glancing over this list, one cannot help but be impressed with the degree to which the economic issues of advertising has been largely written for a mass audience and popular appeal. In our pursuit of a survey of research into the basic behavioral science discipline. Pottor [50] observation that the analysis of social interaction is a particularly true if one restricts his view to the works of scholars in basic behavioral disciplines. There are, of course, many classifications are natural and anthropological which are relevant to the questions of cultural values and attitudes associated with the social role of advertising, but make no explicit attempt at examining the connection between them. The works of Karon [21], Parsons and Smelser [49], Lazarsfeld and Merton [38], and Lipset [39] are notable in this regard, particularly as they relate to psychological or sociological discussions of the roles and functions of societal communication systems. One could also cite other examples from the mass communication and journalism discipline bearing on the question of social issues in advertising [37, 42; 45, 58], and in particular long range consequences. For example, television [7; 9; 22; 57; 69], but the focus in these studies is either journalism or television in general rather than commercial advertising. By and large, we start from the absence of a well developed analytical or theoretical framework from which such questions can be addressed. Using a behavioral science perspective, there is, in contrast to the economic literature, a marked difference.

Much of the theoretical and empirical work of behavioral scientists in advertising fields falls under the third category—that literature which is written from a managerial perspective, and is largely applied in orientation. In sharp contrast to the lack of empirical studies on advertising in basic disciplines, the volume and sophistication of behavioral work in exploring questions of advertising effects on managerial interests like brand awareness, attitude, and preference is considerable. Theoretical development, using discipline definitions and the understanding of the process of consumer decision making. In the past decade [28; 60] is characterized both by a growing interest in advertising and nevertheless a comparatively small amount of this work that might be said to address explicitly any of the "social" role or effects of advertising.

Basic textbooks on advertising do treat relevant social issues, usually as descrip-
tive reviews of the controversies that relate to "economic" and "social" questions. The prevalent view is that children are usually one or two chapters of the text being devoted to the topic, and often a third chapter is a section of advertisements about the study—whether by government or industry—self-regulation. The nearest thing to book-length treatments is the growing collection of articles, editorials, and a vast quantity of published information. That some additional attention and effort might be profitably directed by those with a behavioral science orientation to some less immediately apparent managerial concerns is a theme pursued at greater length in a later section. We first consider the notion that "problems" and from the viewpoint of "economic" and "other" perspectives.

"TELEVISION ADVERTISING AND YOUTH: A BEHAVIORAL SCIENTIST'S PERSPECTIVE" (By Scott Ward)

The purpose of this symposium, as I understand it, is to give you the opportunity to participate in an open discussion, from a number of points of view. After hearing parts of Professor Rosenfield's paper, I want to assure you that this purpose will be served.

Recalling my days as an undergraduate student at the University of Wisconsin, it seems that you're supposed to use speeches with a statement of your objectives—so here are mine. I have three objectives.

First, I want to tell you something about how a behavioral scientist—if I may boldly stereotype myself (for better or for worse)—approaches a specific mass communication problem. Second, I want to tell you about the planning, design, and execution of research to investigate problems of this sort. Finally, I want to mention some of the problems of applying behavior research findings in reaching policy decisions on them. The mass communication problem may be simply stated as follows: What are the effects of television advertising on young people? Well, how does a behavioral scientist approach this problem? A first step is to surf the environment, so to speak, in order to estimate the scope of the problem, to find out what's already known, and to estimate what benefits empirical research would have in clarifying—not necessarily solving—the problem.

In the case of television advertising and children, one doesn't need to survey the environment too far. In this era of "consumerism," lots of people are up in arms about what's on television. In this era of "reinforcement," there are thousands of studies, millions of dollars of academic and commercial research expenditure, and a vast quantity of published information. That some additional attention and effort might be profitably directed by those with a behavioral science orientation to some less immediately apparent managerial concerns is a theme pursued at greater length in a later section. We first consider the notion that "problems" and from the viewpoint of "economic" and "other" perspectives.

The literature and research on managerial aspects of marketing and advertising in the United States is described elsewhere.4 There are thousands of studies, millions of dollars of academic and commercial research expenditure, and a vast quantity of published information. That some additional attention and effort might be profitably directed by those with a behavioral science orientation to some less immediately apparent managerial concerns is a theme pursued at greater length in a later section. We first consider the notion that "problems" and from the viewpoint of "economic" and "other" perspectives.

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The burden of communication research evidence over the past 20 years or so—as Klapprich and others have pointed out—is that television is not an all-powerful force... but a "necessary or sufficient cause of audience ef.

However, can we let television off as a "reinforcer of existing tendencies," as Klapprich would have us believe? Advertisers are using television advertising primarily to reinforce existing consumer habits. Some of the special interest groups, such as Nader's Raiders, fail hard on this communications research base. That the media don't influence kids. However, when they turn around and talk to their stockholders, they must tell them that the media have some effects, or how could they justifiably spend $20 million annually in advertising to kids on Saturday mornings alone? Another factor with added importance is the question of TV advertising's effects on children is the fact that kids see an awful lot of it. It might be hard to believe, but commercials are the number three content category, on TV, behind movies (32% of on-air time), and situation comedies (17% of on-air time) but ahead of action and other categories of TV content.

Anyhow, in "surfing this environment," the behavioral scientist says that advertising to kids is just awful, or at least immoral, and he hears advertisers say that it doesn't do any harm. But, you believe, how would you run the networks without advertising? Rule number one for the behavioral scientist is to listen to the controversies surrumbing. After all, if you want to get somewhere as a social scientist, you do believe that real problems in objectivity in approaching research, can arise from not only looking at the packaged product, but maybe you can't be done, but you've got to try.

A second step the behavioral scientist takes in approaching a problem such as this one, is to narrow the problem. What kinds of effects are we talking about? Short-run effects on behavior, or attitudes? How about behavior, or on Mom and Dad? Or Mom and Dad? A third step in approaching the problem is to seek out alternative hypotheses and previous research. The importance of this step is beyond the scope of this paper. Suffice it to say that the behavioral scientist seeks an abductive approach to research, that is adequate to his specific research. It can help to guide his efforts, and hopefully, a vehicle for ultimate accumulating our scientific knowledge of human behavior.

Let me say a couple more things about the behavioral scientist's point of view, and then I'll tell you what I did, and what I found.

First, the behavioral scientist is interested in understanding, and predicting human behavior. As such, he makes the implicit assumption that human behavior is not random—that, is, within probabilistic limits, human behavior can be predicted in exactly the same way as natural laws in the physical environment.

Second, behavioral scientists apply scientific methods to their research. Thus, for example, I am straining the limits of the scope of this paper. But I want to make the point that this is not just one problem addressed by TV research. A philosopher, with an allegedly great mind, could pontificate about the problem of TV's effects on behavior, or about the problem of TV for years, in the absence of any scientific procedures, and publish the results. And the audience—be it the science papers' surveys and experiments—and other allegedly valid and reliable tools—to approach problems. Perhaps no single approach is "best." The probably all are desirable in examining complex kinds of problems, like human behavior. To this point, I have been discussing in general terms, the behavioral scientists approach to a communication problem. Now let me get specific about our problem to TV advertising to kids. There are many different kinds of effects of commercials. One important effect—though it is viewed as important for commercial negotiators—is the pressure on government and other governmental policy-makers—is the extent to which commercials make kids want things, or make them pester their parents for them. The effect of commercials is probably the only real thing they see advertised on television.

Now, the phrase "make them buy" implies that commercials work by affecting the young person to want something. He may want something because the package is appealing, or because the thing—in short, you just can't isolate the effect of television advertising from all the other stimuli which motivate kids to want to buy. There is also the issue of defining "persuasive effects" of commercials. If I walked up to you, and asked you where in the bathroom was, and you told me, you would say that you had persuaded me? Probably not. But commercials do inform viewers about some product, and then they buy it. This is something quite different from the "hidden persuaders" notion of effects of commercials.

This was an initial step in our thinking. Since we can't isolate the effects of commercials on overt behavior—in this case, buying—and since we really can't separate out informational effects from persuasive effects—then what we should attempt to understand are the effects of commercials on what a child learns—about being a consumer, about relationships with people, about the objective characteristics of material possessions, and so forth.

"Rosenfield's comments." It is astonishing how little we know about what children learn from television, and I want to make an important point about this. The research programs of many mass communication researchers, is that the media are not very powerful—they rarely connect people's views in and of themselves. Behavioral scientists for years, have examined persuasive effects of television—they have measured attitude change, and have rarely found much, so they concluded that the mass media are not very powerful.

But television is not supposed to be persuasive. Mr. Agnew has reminded us. Moreover, young people are in the process of attitude formation, and this is a time, in which they may look for persuasion, or attitude change, as a criterion for TV's effectiveness is a mistake. Moreover, the similarities between learning what children learn from television. Probably the biggest single problem with many of these studies has been the advent of the widely—acclaimed "Sesame Street" series, which was hatched after much research of what children learn from television.

We are taking several research approaches to understanding learning from commer-
In these descriptive data: The two most rette advertising suggests something very straightforward. It seems these adolescents were more concentrated in their responses. Seventeen per cent of them gled out cigarette advertising, with drug and straightforward. It seems these adolescents can scribble the commercial which they thought insults the intelligence. As you can see, the more exposure, the more likely the adolescent will hold positive attitudes toward advertising. I stated that as if high exposure leads to—or causes—the development of positive attitudes toward advertising. Actually, of course, we cannot be sure the direction of causality. It may be that, because adolescents have negative attitudes, they watch less television, which can have positive attitudes, they watch more television. (Slide 9)

We also found an interesting relationship between intelligence and attitudes toward advertising. Adolescents high in intelligence like advertising more than less intelligent adolescents. The more intelligent adolescents like the humor in television ads, or see them as "camp." (Out slide 10) For the statisticians among you, I can report that our data meet traditional confidence levels.

Now I have presented only a few main results, and I have omitted certain complexities of the data. But let me summarize to this point. (Slide 11) First, I would say that TV advertising affects the adolescents on these four variables. Thus, we can talk about more or less recall, more or less materialistic attitudes, and so forth. Now we ask, what factors might "cause" these learning effects? One factor might be that some adolescents have positive attitudes toward advertising, others negative; adolescents with certain attitudes toward commercials as one kind of learning from television.

STOP FOR QUESTIONS

Now let me turn to other kinds of learning, or "Secondary Learning-effects." We examined four learning effects of television advertising (or "Dependent Variables") which are measures of Commercial content, attitudes toward television advertising, materialistic attitudes, and effects on behavior—in this case, of course, buying behavior.

Operationally defined, these were measured in terms of various series of questions in different parts of our questionnaire. We measured recall via a series of 16 fill-in-the-blank identification items; our measure of attitudes in this case was a series of items, including overall liking of advertising, and attitudes about the truthfulness of advertising; "materialism" refers to a relative orienta­ tion toward material possession of money and physical possessions as necessary for personal happiness and for social pro­ motion. We also report if they felt that television advertising had influenced them to buy things (Out slide 12).

I won't go through the technical details of reducing and handling these data. Suffice it to say that we scaled the responses of adolescents on these questions, to which we can talk about more or less recall, more or less materialistic attitudes, and so forth. Now we ask, what factors might "cause" these learning effects? One factor might be that some adolescents have positive attitudes toward advertising, others negative; adolescents with certain attitudes toward commercials as one kind of learning from television.

Now when we cross-tabulate the data, we can see why teenagers like and dislike TV commercials in product classifications that they specify. The two most important findings here are that the adolescents like drug and patent medicine advertising because they see it as fake, and hypocritical. (Slide 6)

Concerning the reasons adolescents dislike commercials. I'd like to talk about television advertising because it's stupid—it insults the intelligence. Other reasons, as you can see, automobile and soft drink advertising are seen as "open-end," so we didn't force our own criteria by means of some check-list. Typically, the students wrote down a brand name or number, or Dodge Dart, and we coded the answer according to the product category. The results are as follows: (Slide 7)

The adolescents had a wide variety of "liked" television advertising. The number one reason for liking a product is the presence of the commercial. It is interesting to note that drug and patent medicine advertising was also the most liked commercial. Perhaps this is because adolescents either love it or hate it. (Slide 5)

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identify with attractive others shown in the commercials (slide 14).

Putting all of this together, the "model" we developed was far too simplistic. Essentially, we are interested in the effects of demographic and communication variables—specifically, the amount of television watching and the factors that influence television watching—on consumer behavior.

Demographic factors include age, sex, social class, and family income. Communication factors include the amount of television watching, the importance of television to the individual, the influence of television on behavior, and the factors that influence television watching.

Well, what did we find? First, we examined the correlates of consumer behavior. We found that the amount of television watching is positively related to consumer behavior. The more television the individual watches, the more likely he is to buy something.

Well, then, how do we explain these findings? One way is by referring to the concept of "social influence." We believe that the individual who watches a lot of television is more likely to be influenced by the content of the television program than the individual who watches less television. This is because the individual who watches a lot of television is more likely to be exposed to persuasive messages.

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Our study has shown that the amount of television watching is positively related to consumer behavior. The more television the individual watches, the more likely he is to buy something. This is because the individual who watches a lot of television is more likely to be exposed to persuasive messages.

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In general, we can conclude that markets characterized by rapid, accurate learning through experience by buyers in consumer goods markets reflect increasing competitive ideal on the demand side.

The discussion above has been limited to what might be termed the "costless information" aspect of the problem. The consumer faced with a purchasing decision does not engage in additional search. Considering the relative importance of the cost of search, the existence of costless information is a case strained, since the experience rather than delayed in the immediate past as well as his impression of the product and a competitor are the only instances where the four criteria listed above are likely to be met. But will the search be carried out, and, if so, how thorough will it be?

Stigler has noted that the buyer will continue searching where the cost of search is equated to the expected marginal return to further searching effort. He notes, however, that in the case of differentiated products, the greater the dispersion of the expected savings from an additional unit of search, one can add that in the case of differentiated products, the greater the dispersion of the expected savings from an additional unit of search, the greater the expected gains from search.

Stigler also points out that "the relationship between search and the correlation of asking prices of dealers in successive time periods is perfect (and positive!), the initial marginal cost need not be undertaken." In this case the present price asked by a dealer is a perfect predictor of his future asking price and search need not be repeated before future purchases. But he explicitly assumes that changes in quality or product characteristics over time are not. If this assumption is abandoned in favor of the more realistic assumption that product features, real or contrived, do change over time, the life of the information acquired during search is limited. Innovations in product design or advertising message (broadly defined to include such features as package design and labeling) are of course not only possible but likely. Indeed, the marketing manager for a competitive product will feel obligated to alter the marketing program for the product in order to attract new buyers, since the brand-loyal consumer presumably will not be awed away from the product and new buyers might be attracted. This is saying that the new buyers engage in some search when they encounter the change in the advertising "pitch," in the objective features of the product, etc. Marketing techniques must surely alter a consumer's information obsolete more quickly, thus increasing the probably marginal return to the search expenditure of the consumer to engage in more search than he would have product characteristics static.

A number of observations about the phenomenon of search can shed light on the relationship between search and the Imperfections in the markets for consumer goods. First, the market for automobiles, for example, involves the four criteria mentioned above than do the markets for most other consumer goods and services.

Footnotes at end of article.
buyer moves to a new neighborhood or city, the search for satisfactory services must start afresh. Thus the useful life of the information gathered about the sources of service is reduced.

Although for the many reasons cited above the search process may lead to a relative low (as compared with the consumer market) the consumers presumably are nevertheless in equilibrium in the sense that they are economic prices and the expected marginal cost of the search. Thus major expenditures should be subject to more extensive and careful search than minor ones. Since the industrial market is more often dealing with at least some large purchases, the search will often be undertaken with great diligence and care. This is clear. If 10,000 houses are sold forth a day to buy an item for which the expected marginal cost of searching is low, there might possibly save five percent by comparison shopping, the expected saving of 25 cents an item, a large cost. The saving vary from individual to individual. But if a single industrial purchasing agent is seeking 10,000 items of an item for which he expects to pay about $3.00 per unit, and if he thinks he might save five percent by shopping, the $2,500 which might be saved should lead to more careful search than if the purchase is being made by 10,000 separate buyers. This feature of industrial markets clearly leads to greater competitive discipline.

The magnitude of the purchase in the industrial market means that the buyer will engage in in-plant testing prior to purchase. This is simply an extension of the search for the best price. The purchase and the greater the expected variability in performance of competing seller's products, the greater the probability that such testing will be called out prior to the purchase commitment.

The quality of demand therefore is likely to be considerably greater in industrial markets than in consumer markets. It should be added that competitive discipline in industrial markets is often prompted by the buyer with the option of making the item for himself. He is then a present or potential competitor on the market in that case. Furthermore he may be a buyer so large that he can engage in formal competitive bidding.

Stigler notes that—

"Of course the sellers can also engage in search and, in the case of unique items, will occasionally do so in the literal fashion that buyers do. In this—empirically unimportant—case, the optimum amount of search will be that amount which equals the expected increase in receipts, strictly parallel to the analysis for buyers. The case of the buyer may well be empirically unimportant in the absence of customer goods (although door-to-door sales of vacuum cleaners, encyclopedia and certain specialized home furnishings) and storm sash are common enough and do not life insurance salesmen engage in seller's search?), the salesmen of industrial equipment, process supplies and raw materials surely are not empirically unimportant. The average purchase times the probability of the salesman actually making the sale may warrant maintenance of a sales force which calls directly on purchasing agents or who are not agents of competing manufacturers. Unlike most consumer markets, this brings the buyer into direct contact with the seller. The market research and back from ultimate user to producer may well be less costly, presumably he will have more complete information on items requiring large annual expenditures than on items of less consequence in the firm's total cost picture. An exception to this general rule would be the case of the less significant item for which performance information is easily and quickly collected. The purchasing agent must balance the cost of maintaining such a system against the benefits in terms of improved purchasing.

The sheer magnitude of money at stake with any single item—radio generator, for example—maintain a better informational feedback system than will the household purchasing agent. These items are probably more expensive, and more likely to be considered in two or more stores. Plant performance records (rejection rates, down time, etc.) can generate for the industrial purchasing agent firm evidence of the quality the manufacturer is inclined to heed the large buyer but not the small one. Hence the manufacturer selling in industrial market desire to give the buyer exactly what he effectively needs to the buying because of more efficient informational feedback, but such is not the case with the consumer.

The manufacturer of industrial products is not able to afford a sales force (his search process) precisely, only to the extent that the manufacturer has knowledge the little doubt that purchasers of life.
automobile safety, the concern about flammable fabrics and about the side effects of pharmaceutical products are illustrations.

Buying operate under conditions of adequate (by some definition) information, but publicity has only been argued above that the quality of search, and so the search process. It will not be carried back unless the expected benefit from complaining is greater than the cost of making the complaint. This cost can be high relative to the expected return the buyer may consider complaining as unwise. He may not be sure how strong a case he has, or the time and inconvenience may be significant. Especially in the case of low frequency items in which his experience is limited, he may question whether the product really performed less well than competing products. For these various reasons the complaints which are actually made may be only the tip of the iceberg and the unreported complaints may be on an order of magnitude or more.

If the quality of consumer demand is to be improved, it can be found for increased efficiency of search, i.e. reducing the cost of search and raising the returns. Better consumer education is universal in this respect. No doubt consumer education in the schools can be improved so that buyers can better evaluate the returns from search and can carry out the search process more efficiently. Outside the schools, however, one does not have the same educational advantages; adults will turn to consumer education materials only as part of the search process. Thus the consumer may need that subscribers use their services more frequently when purchasing big-ticket items. These services do not improve the efficiency of search, but buyers will use them only when their perception of the expected return warrants.

Greater use of standards holds promise as a means of making search by consumers more efficient, since standards are in substantial part a proxy for information. The relevant legislation and enforcement for the establishment of standards for automobile tires should reduce the confusion about the meaning of "first-line" and "second-line" etc. Although the consumer may not know that certain tires distinguish the first-line from the second-line tire, at least he can assume that the minimum standards for the manufacturer's first-line tire are greater than those met by another manufacturer's second-line tire.

Use of the term "standards" in the marketing of consumer goods causes considerable confusion because of variations in the meaning of the word. Some products are subject to what we call legal minimum standards, i.e., certain standards must be met in order to be sold and labeled in the marketplace. Other products are subject to voluntary standards established by trade associations. Standards might be established by law, agreement, or by common usage for the use of particular terminology as with octane, and so forth. The Equal Credit Opportunity Lending Act involves this type of standardization in that the annual rate of Interest, the APR, may not be used if the method of computing the APR is not clearly stated. In other words, it will be used in a consistent manner across virtually all consumer transactions. Standardization of terminology is not to be confused with competition, but it may well be a requirement of consumer protection in the marketplace.

A third observation deals with one part of the argument that consumers seem to be content with the performance of purchased consumer products. But adequate search assumes that the consumer knows what features are important and that on the label and elsewhere was presented in a manner which minimizes the cost of search and comparison. Consumers who do not have the time and ability to collect and understand the information, however, because presumably the equilibrium condition would not always call for search. Nevertheless market performance would be improved.

In brief, it is argued that the presumed market performance would be improved if adequate consumer education were provided so that consumers would be able to search and compare more fully. Such education would not be costly to society, since the returns from search and comparison are usually large. Without delving into the subject in any detail, it is relevant to note that if false and misleading advertising is absent, advertising is of course a source of information to the consumer. It is imbalanced, though in that the disadvantages of the product are rarely mentioned, nor can one rely on the advertisements of competing sellers to point out these weaknesses in the products of other manufacturers. Thus, if certain minimum disclosures in advertising may help some qualifications into what may now be exclusively laudatory advertising comments about a product, advertising is serving as an informational source.

It has been argued above that the quality of consumer demand may be deteriorating. Although consumers are supposedly increasingly well educated, they are also earning higher incomes. Thus the perceived risk of an unsatisfactory purchase is reduced, since the opportunity cost of replacing the item is lowered. The proliferation of products, and particularly copycat advertising, are broadening the spectrum of consumer choice. Delightful as this may be on some counts, it does increase the cost of search. As products become more complex, certain performance characteristics may be below the threshold of perception even though they are nonetheless important.

If the reasoning set forth here is generally correct, it helps explain why legislative attention has been drawn to such markets as packaged foods, tires and pharmaceuticals. In each of these markets one or more of the four criteria cited earlier in this paper is apparently subject to ineffective or unsatisfactory advertising standards. Consumer groups and interested legislators sense the imperfections of advertising and the need for public policy toward consumer markets is likely to continue to move toward making the process of consumer search more efficient. A particular area of concern is the lower quality of advertising of packaged foods.
LIFE BEFORE
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mint that stops bad breath.
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desire for suicide.
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When sadness fills your heart
When sadness fills your heart
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Your troubled young life has made you
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You fix your mind to escape your misery
When sadness fills your heart
In ages 15–19 and 20–24, suicide ranks as the fifth cause of death—Joint Commission on Mental Health of Chil­dren, Suicide Among Youth
in the past ten years there was a 52% in­crease in the number of known, active nar­cotics addicts.
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CONGRESSIONAL RECORD - SENATE

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and revolutionary life styles that now challenge it. It is important to make this point. Everything we do and believe are a great many things that are going very much better than they might—or than they used. Certainly, it is most useful unless we keep that perspective. At the same time, our society—as well as that of other highly industrialized and urbanized societies—has its role in the human beings who live here. Mostly this is something that we just feel—personally, and frequently through the spokesmen of others. But the pressures are also reflected, to some extent, in the irrefutable statistics of growing rates of alcoholism, suicide, drug addiction, divorce, crimes of violence, venereal disease (as an index of unreasoning and unemotional promiscuity), or mental illness. And for every one of us who show up in the statistics there are hundreds more who might have.

Gizi. If you’re a guy who likes the girls, but can’t get anywhere, then take a tip from Groom & Clean, and grom, don’t grease your hair. Look, axle grease on both hands. Water can’t clean it off. The grease is there to stay. Add to it, the right kind, and it clears the grease away. See. Grease builds up gone. When you wet-comb clean, sexy hair comes naturally, when you use Groom & Clean.

“Our abundant society is at present simply deficient in many of the most basic, most elementary, obvious and worthwhile goals that could make growing up possible. It is lacking in enough man’s work. It is lacking in more man’s work. It is lacking in enough man’s work. It is lacking in the more man’s work. It is lacking in the more man’s work.

And for every one of our people who have worked out lives devoid of hypocrisy, beauty, artistic creativity, religion/jphilosophy, love, healthy sexuality, self-fulfilling productivity, physical well-being, joy and growth, who have a sense of something that we just feel—personally, and with little feeling.”-Erich Fromm.

“Raising the price of elephant’s tooth is not going to save the type. It extends not only to Black Panthers and members of the students’ movement, but also to businessmen, publishers, generals and as we have recently come to observe) Vice Presidents.”—Arthur M. Schlesinger, Jr.

"If people are caught in an appealing web of frustration and despair."—William Hart, General Electric

"The human being cannot live in a condition of emptiness for very long; if he is not growing forward something, he does not merely stagnate; the pent-up potentialities turn into morbidity and despair, and eventually into destructive activities."—Rollo May.

"Malaise and tensions are mounting throughout the world. Even affluent and strong societies show symptoms of a deep-seated discontent, insidious economic and technical progress, Violence has become a way of life and death when things get too complicated. Quick, the forces within our modern, technology, sexual promiscuity, television watching, or anyone of a number of ‘hobbies.’

The pressure to escape, the repression of our fulfillment, are forces we all feel and respond to. The pressures to escape are ghastly. They are produced by our existence, by our society, by our culture, by our way of life and death when things become too complicated. Quick, the forces within our modern, technology, sexual promiscuity, television watching, or anyone of a number of ‘hobbies.’

Just to say that we are living in a sick society doesn’t advance the dialogue very much. Usually, both sides of the argument respond, however, as a prelude to—or summary of—further analysis. There are a great many psychiatrists, psychologists and other social commentators who would analyze, analyze, analyze the forces within our modern, industrialized, urbanized society that tend to discourage the growth and fulfillment of the human potential of individuals.

Women, the headaches I get build up after a day of shopping and picking up and putting up the pressures, well, then my head feels like it’s waded between two hot plates. You come home and take some Anacin Tablets and by the time you're reaaziv coming the inside of the antenna. This is the best mileage I have had in any car I have owned. You don’t have to turn the wheel at all, you just point it. It goes like a dream."

Mr. Davis. Buick seems to hold their value better than some of the low priced cars.

Mrs. Davis, We’re a young family and we’re driving a Buick, and people think, well, gee, maybe, you’re really coming up in the world.

Mr. Davis. This car, I think it’s going to be the best I have owned.

Announcers. The 1970 Buick is something special. Wouldn’t you really rather have a Buick?

"In Europe, the mass media are regarded as carrying out or modifying the work of the state and as being more or less in the service of the state. In the United States they are defined largely as carrying out the work of the state and as being political, entertainment, and the newspaper."—Neal Denney, The Astonished Muse

"The Astonished Muse is a valuable addition to the package of programs to meet the requirements of their advertisers, of the censorship, of their own slick and clique programs, and of a broad common denominator of the modern mass media, none of whom may be expected: they will then claim not only that the public wants the drive that they give them, but that they are being created. Of course it is not! Not for these..."
media; why should a serious artist bother?"—Paul Goodman

"All great art is by its very essence in conflict with the society with which it coexists. It expresses the truth about existence regardless of whether this truth serves or hinders the survival purposes of a given society. All art is revolutionary because it touches upon the reality of man and questions the reality of the various transitory forms in which he expresses himself."—Andrew Jackson Thomas

"I suppose the little distinction in value between talking about middle-class youths being grooved for ten-thousand-dollar 'slots' and writing three or four-sentence editorials for privileged hoodlums fatefully hurrying to a reformatory, or between hard-working men and women, faces with hearts, For the salient thing is the sameness among them, the waste of humanity."—Paul Goodman

It is revealing, I think, that the same kind of concerns expressed by thoughtful psychotics and social philosophers are not the exclusive preserve of a small group of liberal intellectual elitists. They are also finding expression on the media derived from, and engendered by, common feelings at about the same time.

ANNOUNCER. What's "The Profile"?

The Profile is a program like this... so you get looked at like this.

When you have "The Profile"... you not only make the scene... you steal it.

How can you "keep The Profile"?

By following the Profile Bread Menu Planner available at your grocers.

The Profile plan can help you keep slender.

And delicious Profile has no artificial sweeteners.

What have you got to lose—except tomorrow's weight?

"Man leaves the more fully he is in touch with reality. As long as he is only sheep and his reality is essentially nothing but the fiction built up by his society for more convenient manipulation of man and things, he is weak as a man."—Erich Fromm

"Of all the people I talked to, the most frustrated and angry were those trapped in spirit-numbing jobs and in neighborhoods besiegged by pollution, noise, traffic, decay and discrimination. Right now if you lose your job, gave them some relief from tedium, and in a crisis; autonomy, is try to keep stretching people's imaginations and concern, mainly through the media of communication, television has the greatest opportunity—and the farthest to go—to widen horizons in the arts, technology, science, societal differences, the political issues of the nation and the world."—Dr. Benjamin Spock.

But there's a six-lane highway down by the creek

Where I want skinny-dippin' as a child

And the drive-in show where the models used to grow.

And the drive-in movies used to grow with

There's a drag strip down by the river side

Where my cows used to graze

Now the grunts are down.

And the river don't flow

Like it did in my childhood days.—Joe South

"Don't go Home" Copyright 1969 by Lowery Music Corp.

The voices are those of a cross section of America; the full range of ages, educational backgrounds, social positions, races, geographical regions, wealth, job categories, and so forth. These are the people who write me the thousands of letters I get every year. They are the people who, together, make up this country and set its course. We ought to listen to what they are telling each other, and try to understand the humanity, imagination and compassion as possible.

Yes, I think I'm in love. H!

Boy. Yeah, but she turned off like I had bad breath.

Panen. How about a little of that?—Garbriel Lacierman

Panen. Shh! Shh! Yeah, every day.

Boy. Why Listerine?

Panen. Because, damn it, Listerine kills the germs that can cause bad breath.

Boy. That's so strong.

Panen. And this time it works so long.

Boy. Do I use Listerine every day I get the girl right?

Panen. Unless you give her first.

Boy. Yeah, right.

Panen. Hey, Dick.

Boy and Girl. Shh!! Listerine Anti-septic, shhh. Kills germs. Lasts for hours. There is no beautiful place to be born into If you don't mind a few dead minds in the higher places.—Lawrence Peter Berra

"If I believe this Administration finds itself today, embracing a philosophy which appears to lack appropriate concern for the attitude of that mass of Americans who are young people.

"Let us give America an optimistic outlook and civic leadership, Let us show them how we can solve our problems in an enlightened and positive manner."—Secretary of the Interior Walter J. Hickel, in a letter to President Nixon

"...Polls have repeatedly shown that when all is said and done, most Americans do not want to see our problems, including the problems of poverty, race and the quality of life. They do want to see justice done.—John W. Gardner

"We are approaching the condition of King Oedipus of Thebes. Thebes was a tribal society, and when the king set about investigating the responsibility for murder and disorder, he found out he was the criminal."—Marshall McLuhan

"There is no place for ignoramuses, or out of calculated political cynicism, our citizens are being told that crime will stop if we erase ourselves. If we suppress dissent—that racial conflict will end and if we ignore racial justice—and that protest will cease if we intimidate the people we attempt to control. —New York Mayor John V. Lindsay

Today, alas, our national leadership hardly seems aware of the fact that in a nation in fact, it hardly appears to know what is going on in America and the world. It is feeble and frightened, intellectually mediocre, devoid of elevation and understanding, fearful of experiment, without a sense of the higher sense of the future."—Arthur M. Schlesinger, Jr.

Once the religious, the haughty and weary chasing the promise of freedom and hope Canada this country turned its back to a new nation Far from the reach of kingdoms and Pope, The spirit it was freedom and justice Its leaders, we seem to be talking of men and institutions Its leaders were supposed to serve the country But now they don't pay it no mind.—Jerry Edmondson, John Day and Nick St. Nicholas, "Monster," © Copyright 1969 by Trousdale Music Publishers, Inc.

The government as problem To say that government isn't working is scarcely a partisan statement. I seem to recall comparable sentiments being expressed during many of the past twenty years. Although this exact example of what is viewed as the problem—not just a lutharistic institution incapable of effecting solutions—may be somewhat new. One cannot help but
wonder how long a politics based upon paternal hatred of children can endure. There seems to be an increasing sentiment outside the U.S. that the Randian philosophy is a dangerous doctrine, leading to the breakup and destruction of society.

Mr. Ong. Ah, Mr. Gardner, how are you today? Mr. Gibson, how are you today? Mrs. Gibson, Oh, so, so, No starch please, Mr. Ong.

Mr. Ong. After four years I don't know no starch for Mrs. Gibson! What's the matter today?

Mrs. Gibson. Oh, a headache I woke up with, had breakfast and lunch with, now, I'm doing the shopping with it. Keeps coming back. I have to take some more of these. Mr. Gardner, Oh, Mr. Ong, I don't want to but in, but you should try Vanquish.

Mrs. Gibson. Mmm, they're different. Mr. Ong. Any more of these.

Mrs. Gibson. It gives you the well known pain reliever in this tablet,... plus extra medications... in this tablet, and this tablet... and buffers as in this one. Three headache relievers and two gentle buffers in each unique caplet, Vanquish. It's got everything going for it,... for relief. Complete your headache shouldn't come back.

Mr. Ong. I know, I know no starch.

Mrs. Gibson. No, no... No headache.

ANNOUNCER. With Vanquish,... your headache shouldn't come back.

Hear you must what the people say. You have to hear the people. That's going' on around here. That surely won't stand the light of day, Dave Crosby, "Long Time Gone."

How sharply our children will be a memory, that last their vengeance for these horror remembering how in a strange time common integrity could look like courage.

Yevushenko

"I think the corporation today is the basic source of generic power and has the greatest ability either for ill or for good to turn this country around. In the recent years evidence has been accumulating that many companies, which are so short-sighted and have no sense of responsibility to shareholders, to society.

Modern technology need not destroy aesthetic, spiritual and social values, but it will certainly not do unless the individuals who manage our technology are firmly committed to the preservation of such values."—John W. Gardner

"If corporations, like all businesses whether large or small, are in the primary business of making money, indeed, they do not even reduce prices to the public... services that may prove useful or necessary to society."—Andrew Sneider

"When I started teaching here twenty years ago, everyone fully believed in the capitalist system and we started from there. Now a lot of the students are going into the system but downright distrust it."—Professor C. A. Raymond, Harvard Business School

"A corporation is the prisoner of his business and commodities he sells; he has a feeling of fraudulency about his product and a secret contempt for it.... Most important of all, he hates himself, because he sees his life passing by, without making any sense beyond the momentary income, the existence of stock and contempt for others and for oneself, and for the very things one produces, is mainly unimportant. Occasionally one comes up to an awareness of a fleeting thought, which is sufficiently disturbing to be set aside as quickly as possible."—Fromm

"A corporation is an inherent one. When people are oppressed by their government, it is a natural right they enjoy to relieve them. Of the oppression, there are strong enough, either by withdrawal from it, or by overthrowing it and substituting a government more acceptable."—G. S. Gardner

"Others are growing increasingly impatient and violent. This trend has been predicted by most social observers whenever a government finds itself in opposition to the mandates of its citizens. Indeed, this nation was born out of just such a violent response to intrusions into its personal freedoms. The legitimization of revolution in the United States has been repeatedly attested to throughout our history by political leaders of virtually every political stripe. Mr. Gardner, Mr. Ong, are you today? Mrs. Gibson, Oh, so, so, No starch please, Mr. Ong.

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was added as a cosponsor of S. 635, a bill to amend the National Mining and Minerals Policy Act of 1970.

S. 1176

At the request of Mr. Allott, the Senator from Kentucky (Mr. Tower) and the Senator from Nebraska (Mr. Curtis) and the Senator from Arizona (Mr. Fannin) were added as cosponsors of S. 1176, a bill to provide for the cooperation between the Federal Government and the States with respect to environmental regulations for mining operations.

S. 1442

At the request of Mr. Moss, the Senator from Nebraska (Mr. Hartlen), the Senator from Nebraska (Mr. Peterson) and the Senator from Maine (Mr. Strykens) were added as cosponsors of S. 1442, a bill to amend the Internal Revenue Code of 1954 to provide that the first $3,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; S. 1443, a bill to amend chapter 83 of title 5, United States Code, to eliminate the ageé Minster reduction during periods of non-marriage of retired employees and Members, and for other purposes; S. 1444, a bill to increase the contribution by the Federal Government to the costs of employees' health benefits insurance; and S. 1445, a bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

S. 1561

At the request of Mr. Griffin, for Mr. Bennett, the Senator from North Carolina (Mr. Ervin) was added as a cosponsor of S. 1561, a bill to protect the freedom of choice of employment of federal employees in employee-management relations.

S. 1664

At the request of Mr. Scott, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 1664, a bill to authorize appropriations for the Commission on Civil Rights.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 520

At the request of Mr. Allott, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 520, a bill to authorize the construction, operation, and maintenance of the closed basin district, San Luis, Colorado, and the Chairman, Senate Commerce Committee.

S. 635

At the request of Mr. Allott, the Senator from Oklahoma (Mr. Bellmon) was added as a cosponsor of S. 635, a bill to amend the National Mining and Minerals Policy Act of 1970.

S. 1176

At the request of Mr. Allott, the Senator from Kentucky (Mr. Tower) and the Senator from Nebraska (Mr. Curtis) and the Senator from Arizona (Mr. Fannin) were added as cosponsors of S. 1176, a bill to provide for the cooperation between the Federal Government and the States with respect to environmental regulations for mining operations.

ADDITIONAL STATEMENTS

SURVEILLANCE OF MEMBERS OF CONGRESS BY FBI IN 1936—SO WHAT ELSE IS NEW?

Mr. METCALF. Mr. President, in view of the current furor over the surveillance of Representatives and Senators, I want to say that in the course of a recent address in this Chamber, Mr. Burton K. Wheeler, of Montana, said that "there is no better example of the manner in which the FBI has been used by the executive branch to conduct an investigation of Members of Congress in underhanded fashion than in the case of the investigation of Senator Burton K. Wheeler, of Montana, during the debate on S. 4533, a bill to extend the retirement privilege to the Director, Assistant Directors, inspectors, and special agents of the Federal Bureau of Investigation; during the Daugherty administration we saw members of the Bureau of Investigation in the Department of Justice, with which Mr. Hoover was connected, at that time, the retirement privilege to the Director, Assistant Directors, inspectors, and special agents of the Federal Bureau of Investigation; and during the Daugherty administration we saw members of the Bureau of Investigation in the Department of Justice, with which Mr. Burns was employed as elevator men here to catch what Senators and Representatives were talking about, according to the uncontradicted and sworn testimony before the committee investigating the Department of Justice. Agents were investigating every Member of Congress, and they were collecting the highest degree of the Department of Justice. They came out and surrounded my house with detectives. They sent men out to Montana to try to get something on my late colleague, Mr. Walsh. The late Senator Caraway was subject to an investigation every time a Member of the Senate was subjected to that tyranny by the Department of Justice, and Mr. Hoover was in the Department of Justice at that time under Mr. Burns.

So, what else is new?

REFRESHING DIFFERENT VIEW-POINT OF VIETNAM WAR

Mr. SCOTT. Mr. President, the Foreign Relations Committee has been holding hearings and will continue to hold hearings concerning our involvement in the war in Southeast Asia. Most of the testimony presented to date has characterized this Nation's involvement as being war mongering and I might say that most of this testimony has been given by members of the military who fail to appreciate what really has been accomplished by this administration since the President took office. On Wednesday, April 28, a former Navy captain from California, Meville Stephens, presented a different point of view.

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

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now before the Committee on the Judiciary:

Jack T. Stewart, of Mississippi, to be U.S. District Judge for the Northern District of Mississippi for the term of 4 years; reappointment.

On behalf of the Committee on the Judiciary, I have the honor to transmit to all Members interested in this nomination to file with the committee, in writing, on or before Monday, May 10, 1971, any representations or objections there may be in connection with the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.
It was refreshing. He talked about the need to assure the survival of the Vietnamese people. He referred to the atrocities he observed where the enemy mass- massacred peasants, including an 11-year-old boy. This was witnessed by a wounded veteran, who served three tours of duty, totaling 34 months, as well as the ribbons he was wearing on his jacket, he said:

Senator, I think they are evident.

This was the statement of a modest man, a man who was not looking for any personal glory or was not in any way impressed by his importance. He was telling the committee that his awards for certain deeds were incidental to the testimony he was presenting. The Senate to go slow in its program of withdrawing troops. He said we must be cautious of the price we pay for peace. Mr. President, this former assault boat commander has been through it all. Despite the unanswerable questions of the War and the Foreign Relations meeting being printed in the Record.

So am I and so should all of us who are privileged to be Americans. In questioning Stephens, he said he had been in Washington two weeks and that the majority of the veterans in Washington, and of others, when you talk to them one to one, were no different; their views were much the same as his own. I ask unanimous consent that the remarks or marking the Foreign Relations meeting be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

STATEMENT OF MERVILLE STEPHENS
Senator Fulbright, I want to thank you for the opportunity to be here. I particularly appreciate the chance to speak because I know the committee is very busy these days. However, my convictions are based on my own experience and what I believe is the experience of the Vietnamese people.

I was in the Navy from June 1967 to September of last year, and spent nearly thirty-four months in the Southeast Asian zone. This nearly 3 years period included ten months aboard a destructor of the seventh fleet in a gunfire support role, during which I made frequent trips to various places in I Corps; and almost two years in Vietnamese in-country tours. I worked extensively with the U.S. 9th Infantry Division and various South Vietnamese units including the Vietnamese Marine Corps, the Vietnamese Navy, the Army of the Republic of Vietnam, and the irregular forces. During my last tour, which ended in May of last year, I was a member of the 9th Infantry Division in-country tours, working extensively throughout the country and witness first hand the process of American withdrawal and Vietnamese units taking over the combat role.

I cannot speak more highly of my personal experience or of the Vietnamese people. I believe that they are capable of self-governance. I am here today, said to ask you to consider carefully your course, so that peace for American people does not come at the cost of additional sacrifice for these people.

It seems, that since I have returned to the States, that the American public seems to have become very loud, and I know that you have been listening carefully. I believe that the arguments have two principal weaknesses. First, the American public has not been asked in the early 60's, but were not. The questions of legality, and of specific military objectives have not been answered.

Only those of us who have fought there and lived among the people can know how really true this is. I believe it has gone on too long, and must come to an end, but I ask you to consider carefully the manner in which it is to be achieved.

A great many of them have taken their stand because of the American commitment to the GVN. I fear that some of the American people have, in their passion for peace, made heroes of the Viet Cong. In South Vietnam, they are not heroes.

Senator, I understand the passion of all of us for peace. I am in the position of only a few incidents like this, but anyone who spent three years in Vietnam can tell you of the brutality of the Viet Cong. The people of the United States have been through it all. Earlier in my tour, in the city of My Tho in the Central part of the Mekong Delta, I became close friends with an eleven year old boy named Tran who had been orphaned by the Viet Cong. Tran told me that his father had been killed in his office late in the fall of 1967, and as an example to his father, Tran was seized by the Viet Cong and had his arm cut off with a machete. Tran's father refused to resign, but was later killed along with his mother during the Tet Offensive of 68.

Senator, I was in South Vietnam in the most grotesque circumstances. I will not speak from personal experience of only a few incidents like this, but anyone who spent three years in Vietnam can tell you of the brutality of the Viet Cong. They have been quite blunt in stating that terror and mass executions are their chief strategic. The Vietnamese lived with knowledge that they take their lives in their hands to support the South Vietnamese Government. They depend on us for the support we have promised.

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I ask unanimous consent that the articles to which the headlines relate be printed in the Record.

Accordingly, Mr. President, bankruptcy is not staring the oil and gas people in the face at present. I ask unanimous consent that the articles to which the headlines relate be printed in the Record, as follows:

TEXACO TO BOOST SPENDING, Earnings Of 15.3 Percent

BOSTON—Texaco Inc., plans capital and exploratory spending in 1971 of $1.66 billion, compared with $605.1 million last year, chairman Augustus C. Long told the annual meeting Tuesday.

He also said that "promising results have already been obtained" in drilling offshore Louisiana, where "compounding the prospectiveness" the tracts, expected to be natural gas producers. He said expansion of oil and natural gas discoveries in the Gulf of Mexico will add total of 225,000 b/d by mid-1972.

Texaco's 50 percent joint venture in Equador's Amazon Basin has turned up 13 separate oil fields, it noted.

He reported the first quarter net of 87 cents versus 75 cents.

Second quarter earnings were told consolidated net income of Texaco for the first quarter of 1971 totaled $226,783,000, or 15.3 percent above earnings of $205,923,000 for the first three months of 1970.

On a per-share basis, first quarter earnings in 1971 amounted to 87 cents, compared with 75 cents a share in the like period of 1970.

Texaco's worldwide operations, including the company's interests in affiliated com-
Sen. Murphy - in this year's
Company's Burghausen, West Germany, partially
Company's four major divisions. Mitchell said.
being dramatic. For all of 1971 will be more encouraging than
increased cost of crude oil. Net production of crude oil and natural
dropped dramatically since
Refinery's crude run in the first quarter was compared with 57,644 b/d in the first quarter of 1970, and finished petroleum products sold were increased 138,752 barrels a day, compared with 117,678 a year earlier.

CONOCO EARNINGS AND CROSS SET RECORDS IN FIRST QUARTER
New York.-Continental Oil Co. reported earnings and revenues in the first quarter of 1971 reached record highs for any first-quarter period.

John G. McLean, president and chief executive officer, said consolidated net income for the three months ended March 31, amounted to an increase of 13.8 percent over net income of $33 million in the same period last year. Per-share earnings for the first quarter of 1971, a gain of 31 percent from the 62 cents earned in the first quarter of 1970.

Gross revenues in the first quarter of 1971 amounted to $799.8 million, a gain of 16.9 percent over the comparable 1970 period. Capital expenditures totaled $377.6 million in the 1971 first quarter, an increase of 20 percent over capital expenditures of $70.7 million in the first quarter last year.

The increase in first quarter net income is due to earnings gains from each of Conoco's four major divisions," McLean indicated. "These gains were partially offset by increased corporate expenses, primarily net interest charges.

Conoco's world-wide operating volumes during the first quarter of 1971 were greater than the same period last year. Net production of crude oil and natural gas rose 21 percent to an average of 844,015 b/d. Natural gas deliveries averaged 1,726 million cubic feet per day with 1,366 million. Natural gas liquids averaged 20,932 b/d, while refined product sales were $250,165,000, an increase of 14.6 percent.

WOODS EARNINGS GO UP SHARPLY
OKLAHOMA CITY.- Woods Corp. announced earnings for the first quarter of 1971 were sharply higher than those for the same quarter a year ago.

Net earnings from continuous operations for the three months ended March 31 were $457,000, equal to 25 cents per share. Net earnings from continuing operations for the first quarter last year were $348,000, or 19 cents per share.

Woods reported total revenues from continuing operations for the three months ended March 31, compared to revenues from continuing operations of $1,641,000 for the same quarter a year ago.

Revenues of Woods oil and gas division rose to $1,134,000 for the quarter, compared to $899,000 for the first three months of 1970.

APO REVENUES UP
OKLAHOMA CITY.- APO Oil Corp. reported an increase in first-quarter revenues and a decline in net earnings during the first quarter. Gross revenue of $27,343,817 increased 5.6 percent from $25,977,265 in the first quarter of 1970. Net earnings during the first quarter of 1971 amounted to $148,127,617, as compared to sales of $113,762,992 for the same quarter of the previous year.

CITIES SERVICE LABELS FIRST QUARTER PROFIT AS "TEMPORARY"
WILMINGTON.-Charles G. Mitchell, chairman of Cities Service Co. told the annual meeting of shareholders Tuesday that an earnings' decline in the first quarter of 1971 reflected higher costs of wages, materials and interest and price weakness in gasoline, copper and petroleum chemicals.

But he said the performance for all of 1971 will be more encouraging than was shown in the first quarter." Mitchell said.

There were also indications that price weakness of the first quarter is a temporary condition and recovery can be expected.

Cities Services, it was reported at the meeting had net income of $84.3 million, equal to $1.43 per share, in the three months ended March 31, compared with $88.5 million, or $1.37 per share, in the first quarter of 1970.

Director of the company declared a quarterly dividend of 55 cents per share, payable June 7 to stockholders of record on May 10. This is the same quarterly rate paid in 1970.

Mitchell said "total exploration expenses and the increased cost of crude oil. Net production of crude oil and natural gas liquids averaged 44,742 b/d, up from 43,604 b/d. Net production of natural gas averaged 69,522,236 mcf, up from 59,526,236 mcf a year earlier. Refinery's crude run in the first quarter was compared with 57,644 b/d in the first quarter of 1970, and finished petroleum products sold were increased 138,752 barrels a day, compared with 117,678 a year earlier.

DOMESTIC EARNINGS PER COMMON STOCK SHARPLY HIGHER
OKLAHOMA CITY.- OKLAHOMA CITY.-Apco Corp. reported earnings for the first quarter of 1971 were sharply higher than those for the same quarter a year ago.

Net earnings from continuous operations for the three months ended March 31 were $457,000, equal to 25 cents per share. Net earnings from continuing operations for the first quarter last year were $348,000, or 19 cents per share.

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quarter of 1971 totaled $1,050,404, compared to $1,008,421 for last year.

Primary earnings per share, compared between the two years was 42 cents in the first quarter of 1971, or 37 cents for the corresponding period in 1970.

The lower earnings performance in the first quarter of this age, an officer, said J. H. Pittinger, president. Exploration expenditures were disproportionately higher in the first quarter of 1971, he noted.

Apo accelerated its worldwide exploration effort in 1970 and a portion of those expenditures were written off against income in the first quarter.

While the first quarter financial results were disappointing, some improvement in gas prices is expected as we enter the peak market season. Expenditures for this quarter should moderate during the remainder of 1971, the Apco president observed.

ROWAN DRILLING Earnings Go Up

HoustoN—Rowan Drilling Co. Inc. Tuesday reported consolidated net income of $271,500,000, an increase of 57 percent over the first quarter of 1970. Consolidated sales and other revenues for the quarter were $5,963,887, an increase of 77 percent over the same period in 1970.

The company's drilling rig unit and a posted barge unit were temporarily out of service in March to undergo modification. However, the company's aircraft charter business is operating at minimal capacity because of economic conditions associated with delays in building the trans-Alaska pipeline.

March Deliveries

Trans Mountain Oil Pipe Line Co.'s total deliveries of petroleum for the month of March was 2,674,281 barrels per day, compared to 2,695,894 b/d for the same period in 1970. April deliveries are expected to average 2,624,000 b/d.

SOUND Nets 9 PERCENT Gain

CHICAGO—Standard Oil Co. (Indiana) reported earnings of $95.2 million, higher by 11 percent than the $86.8 million of the 1970 first quarter. Chairman John E. Swearingen said earnings per share were $1.58 compared with $1.24 per share for the first three months of 1970.

Total revenues for the first quarter 1971 were up 9 percent to $1,238,000,000 as compared with $1,193,000,000 in 1970. Swearingen said higher earnings resulted from higher prices for refined products early in the quarter and increased production of crude oil. He said Swearingen continued to rise during the first quarter of 1971, reflecting higher wage and benefit expenses and other paid in March. Swearingen cautioned that unless gas prices improved from current depressed levels the first quarter rate of increase may be higher than the rate recorded for the previous quarter.

New records were set in the 1971 first quarter in operations generally, Swearingen said. Net production of crude oil averaged 77,878 b/d; liquid sales averaged 708,000 b/d; sales of refined products averaged 1,104,400 b/d, up 4 percent. Sales of chemical products were $97 million, an increase of 7 percent over the 1970 first quarter. Refinery runs averaged 972,000 b/d down 8 percent.

TONE OF THE MARKET—TRIANGLE Boosts Price

Signs detected Tuesday pointed toward a partial rejuvenation of the mid-country gasoline market. Moves last week by several key refiners and marketers of Group 1 gasoline, with price origin basis and terminal value basis appearing to be fitting into an economic pattern, observers contacted considered very acceptable.

However, it was pointed out that the market is too early to assess field reaction to a move that appears to be more of a reaction to what is considered realistic than the pricing practice that has been followed for years.

The Triangle Refineries has boosted Chicago wholesale gasoline prices to 13.25 cents from former 12.75-cent level. Field reports Tuesday indicated that Texaco has raised gasoline prices by 8 cents to jockeys in Alabama, Mississippi and Louisiana, also in Georgia and Panama City, Fla.

Effective Tuesday, American Oil partially restored dealer tank wagon from 9.4 cents to 16.4 cents in Blount County, Ark., and extended price increase to other areas. Texas, 24.9 cents to 33.9 cents. Normal level is considered 37.9 cents.

One major—and a relatively new marketer on the East Coast—was said to be restoring its gas prices "to established levels" in the Carolinas, on Long Island and in Connecticut, Maine, Rhode Island and New Hampshire.

While the gasoline marketing picture continues murky. This week's nationwide survey of key consuming areas revealed further slippage on both dealer tank wagon and area service price levels. With the former down a quarter of a cent from last week to 16.25 cents and the latter declining to 16.25 cents.

Both Milwaukee and Kansas City continue to be two of the nation's chronic depressed areas, with gas prices with erosion amounting to as much as 10 cents.

Great Lakes Area Gas Rate Increase

WASHINGTON—The Federal Power Commission reported that Great Lakes Gas Transmission Co. plans to increase, by $9,697,370 annually, its wholesale transmission and transportation service rates, effective June 1.

Great Lakes said the proposed rate increase is necessary, principally because its existing rates do not generate sufficient revenues to meet interest coverage and other costs required for prudent and economic operations. The higher rates also include a minimum rate of return of 9.25 percent, designed to recoup total cost of service.

Gulf Earnings Rise

ATLANTA—Consolidated net income of Gulf Oil Corp., for the first quarter of 1971, is $184.3 million, an increase of 5 percent over the $179.2 million earned in the first three months of 1970. President E. B. Brockett, told shareholders at the Gulf annual meeting here Tuesday.

Earnings are equal to 70 cents per share, an increase of 6 cents over the 64 cents per share reported in the first quarter of 1970.

Gulf's sales and other operating revenues for the first quarter are estimated at $1,754,000,000, an increase of 11.2 percent over the $1,578,000,000 reported in the first quarter of last year.

Noting that 1971 first-quarter net income and per-share earnings exceeded that of each of the preceding five quarters, Brockett said that he looked to the remainder of 1971 with optimism.

Brockett also told shareholders of two discoveries of oil and gas, and noted that this made a total of three Gulf finds in the first quarter of 1971.

At the beginning of the year, Gulf reported the discovery of oil offshore the democratic republic of Congo.

On the Gulf Coast, Gulf, as operator (and 30 percent interest owner) for the Danish Underground consortium, discovered oil and gas in the North America oil field. Gulf's share of production here should begin by the second quarter of 1972, Brockett said.

Offshore Gabon, in Equatorial West Africa, Shell Gabon granted an interest license in which Gulf has a 30-percent undivided interest, tested over 1,000 b/d of clean oil. The prospective field, it is believed, demonstrates further diversification of Gulf's raw-material supply.

In the first quarter, Gulf reported world-wide daily average increases in net production of crude oil, condensate and natural gas liquids, net production of ethylene, crude oil processed, refined product sales and chemical sales.

PHILIPS Net Up 13 PERCENT

BARTLESVILLE.—Phillips Petroleum Co.'s 1971 first-quarter earnings were $363,115,000, or 49 cents a share, 13 percent over the $327,102,000, or 42 cents a share, for the first quarter of 1970. The first quarter, W. W. Keeler, chairman and chief executive officer, told stockholders Tuesday at the annual meeting.

Keeler pointed out that 1971 first-quarter earnings were adversely affected by a number of factors, including the gasoline price increase, and non-operating charges associated with delays in building the trans-Alaska pipeline.

The higher earnings were attributed to greater production of crude oil and gas, increased refining, marketing and transportation service, and increased production here should begin by the end of 1972.

Keeler pointed out that 1971 first-quarter earnings were adversely affected by a number of factors, including the gasoline price increase, and non-operating charges associated with delays in building the trans-Alaska pipeline.
The net income reported by El Paso Natural Gas Co. reported first quarter net income of $12,047,000, or 46 cents a share, as compared with $11,955,000, or 45 cents a share diluted for the first quarter of 1970. Sales totaled $331.5 million vs. $287 million.

For 1970, El Paso is after preferred dividend requirements.

DOROTHY LAMPORT TITCHENER

Mrs. SMITH. Mr. President, Dorothy Lamport Titchener of Binghamton, N.Y., is a remarkable woman. She is a true leader. She is truly a selfless person in her dedication to the cause of social and governmental action. A few of her most important accomplishments have been chronicled by the Binghamton, N.Y., Sun Bulletin of April 22, 1971.

I wish to pay tribute to her, and I ask unanimous consent that the Sun Bulletin article about her be printed in the Record. The only error in judgment that she ever made to my recollection was when she proposed me for Vice President in 1952.

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

PAL ROLE WILL CAP HER 50 YEARS IN COMMUNITY ACTION

She must be near the top rank of American women volunteers in the fields of social and government activities.

Thirty years ago, before Women's Lib was ever heard of, she was trying to run a woman football team in the United States. She will mark her golden year of social action this summer by accepting the chairmanship of Binghamton Police Athletic League's annual charity drive, joining in the country-wide war against local juvenile delinquency.

She is Mrs. Dorothy Lamport Titchener, widow of industrialist Paul P. Titchener, and the prime mover who planned, created and supervised 612 city housing units as chairman of the Binghamton Housing Authority. The authority counts the dependents. Mrs. Titchener and her colleagues must then measure all the other human factors relating to an applicant's need.

Children are Mrs. Titchener's special interest. She has two daughters out of Wellesley and a son who is a research psychiatrist out of Princeton and Duke Medical School, who among them have provided her with 11 grandchildren.

And there are children by the hundreds in the Housing Authority's colonies: 156, for example, in the 27 garden apartments of Exchange street, hundreds more at Carlisle Hill and Fawcett Heights.

Most of them, she says, have benefited or will benefit from playtime spent without fee at the PAL Camp at Kirkwood.

PLEBISCTE OVERWHELMINGLY ENDORSES GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been brought to my attention that a plebiscite conducted by the Beverly Hills Bar Association has indicated overwhelming support for the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide.

This bar association, with a membership of 1,700 persons, voted by a 9 to 1 ratio to urge the Senate to ratify this convention. The presence, I think, of that letter from Mr. Martin Webster, president of the Beverly Hills Bar Association, be printed in the Record.

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

DEAR MRS. TAYLOR: We feel you will be interested in knowing that our Bar Association (1700 members) conducted a plebiscite regarding the position of the United States on the Genocide Treaty. The results favored approval of the ratio of 9 to 1.

Mr. President, in my opinion, this statement should be printed in the Record. Very truly yours,

MARTIN H. WEBSTER.
CONCERN OVER DEVELOPMENTS IN EAST PAKISTAN

Mr. KENNEDY. Mr. President, on April 1, I spoke in the Chamber to express my deep concern over developments in East Pakistan.

Suppressed reports to our Government were telling of a heavy toll being paid by the civilian population as a result of the violence. It was a story of indiscriminate killing, the exploitation and subversion, and dissident political elements, and the suffering of tens of thousands of innocent civilians. It was a story of families dislocated and homes lost. It was a story of millions of acres of land, water, and crops being destroyed.

Over the last month I have communicated my concern in this matter to officials of the State Department and other administration officials, and, as the President has noted, I have urged the government, to support a mercy mission and airlift into areas in need. And, hopefully, the appeal of the Indian Government for assistance to meet refugee needs within her borders, will receive a sympathetic response by all concerned.

Let us leave no stone unturned in accomplishing this objective. But let us do so with meaningful action to meet immediate needs, and with the urgency a serious crisis of people demands.

ADDRESS BY HELEN DELICH BENTLEY

Mrs. SMITH. Mr. President, a very forceful and impressive address was given on April 30, 1971, by Mrs. Helen Delich Bentley, Chairman of the Federal Maritime Commission, before the Star Spangled Flag House annual dinner in Baltimore, Md. Because it is very worthy of reading and consideration, I am:proposing to print it in the RECORD.

May 8, 1971

it is clear that we need additional technical services and funds provided for the Soil Conservation Service to carry out this important work.

My testimony today is concerned principally with three areas: first, additional technical assistance to soil and water conservation districts; second, assistance to the Small Watershed (PL-586) Program; and third, assistance to the Resource Conservation and Development Program.

As most of you probably know, the number of technically trained people—the district conservationists—offering assistance is continuously being spread thinner and thinner. The number of SCS personnel assisting soil and water conservation districts in my state has declined from a high of 30 in 1958 to 28 in 1970. In 1977 there were 25 SCS personnel in Oregon while this year the number has been reduced to 20. Obviously, something is wrong when more and more federal emphasis is being placed on expanding conservation and environmental programs, when more people are being made available to do the job within an existing and successful conservation program.

Mr. Chairman, I strongly urge that additional funds be provided to strengthen the necessary programs and allow for the addition of more personnel for the Soil Conservation Service.

With regard to the Small Watershed Program, through the Department of Agriculture and Forest Service, I have been working with Oregon Communities in water resource development under the provisions of PL-566, the Water Resources Development Program. Since 1954, 57 groups throughout the state have made applications for planning assistance. Of these, 31 projects have been authorized for planning assistance, the remainder have been placed in a growing backlog, with future priorities being determined under the English Act.

The case throughout the country, applications from Oregon have far exceeded the ability of the SCS to provide service under the English Act, and from Oregon County Engineer. For example, as of April 1, 1971, there has been a lack of orderly installation for water resource planning. Presently, PL-566 monies are being spent to help secure a better balance between PL-566 monies appropriated to SCS and FHA loan funds. I would urge that this be accomplished.

Concerning the Resource Conservation and Development Program, I would like to briefly mention the status of current projects in Oregon. Presently, the upper Willamette project has been approved for operations and the Blue Mountains project approved for planning. One other project, Grant-Wheeler, has made application with SCS. The Oregon Mariculture Commission might add that two other RC&D applications for Lower Willamette and North Coast are in the planning stage. Mr. Chairman, I strongly recommend that additional funds for the RC&D program be appropriated. The RC&D program is a major factor in helping the farmers and ranchers of Oregon to become part of our national and state economic development. In summary, I respectfully request the Committee to favorably consider an increase in funding for conservation operations, watersheds, and RC&D so that the level of assistance to local people in Oregon can be accelerated. The quality of our environment is at stake.

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Let us leave no stone unturned in accomplishing this objective. But let us do so with meaningful action to meet immediate needs, and with the urgency a serious crisis of people demands.
For the first time in a long time, thoughtful Americans are questioning our capacity for self-government. We have reached the rule of law. But increasing numbers of our citizens reject and flout the law when it serves their mood of the moment.

We believe in free speech. But some among us claim the privilege for themselves alone while denying it to others.

We know that the country's deepest roots are spiritual. But we don't want our children to recognize the fact during school hours.

We demand clean air and water and responsible use of the land. But we endure a floodtide of hard-core pornography.

The government is only as good as its word. But we have permitted our concern for the rights of the lawbreaker to blind us to the rights of the lawgiver.

Sociologists tell us to call it all up to social unrest. I don't buy that because the record doesn't support it. There are other explanations that I find more plausible.

The statistics as recited by Roger Freeman of Stanford University tell the story. Only 20 percent of the offenses known to police are cleared by arrests. Of those arrested, only one in six goes to jail. The one in 30 criminals who is unlucky enough to wind up behind bars serves on the average only 55 percent of the time to which he was sentenced.

We can't have it both ways. We can't expect the law enforcement office to do his duty when the courts stack the deck in favor of the criminal.

Now, let us expect government to provide our young people with the direction and discipline that we fail to provide in the home. The moral issue is declaring a grim and growing toll of youngsters throughout our society. Let's treat it for what it is—a cancer of our society. But the best cure is prevention, and the best way to prevent it is to instill in our children the ability to choose between right and wrong.

We are a productive people. Americans have always found satisfaction in an honest day's work. But we must not make the mistake of relegating the work ethic to a lesser place in our scale of values.

Again, the choice is ours. We can have a welfare state if that is what we want. But the cost will be staggering, not in dollars alone but in damage to the human spirit.

Today, an estimated 10 million American adults exist outside the Nation's labor force. Most of them lack skills for the work to be done. Some of them are paid more for not working than they could earn on available jobs.

Experience has demonstrated that reliance on Government dole is one way to street, and it is nothing but a false sense of security. Between 1965 and 1970 the Federal Government alone spent more than $250 billion on welfare. That is an order of magnitude of unprecedented social unrest. As President Nixon has pointed out: "Never in human history has so much been spent by so many for such a negative result.

The cost of the lesson has been high, but we have learned that it is not only what we spend that matters, but how we spend it.

The President's spending welfare program would replace the present rewards for idleness and the cradle-to-grave dole. He wants to see the Congress pass the legislation to which he gives the foresight to pass it.

Like everyone else, the working man has a stake in the welfare program and in the public interest. The inflation that has broken the back of millions of family budgets is no longer due to excessive demand. It is the result of upward pressure on costs stemming mainly from rising wage rates.

Recent collective bargaining agreements in big American industry are an example of the pressures by exceeding probable productivity gains. Union leaders and members will serve their common interest by rejecting self-restraint in contract negotiations scheduled this year.

The pressure organized labor needs no further documentation. If I read the American mood right, what most of our people need and want is a program that will allow for the fact that, by present standards, the rate used to be 30 percent.

"The Happy Now" echo the sentiments of us all. Neville Chamberlain responded to a similar demand in 1938 and the world has not accommodated the world to its knees.

Those who deplore crowded and disruptive conditions on our college campuses should be reminded that until a generation ago only the privileged few got an education. I don't minimize our problems but neither do I think they are insoluble. This is a "can do" generation.

We've seen the American people rise to the heights of patriotism and sacrifice to throw out of the criminal who had no right to win. We can throw out of office those who are crooks and disloyal, those who lack patience and dedication and a sense of purpose.

The President of the United States has promised us an honorable end to our involvement in Vietnam. We may not start.

By any fair reckoning, he is making good on that promise. Not enough, say the protesters: "Boycott the war now or we will stop the Government."

The reasoning is a symptom of the times. We want instant cures for all that ails us. We want them to be cheap and painless, uncomplicated but the lessons of the past or their long-run implications for the future.

I can understand impatience with the war. I can understand the cry from the ghetto that the system that makes them sick is the same one that makes them unhappy.

They are mocked of virtue and patriotism and sense. We believe in free speech. But some among us claim the privilege for themselves alone while denying it to others.

What was promised nearly two hundred years ago was the opportunity for men to pursue the values they believe in. The least we can do is stand up and believe in the system.

These are the disciplines that hold a society together and give it body and thrust. We are asked to accommodate our freedom wisely, to compose our values. It is something pathetic about the citizen who doesn't understand is the feeling that the way to a vigorous, cohesive society together and give it body and thrust.

A half century ago the United States was a Democratic nation. I shall vote American; and I shall die American; I shall live American; I shall die American; and I shall die American.
new Breed of Tourist Comes to Washington

Spring is tourist time in Washington, bringing Americans in the tens of thousands to visit their national monuments, to recapture the roots of their past.

A new breed is with us now and has been these past 10 days. And their banners (with apologies to Longfellow) bear some passing message, "Remember the war in Vietnam (who does not?)? They want free abortions on demand, clean water, gay liberation, union leagues, Nixon's political assassination, their leaders to go to jail, their leaders to be free, their leaders to be arrested and imprisoned. They want everything, these babies who were always picked up when they cried. They want to program their nation with the spectacles of themselves clustered lemon-like in the streets.

Their banner was a group of about 1,200 Vietnam Veterans Against the War, who put on demonstrations of their version of search and destroy, but instead of bombardment and decorations they were demanding to be allowed to display their decorations. To this Observer's knowledge, no reporter in this city of reporters made a serious effort to discover how many of the 1,200 actually had served in Vietnam or to validate the decorations they said they held.

Many of them, including their leaders and aides, were Vietnamese veterans whose faces were genuine. Perhaps, as in the case of all those Black Panthers "killed" by the police, the war is done, the Vietnam Veteran and the New Yorker will put the record straight.

Then came Saturday's 

Mr. Scott, Mr. President, an interesting column has appeared in the Washington Star, that was written by Smith Hempstone. The title is, "New Breed of Tourist Comes to Washington." It makes a great deal of sense.

Mr. President, I ask unanimous consent that this column be printed in the Record.

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

New Breed of Tourist Comes to Washington

Spring is tourist time in Washington, bringing Americans in the tens of thousands to visit their national monuments, to recapture the roots of their past.

A new breed is with us now and has been these past 10 days. And their banners (with apologies to Longfellow) bear some passing message, "Remember the war in Vietnam (who does not?)? They want free abortions on demand, clean water, gay liberation, union leagues, Nixon's political assassination, their leaders to go to jail, their leaders to be free, their leaders to be arrested and imprisoned. They want everything, these babies who were always picked up when they cried. They want to program their nation with the spectacles of themselves clustered lemon-like in the streets.

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Then came Saturday's
they prefer ballots to ballyhoo, that—when all is said and done—they desire a democracy rather than a mobocracy.

And so the Manse finally fulfills the prophecy of W. B. Yeats—"Things fall apart; the centre cannot hold; Mere anarchy is loosed upon the world..." To come to pass. Unfortunately, it can happen here.

ARENA STAGE—A CREDIT TO THE CULTURAL LIFE OF NATION'S CAPITAL

Mr. McIntyre, Mr. President, since its opening in 1950, Arena Stage has grown at an amazing rate and has offered consistently more ambitious and more professional productions for the audiences of Washington. The Arena Stage, with the adjacent Kreeger Theater, is certainly a credit to the cultural life of our Nation's Capital.

I have, on occasion, attended Arena Stage and have been much impressed. To show my appreciation, I ask unanimous consent that a Saturday Review article entitled Arena Stage: Full Speed Ahead be reprinted in the Record, as follows:

ARENA STAGE: FULL SPEED AHEAD

[By William Henry Rouse]

WASHINGTON, D. C.—The record of Arena Stage is splendid. Although its national reputation owes a great deal to the fact that the current production, "White Hope," written by Lloyd Webber and directed by Jerrold Herman, is a large-scale, spectacular attraction, it has set standards in the community for the most part. The theater has produced notable plays, including "Barefoot in the Park," "The Odd Couple," and "Death of a Salesman." The company consistently offers a diverse selection of plays, ranging from classics to contemporary works, and consistently draws large audiences.

The current offering in the present facility, a large-scale, production of "The Man in the Glass Booth," directed by Jerrold Herman, is a dramatic and visually stimulating piece. The play, written by Aimé Césaire, is a political and social commentary on the rise of fascism in France during the 1930s. The story is set in Paris and follows the life of Paul Claudel, a French playwright, who is falsely accused of espionage and is held in a concentration camp. The production is a powerful exploration of themes of power, corruption, and resistance.

The cast, consisting of a diverse group of actors, delivers powerful performances. The setting, designed by Robert Alexander, is a striking representation of the period, with its stark and sparse design. The lighting, by Donald C. McNaught, enhances the mood of the play, creating a sense of tension and foreboding.

The play is an important contribution to the cultural life of the nation's capital, offering a thought-provoking examination of historical events and their implications for contemporary society. It is a testament to the artistic and intellectual vitality of Arena Stage, and a reminder of the critical role that the arts play in our society.

LEON SULLIVAN ELECTED TO GENERAL MOTORS BOARD OF DIRECTORS

Mr. Scott, Mr. President, in Pennsylvania there is a remarkable individual who during the earliest period of his youth took the leadership in setting the direction of the civil rights movement. He is an exceptional man who has given so much time and energy for the purpose of equal justice. Leon Sullivan is a black minister in the city of Philadelphia. He is a leader in the Opportunities Industrialization Centers of America. He founded this organization in 1964.

Today after these many years of service to others he has been elected to the board of directors of the General Motors Corporation. I am certain that he will be so recognized. Mr. President, there is an exceptional news article on the Reverend Mr. Sullivan in Business Week for April 10. I commend it to the reading of Senators and ask them to look at such an individual as a plus item.

[From the Business Week, Apr. 10, 1971]

"Black Director Pushes Reforms at GM"

"For several years, I didn't talk with white people," says Philadelphia's Reverend Leon
H. Sullivan, "because I didn't want them to try to persuade me not to do what I was doing," Sullivan now talks readily to whites, and he says they are doing a good job of finding minority students and candidates. "This is a major training program. "I want GM to make a report on hiring minorities that will really impress America."

Second, such action strengthens GM's image in the tough new stance toward social issues. Some companies, like such figures as Ralph Nader and the Nader-flavored Project for Corporate Responsibility in Washington that runs Campaign-GM. In recent speeches, Roche, probably looking toward next month's annual meeting, has been talking against people who "seek less to correct a wrong than to condemn a system ... [who] crusade for radical changes in our system of corporate ownership that the country would all but destroy free enterprise as we know it."

Project Responsibility is pushing three proposals on GM's proxy statement calling for greater disclosure in annual reports and for changes in the election and composition of GM's board. Project official Susan L. Gross believes GM's "shift in strategy" is aimed at "delaying our credibility. "Nader, who regards GM's recent moves as "political," calls Roche's speech "unvarnished GM, a massive display of GM's malignancies."

Sullivan is far from disliking the broad outlines of the proposals. "I'm personally prepared to see GM persist in seeing a. commitment to policies and procedures regarding minorities." After looking over many candidates, GM could conclude, he says, "There is a point at which we have a stake in the appointment of Leon Sullivan's appointment reflects this."

Asked for his reasons why GM picked him, Sullivan says Chairman Roche, "I don't think I knew how big the black hole was. I have good credentials, a solid education. I'm not frightened by corporations. It is a kind of voice inside GM that will express itself. It's impossible to people who know me that I can be put in a pocket. If I'm silenced, I'll talk. But I think they knew what they were doing."

The man who knows best agrees that the corporation knew what it was doing. "I think Sullivan's election raises a key question," says Chairman Roche: "For some time, we've been considering adding to our board to include a minority member. We wanted to find somebody who had a record of accomplishment, somebody, who had roots in the minority communities around the country, and somebody who could counsel and advise us with respect to policies and procedures regarding minorities." After looking over many candidates,GM could conclude that Dr. Sullivan seemed to have the best talents and those qualities we were seeking."

Roche indicates that GM expects two-way benefits from Sullivan. "I think he will give us back, in his own words, a second look at the suggestions as to how we might make greater progress with our programs, and then secondly, in his own words, he can talk to the people on the outside. He will know at first-hand what we are doing and what progress we are making."

Military. This strongly suggests either that GM feels it knows how much it must deliver to win Sullivan's cooperation, or else that it has committed itself to a plan that is blunter it really makes. As Sullivan's background shows, he would be a bad choice as a government official who would be content to sit near the door. Tall, articulate, and proud, GM's new director of minority affairs will not be a garden-variety person who left Charleston, W. Va., in 1943 to study at Manhattan's Union Theological Seminary. After several years as a militant civil rights activist in Harlem, he moved on to the NAACP, Powell, and following a stint in a small church in South Orange, N.J. ("I was getting a little tired of church work"), he took a call to lead Philadelphia's Zion Baptist Church, the largest black church in the city. "As the President, when I make mistakes, I try to correct them," he says. Church membership has grown from 600 to more than 5,000 members since Sullivan, brought in his brother, who helped him shape the church with his own sense of support.
"He doesn't hang his shoe on the desk. He gets the facts, and gives advice."

In the early 1960s, Sullivan developed his "selective patronage" or boycott tactics to promote a black agenda. The strategy was appallingly crude, he says.

"They thought I had horns," he says. This work brought him considerable public notoriety within the civil rights movement. Sullivan helped Martin Luther King and Ralph Abernathy work out their Operation Breadbasket boycott in Atlanta to help Martin Luther King and white Appalachians as well.

He believes in creating black businesses. He would solicit financial help from foundations and corporations. He insists that blacks contribute, too, as a matter of pride and as a way of retaining control of their activities.

Sullivan's philosophy of self-reliance hardly inspires business executives. He is not, and he has a long roster of business admirers. The latest, not surprisingly, is James Roche.

"I think Dr. Sullivan's philosophy basically is that black business will be done for the minority without using some of these corporate methods."

William B. Eagleton, Jr., president of Philadelphia's Girard Trust Bank (whose board Sullivan served on as an observer), says he helped the bank with its minority loan program, finding ways to assist faltering black entrepreneurs who were not attractive credit risks. He does this not by hanging a shoe on the desk," says Eagleton, "but through discussions, getting the facts, giving advice.

Former Chase Manhattan Chairman George Champion, who now serves as head of a 25-man advisory committee Sullivan formed to drum up business support for his OICs, calls Sullivan "the most persuasive man I've ever met, and the most dedicated." Thomas B. McCabe, chairman of Scott Paper Co.'s finance committee, helped Sullivan set up the advisory committee. "I take my hat off to Mr. Sullivan," says McCabe. "He's a very strong advocate for what he believes in.

The businessman's idea of a good job, though, falls far short of what one of his organized critics in Washington would like to see. "Mr. Sullivan," says the Rev. Dr. Norman Jacobs, Nader's Center for Study of Responsive Law, feels Sullivan is "going to have a tough time before he can get the OICs and OICs-sponsored boards into some sort of extracorporate methods. If he is really going to be effective, he won't last long." At the Project, Susan Cross labels his election as more "corporate charity. What shoe gives, an can take away," says she. "We need structural changes in corporations."

Sullivan is as careful a course with such critics—in fact, with anyone who wants to tell him how to do the job—as with his own. "I hear from people all over the country," he relates. "Most of them have their own agenda, their own interests. I must be my own man and not set up any pretense.

Then he rounds things off: "I'm willing to see as many people as I can. I will learn from every viewpoint, but I've never met Mr. Nader but I have great respect for him."

The Project? "I will value the opinions of these groups, who have never had Mr. Nader. I have a lot of respect for them."

He plans to meet with Channing Phillips, a Washington minister who was a Project director and now is a consultant, and Marion Wright Edelman, a member of the Project's board. He adds, "My decisions will be made entirely independently of Campaign-GM or any other group."

Sullivan wants to tell the corporation's nominal commitment to equal opportunity." And Joseph L. Bower, a Harvard Business Administration professor, says Sullivan will fill a critical role, "even if he doesn't deliver the goods" by asking questions that would otherwise go unasked.

Sullivan will hardly be satisfied with that. Doubts about his effectiveness, in fact, seem to have been the uneasy conviction that he may not last long.

"Mr. Sullivan, though, is unlikely to wage war on GM from the board room. He believes, or says he believes, that GM's management intends to follow through with his suggestions. Effectiveness, in such a case, would mean getting GM to do what it has already decided to do.

"I'm letting my drum beat slowly," says Wood, "and as the speeches resound and the rejoinders pour forth, it is evident that almost all of it is in the form of restatement of old opinions and earlier stances and very little attention is being paid to the realities of the moment.

The size and the mood of the major peace gatherings of the week—if not of the militants in Washington—indicated the growing willingness of major segments of the population for the quick withdrawal sought by the peace leaders.

"There is no denying the validity of these peace rallies which are of a nonviolent, orderly nature."

It is not enough to ask at this late stage of the game that those addressing these rallies, or those responding, "stick to facts." Unfor­tunately, the passions and the frustrations on both sides have impelled much glib mis­statements, too wide a gap between the parties and too great a lack of faith in each other.

Neither side can legitimately accuse the other of being responsible for this disastrous lack of communication. Both sides have ignored the weaknesses in their position and emphasized the strong points. Both have too long lived the illusion that the other side have been guilty of pure fabrications or wishful thinking.

The past cannot be ignored, but it must be minimized as much as possible so that it does not hamper reasonable decisions in the present.

The immediate question is whether it is best to withdraw immediately without regard to the consequences or to con­tinue to talk things over in the hope that South Vietnam can, in a reasonable period of time, become strong enough to defend itself and Vietnam a victory through force of arms.

It is understandable that those advocating immediacy of disposal put so much face on their position as possible. But it is essential that the 1970s must inexorably be a decade of black progress, while the reality in him fears that progress could be thwarted. "Unless business uses its resources to help people in need, it will lose those resources."
that those who have not yet committed themselves to this "peace-now" policy recognize that strategy.

In order to persuade the nation, the peace-now advocates are showing a growing tendency to whitewash the foe in order to make him more palatable and to let North Vietnam achieve its purposes.

Perhaps the peace proponents can convince some people in the United States that the Nixon administration that immediate, unreserved and total withdrawal is the best way to achieve the bold objective. The correct thing can be made to acknowledge certain realities.

A favorite play has been to hold up Ho Chi Minh, noted a year and a half but still a driving force in this contest, as "the George Washington of his nation." There is just enough truth to the picture to warrant its use, but there is much more of deception.

It would be far more accurate to call him the "Napoleon of his nation." He was, indeed, a patriot and a fighter for independence and a charismatic leader and a remarkable individual. However, unlike Washington, he was not content to forego war and settle for independence.

He has visioned into adventures inimical to the people's best interests. He was as ruthless as Stalin and Hitler in the extermination of those who opposed him. He won power on the grounds of a liberal constitution modeled after our own---and in a little more than a decade, after stamping out every sign of political freedom and democratic thought in his nation, tore it up and instituted a Communist constitution providing almost limitless power for himself and his party successors.

In trying to put a better light on their position, the peace advocates also seek to pique the curiosity of certain devoutly devout viewpoints within South Vietnam. Yet, in the darkest days of South Vietnam's fight against the Viet Cong, nobody argued that more than a small handful of native South Vietnamese were Communists. Most of the opposition to the earlier regimes, and even today's leaders, were not for communism but against the current rulers.

If it had not been for the deliberate intrusion of the North Vietnamese, this dispute would have been settled long ago.

Those who condemn the threats into Cambodiasia and Laos and that if the North Vietnamese were not violating the borders of those two nations there would be no reason for such actions, or that the primary responsibility for the situation of the nations, both South and North, is the war policy set by Ho Chi Minh and carried through by his successors.

The peace advocates, withdrawing now must first acknowledge the North Vietnamese are the aggressors forcing their own philosophies and governments upon the people of South Vietnam, Cambodia and Laos. Then they must admit that a precipitate withdrawal will favor those goals.

After that, they are free to argue that, despite these facts, it is to our best interests to withdraw immediately and try to convince the North Vietnamese to sit down and talk.

It does not serve our interests now or in the future to sell this withdrawal on the grounds of a whitewash of the foe.

EDWARD G. UHL, PRESIDENT OF FAIRCHILD HILLER CORP.

Mr. GOLDWATER. Mr. President, the one industry in which the United States remains supreme throughout the world is the one we call aerospace. It has developed most of the outstanding leaders in the last two decades and the leadership will continue.

Certainly among the outstanding men who have blossomed through the great strides this industry has made is Edward G. Uhl, president of Fairchild Hiller Corp.

Recently the magazine Aviation Week and Space Technology published an article entitled "Leadership Forum" about this wonderful American. Because it so concisely demonstrates the type of thinking practiced by these men, I ask unanimous consent that it be printed in the Record.

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

EDWARD G. UHL

All of us in the aerospace industry are concerned about reduction of R&D effort and the lack of public interest in new space and aircraft programs. It is easy to assume that our industry is being singled out by opponents in the Government. I believe rather that our problems are symptomatic of a more general and therefore more distressing national problem.

When one reads the newspapers today or listens to a television news program, he cannot help but be impressed about the future of the United States (as well as the aerospace industry). Every form of media hammers incessantly at America's problems---the great crises, the Negro situation, the threats to the environment, the corruption among public and private leaders. Periodicals, literature, novels and in-depth studies of all sorts are examining consistently the flaws in the American way of life. The net effect of all this is that we are in danger of becoming a nation of critical self-analyzers rather than a nation of doers.

This trend of pessimism has had its impact on the business and Government leaders of our country. Before embarking on any venture, no matter how sound or ultimately useful to the country, our purported leaders agonize and strain over the possible criticisms that may be made concerning their attempts. As a consequence, we have a leadership crisis in the country at the present time with no one willing to embark on risky but potentially worthwhile programs. Similarly, the desire to have a consensus approval of each new venture has rendered our forces for technological progress practically immobile. When one stands around waiting for each segment of the population to agree that a proposed plan is good, you either to be stillborn or to become a mediocre compromise.

Instead of focusing continually on what is bad for our society and worrying about possible criticism of a contemplated action, the United States must move forward in the direction of setting objectives and instituting constructive programs. This leadership should begin in our Government, but it should be carried on systematically by business, civic and cultural leaders. The accent must turn to the positive at all levels—from national to the individual business and social ventures. Our ultimate test as a nation will not be how we have analyzed our failings, but how we have established, and attain new goals, thus making the future better than the past. To do that effectively, we obviously must examine the past; however, we must make today's sins the way to make us fearful and hesitant in moving forward on new programs and objectives for tomorrow.

CONFIRMATION OF NOMINATIONS OF AMTRAK DIRECTORS

Mr. GRIFFIN. Mr. President, I am pleased that the Senate has confirmed President Nixon's nominations for the board of directors of Amtrak. Except for the appointment of the Secretary of Transportation, Mr. Rogers, the new chief executive officer, the other six nominees served as the incorporators of Amtrak.

While considerable dissatisfaction has been expressed by Members of Congress with the elimination of certain routes, I believe the incorporators deserve a great deal of credit for getting the system in operation on schedule under very trying circumstances.

In the space of only 4 months, the eight incorporators had to effect a smooth transition from a private rail passenger system operated by some 25 railroads to a system operated by a single national corporation. This task involved selection of the routes within the basic system; negotiation of contracts with the railroads, including the thorny problem of developing a formula to determine the railways' out-of-pocket costs for passenger service; and planning for the smooth transition of service and comfort to the passengers.

With a very limited budget, the incorporators had the delicate task of balancing the need to insulate the corporation from financial loss with the need to provide attractive and efficient passenger service. Some lines have been drawn and service is to be improved, some sacrifices must be made.

If the incorporation had emphasized quantity of service over quality of service, in the long run it undoubtedly would have been subjected to even greater public criticism than it is presently receiving.

As it is, the corporation is expected to incur operating losses of $100 million during its first year of operation compared with operating losses of over $225 million per year which have plagued the railroads in the past.

At the same time, the incorporators have taken steps to assure greater passenger comfort.

The trains operating over the National Rail Passenger System will be utilizing the best 1,100 passenger cars in the country--all of which have been built since the mid-50's. In addition, the corporation will have representatives—or quality control people—who will actually ride on the trains to assist passengers and evaluate what improvements are needed.

The standard by which Amtrak will be judged is not necessarily by the number of trains it operates but by how well it operates the trains that are run.

The frequent criticism of Government bodies, whether they be corporations, departments, or agencies, is that they are inefficient and often accomplish a great deal less than is expected of them. The operation of Amtrak, the reverse seems true: the criticism is against efficiency and modest and achievable goals.

I can fully appreciate and sympathize with the incorporators, understanding that they believe that additional service should be provided. As a matter of fact, I too regret that a number of large Michigan cities will be cut off from all rail passenger service whereas the fact is that there is no rail service from Detroit to
the eastern part of the United States. The senior Senator from Vermont (Mr. Poyr) — the ranking Republican on the Senate Committee which will oversee Amtrak’s operations — also will experience some substantial loss of service in his State, but, at the same time, he recognizes the importance of assuring that this operation is given a chance to prove itself.

If additional routes are needed now, a better approach would be to pass the resolution reported last Friday by the Senate Committee which authorizes $100,000 for a 2-month study by Amtrak to determine the desirability of extending service.

I have been a personal privilege to know the nominees for many years. I refer to David W. Kendall of Michigan, who has done an outstanding job as chairman of the interboard of directors. His wealth of experience as a lawyer, as an executive officer of one of the nation’s largest automobile companies, and as counsel to President Eisenhower has been particularly important in this connection.

I know that Dave Kendall and the other incorporators have devoted a great deal of time and energy to the job of getting Amtrak off the ground. For the past 7 or 8 years, they have worked 7 days a week and almost 24 hours a day in order to meet the May 1 deadline. To their credit, even the sternest critics of the new rail system have expressed high respect for the qualifications and efforts of those who have served as incorporators and will serve as members of the first board of directors.

Mr. President, I ask unanimous consent to place the record of December 9, 1970, on the hopper.

ADDRESS BY SENATOR BUCKLEY

Mr. SCOTT. Mr. President, when the 92d Congress was formed late after the November elections and the new junior Senator from New York (Mr. Buckley) was certified, some questioned his credentials. I am sure the Republican Party would welcome him. I, for one, offered my support to the Senator and was convinced from my talks with him that he was a Republican.

Mr. President, there is no question where the Senator from New York stands in his support of the Republican principles. His recent speeches have set this tone. His articulation in support of President Nixon’s program to return the government to the people comes across loud and clear.

To share his personal thoughts with the Senate, I thought it appropriate to place in the Record the text of a recent speech he made in Philadelphia. These penetrating and progressive ideas provide the guidelines to the thinking and motivation of this attractive addition to the Senate, the junior Senator from New York.

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:

ADDRESS BY SENATOR BUCKLEY

May 3, 1971

I want to thank you for the ecumenical spirit you have displayed in inviting a hypnotic Greek poet to open this session of the Senate. This is the second time I have had the opportunity to speak on this still another example of the good-natured tolerance which has typified this body through more than 100 years of service. I am sure that many of you will wait until tonight to come to appreciate your special virtues, as they are so well personified by your next Senator.

Although he is still a relatively recent arrival, Dick Schaefer has already made his mark on the Senate. After quietly observing some public pronouncements though admittedly qualitatively practices on the Senate floor, he decided that there are times when freshmen should what happen in a sort of time and motion study on the Senate last year and came up with a list of recommendations. Miraculously, the Senate leadership, perhaps nudged just a little by Hugh Scott, bought the package. And as a result ofDick’s competence and perseverance, the Senate is now running more smoothly than it has in a generation.

Your senior Senator, of course, needs no introduction from me. Hugh Scott’s reputation has a way of preceding him wherever he goes, and justly so, for his virtues are many. One of them is being the leader of our party on the floor of the Senate. This job calls for the wisdom of Solomon, the patience of a Job, and — in some cases — the ability to deny things thrice even while the cook is crowing.

Hugh’s parliamentary skills, however, tell only part of the story. He is a splendid raconteur, and a duly acknowledged authority on Chinese art. On the side he has managed to squeeze in the time to write a book titled, "How To Go Into Politics," which makes you blush and cry for a second volume, this one rather more appropriately titled, "How To Run for Office and Win." And the spirit which prompted the selection of that title is precisely the spirit which led the party to national victory in 1968 and will lead it again to victory in 1972 both here in Pennsylvania and in the nation at large.

In a world of recapturing and rekindling of that spirit that must want to talk with you tonight.

I don’t know how many of you stayed up for the national election night in November last year. If you did, you may have caught the act at 1:30 a.m. when it was finally conceded that the most feared and worst-fear program had been realized. And so, if I know you shared my astonishment when in the elation of victory I found myself proclaiming — on live television, in color, coast to coast — that I owed my election to a new politics and that it was its voice.

I will have to confess that until recently I have felt deeply embarrassed over my preoccupation of that new left’s slogan. However, now that I know it is about more power to the people, I feel better. Because it would appear, if my metaphor of a new calculating and plagiarizing in pursuit of politics is no vice.

But I do feel compelled to explain what it was that I anointed myself the voice of — if only at this point in the occasion to make my first utterance to the left. One closely associated with the New York political scene last fall understood what I was talking about because I was elected by that coalition which is the traditional Republican political spectrum. It was a coalition which included an astonishing 43 percent of the women, 4 percent of the blacks, 5 percent of the Jews, 50,000 or so Democrats crossed over to a third party line — one labeled "conservative" at that to reaffirm their support of my positions. And at least as of November third of last year, it was a coalition which represented a majority sentiment in New York. I am confident, having been elected by the authority of Charles Goodsell, who in an election post-mortem confirmed that over $100,000 was spent by traditional Republican loyalists who in a run-off would have voted for me.

There was one aspect which cannot be explained away, as a few do, as a temporary alliance of haters — of sinister forces marshalled by "the night riders of the right" and the "black panthers." The rhetoric of one New York Times editorial.

Quite the contrary. It wasn’t fear which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. It wasn’t hate which caused more than forty thousand individuals to make a choice which all the pros knew was doomed to failure. 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tally important proposal to be made by any American President since World War II. It is a proposal, which I profoundly believe a majority of the American people will welcome, be waiting for, hoping for, a proposal which will meet with an overwhelming popular reception, a proposal which will test and once the public is convinced of the seriousness of the administration's commitment.

It provides us with a clear standard against which to judge the actions of the President, who is already under the heat of public scrutiny in the Calley case. This heat we have found to be almost unbearable. We are kept waiting for answers. We are waiting for a clear statement of the administration's policy, a policy which will set forth the administration's goals and the means by which it intends to achieve them.

The administration has promised to hold back the size of the Federal government, to reduce the cost of government, to increase the efficiency of government. These are goals that we can all support. We can all agree that we need a government that is efficient, that is responsive to the needs of the American people.

But what is the administration doing to achieve these goals? What is it doing to reduce the size of the Federal government? What is it doing to reduce the cost of government? What is it doing to increase the efficiency of government?

We are living in a world of nuclear missiles. We live in a world of economic uncertainty. We live in a world of political uncertainty. We live in a world of uncertainty about the future. We live in a world of uncertainty about the decisions of our leaders. We live in a world of uncertainty about the future of our country.

The administration's proposals are not enough. They do not go far enough. They do not do enough to address the problems that we face. They do not do enough to address the concerns of the American people.

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commit him to a specific type of decision or in any way indicate what his decision might be.

The lead editorial of the Portland Press Herald of April 8, 1971, incisively put this matter into proper perspective when it stated:

Neither the President nor the people are justifying My Lai or absolving Lt. Calley of his guilt in this case. It is not a misplaced sense of mercy nor the guilt of a whole society that motivates the public or its Chief Executive to move away from and isolate the simple commission of the crime from the complexity of circumstances which surrounded it. Those circumstances make it impossible for millions to accept this deed, in all its horror, in the strict legal context of premeditated murder.

The President is not interfering. He simply promises the principals and the people a review of the case by the ultimate authority.

I think the President performed a very wise and useful service to his Nation and to all Americans to pause and confront the true nature of the war powers bills and the misconceptions about the constitutional nature of the war, and understand the plain fact that the Executive is the ability to extract and impose this deed, in all its horror, in the strict legal context of premeditated murder.

The President is not interfering. He simply promises the principals and the people a review of the case by the ultimate authority.

The WAR POWERS BILLS: PUBLIC ANESTHESIA

Mr. Goldwater, Mr. President, the editorial section of last Monday's Washington Post contains an interesting analysis of the various end-the-war and shake-up-the-President resolutions. The piece was written by Mr. Kenneth Crawford, whose memory of congressional efforts in the field of military policy clearly retains an accurate impression of hours of debate and the discussion of the Foreign Relations Committee 10 years ago when he was then arguing for broad presidential powers to cope with emergencies free of legislative restraint. He notes that the weight of historical evidence shows that Congress might actually be more impulsive than Presidents where war is concerned. Here is a writer who, after understanding the plain fact that regardless of what Congress does, the President will act according to his own sense of what is required by America's national security interests, finds it is a chance to say that this is a much more meaningful than any such limitation. He has argued that to fix a time certain for withdrawal would be to destroy the bargaining power by which the President might negotiate a peace settlement and to assure release of U.S. prisoners of war. Moreover, he notes that to have a chance for adoption by the House as well as the Senate, so much has the atmosphere changed in the last few months.

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The President is not interfering. He simply promises the principals and the people a review of the case by the ultimate authority.
I can speak words, if it doesn't do much of anything it will make no bad mistakes. If it conceded that its concept of America's place in the world would make all for it.

Within a period of five years he had turned with him, but more slowly. He has been a weathervane if not a bellwether.

Two years ago, in a lecture at Cornell, later printed in the Correll Quarterly, Fulbright argued for expansion of presidential authority to conduct foreign affairs with a minimum of reference to Congress. In the dangerous and fast-changing world of the 1960s, menaced by nuclear weapons, he said, the President now has to cope with emergencies unfettered by legislative restraints.

"It is my contention," he lectured, "that for the existing requirement of foreign policy we (of Congress) have hobbled the President by too nigglarly a grant of power. It is not too different from the world of the 1930s but Fulbright now wants to make Congress' grant of power to the President..." The Vietnam experience. Had that war been quickly and easily won, he lectured, the President should have power to deal with emergencies unfettered by legislative restraints.

"I am not foresaw that the United States either would have to train and equip the South Vietnamese to defend themselves or to expand the conflict by intensified intervention. Pending an declaration about the alternative to be adopted, he said, the United States would have to train and equip the South Vietnamese army and government by transit as well as to meet its obligations under its commitments.

In 1965, the Tonkin resolution resolved the key of its position on this issue in the United Nations. Neither the U.S. nor the People's Republic of China can control the timing of the "moment of truth" on this issue. The time table of the United Nations General Assembly forces it upon us this fall—probably October—probably.

Last November, the U.S. shifted the emphasis of its position on this issue in the United Nations. The U.S., the position of opposing Peking's entry to one of opposition to Taipei's expulsion. I was closely involved in this, and I am not a diplomat as much as to keep the General Assembly responsible for that issue.

The time has now come, in my judgment, for the U.S. to..."
American issue, but also to Chinese participation in nuclear arms control negotiations being conducted under U.N. auspices. We know the U.S. has never had any reason to believe that China will display the courtesy and consideration toward the U.S. as a member of the U.N. It has shown to the visiting ping-pong team. It is to be expected that the U.S. and Peoples Republic of China will be ranged against one another. It is to be expected that the debate will be brisk and that there will be lots of propaganda from Peking.

TAWAIN

The most contentious issue in relations between the United States and Peking centers on the status of Taiwan—the seat of the Nationalist Government of Generalissimo Chiang Kai-shek. For years both Taipei and Peking have been engaged in his defense against the civil war and escape from the Chinese mainland in 1949.

For most of the past 30 years, the U.S. has appeared to go along with the contention of the Chiang Kai-shek government that it enjoyed control of Taiwan on the basis of its claim to sovereignty over the whole of China. Indeed, both Taipei and Peking have been firm in their insistence that Taiwan is a province of China.

Beneath this diplomatic veneer of respect for the Pescadores is an unsettled question subject to future international resolution. The determination of the future status of Formosa must await restoration of security in the Pacific, a point, Japan is likely to be more important to China than the U.S.; and the possibilities for development and normal economic relations with its neighbors, in place of the overriding priority Peking hereofores has given to ideological communist politics at home and abroad. The normalization of China's relations with Japan, and its other non-communist neighbors on the basis of normalization of its relations with the Soviet Union— in somewhat the same way that West Germany's relations with its neighbors on the basis of normalization of its relations with the East European neighbors required a prior normalization of its relations with the Soviet Union. In the interests of peace in Asia, the U.S. must adopt a policy of easing the process of the normalization of Peking's relations with its Asian neighbors. The normalization of its relations with its neighbors, in the remaining decades of this century is rapid economic development—not ideologically controlled political revolutions. China may be interested in the emergence of this principle. If it is, we should encourage it.

INDOCHINA

I believe it would be very unwise to assume that the Chinese invitation to the U.S. table tennis team indicates any willingness on Peking's part to help us end the Vietnam war. This is what I meant by euphoria. Nonetheless, any improvement in Sino-American relations is bound to have important, if subtle, implications for the situation in Indochina.

Even during the period of greatest U.S. escalation in Vietnam care was taken to avoid giving Peking reason to believe that the United States was abandoning China's border of Vietnam. This U.S. prudence—in an otherwise Improv ident war—derived from memories of China's massive intervention in the Korean War.

There have been many hints coming out of Peking in recent months that it too has now concluded that the U.S. is getting out of Vietnam and that the U.S. is not fighting in Vietnam any longer for the purpose of "containing China.

This mutual recognition that we do not pose the mutual military threat to each other that previously motivated strategic planning in both Washington and Peking could contribute to an earlier and more satisfactory resolution of the Vietnam war than might have otherwise been the case.

This could prove true in terms of an international peace conference to deal with the problems of Indochina as opposed to the political questions of the United States and Peking to exercise military restraint on Hanoi. There are indications that Peking has become sufficiently frustrated in recent months to bolster its own position in Indochina at the expense of Soviet influence, and at the expense of the larger ambitions of the Communist Party of North Vietnam to establish its own hegemony throughout Indochina. A revised view of U.S. Intentions must have contributed to this important new facet of Chinese diplomacy in Indochina.

SOVIET UNION

An easing of the military situation in Southeast Asia, especially one marked by the withdrawal of American forces from Indochina has important implications for Peking's own strategic planning and allocation of its limited forces. Forces freed from Vietnam, the diminution of any feared U.S.-supported "threat" from Taiwan, for the first time in 25 years, is likely to be a comforting factor. Against this, the U.S. can be expected to support the further development and expansion of China's military power, particularly in its relations with the Soviet Union, with whom it is engaged in a bitter and protracted struggle for power and influence in Asia. Indeed, both Taipei and Peking have been quite firm in their insistence that Taiwan must await the restoration of security in the Pacific, a goal which has been quite detrimental to our interests elsewhere—especially in Europe and the Mideast. The President has clear reason to believe that the United States of China has been bogged down in the confusion and preoccupation of its own, unique, "difficulties of imperialist reconquest." The foreign preoccupation of China, with the U.S. on the side, has been detrimental to Peking's interests outside its borders.

With both the U.S. and China freed from their respective preoccupations of the past six years—and perhaps on the verge of a détente with each other—Moscow will find it more difficult to advance its ambitions than they has in recent years. This could have a most salutary effect on curbing expansionist Soviet ambitions in the Mideast, which has become the primary areas of U.S.-Soviet confrontation.

In closing I would like to pay tribute to the China phase of the diplomacy of President Nixon. I continue to be a critic of his prisoner exchange. But now that it has become evident that the U.S. has a new role to play in Indochina, it is clear to all of us that the President has pursued with respect to the two giants of Asia—a pragmatic policy. This has been open ended in Sino-American relations, together with the most skillful and forethought foreign policy that Japan for the reversion of Okinawa—which "new chapter" I hope will also include an agreement on trade—on military—come with important achievements in the best interest of our nation and world peace.

SECRETARY RICHARDSON PUNCTURES HEALTH CARE MYTHS

Mr. BENNETT. Mr. President, the President has proposed a bold comprehensive health plan for the 1970's to help us overcome the crisis in national health care.

The President has clearly announced his health policy in a number of major speeches. Many of today's health and social issues are not so clearly visible. Too many of the issues concerning health reform have been shrouded in mystery.

An excellent article in a recent issue of the New York Times by Health, Education, and Welfare Secretary Elliot L.
Richardson help explain some of these myths in the conflicting health care in the United States is a current example of a vast social issue encrusted with a layer of invention and illusion. The Secretary's article examines some of the National Education Association's (NEA) health education special revenue-sharing bill. In this legislation was ordered to be printed in the Record.

The being no objection, the remarks were ordered to be printed in the Record, as follows:

[From the New York Times, Apr. 2, 1971]

**MYTH AND REALITY: PROBLEMS OF HEALTH CARE**

By Elliott B. Richardson

Social issues are often shrouded in myth and misconception. As an example, for too long it was popularly believed that fathers were more influential in the upbringing of their children than were their wives and children to live carefree, devil-may-care lives financed by the public's largest tax payer, the employer. Teachers revealed that, in fact, able-bodied men on welfare were often forced by the system to leave their families. How can we say that the United States is a current example of a vast social issue encrusted with a layer of invention and illusion? We all know there is something wrong with the current health care system, and it is commonly held that too few doctors, greedy insurance companies, and corrupt government are at fault. But are these the real problems? Does such conventional "wisdom" mislead us to overlook the true problems? Let us examine some of the nation's health myths in order to see the Administration's health proposals in light of the true problems behind them.

**Myth: The United States is the only major industrial nation in the world that does not have a national health service or a program of nationalized health insurance.** This claim was made last month on the floor of Congress, and the idea is widely shared, even among some health "experts." Those who hold this view seem to have in mind the British National Health Service and the Social Security system which services are paid for out of general tax revenues. But the British model is not the typical Western European model. In fact, comparatively small countries in the area of education will provide the opportunity for innovative educational programs designed to meet individual needs of each community. Local educators and administrators are in the best position to initiate and to implement educational programs based on their understanding of local needs and potential. Involvement of parents and educators as members of State advisory councils is an excellent way of making education more responsive to the people it serves.

The standards and formulas contained in this legislation will insure equitable distribution and use of these funds, basic income for poor schools, the areas of assistance to the States include education for the disadvantaged, education for the handicapped, vocational education, assistance to schools in federally affected areas, and supporting materials and services.

As a member of the Committee on Labor and Public Welfare, I look forward to the passage of the education special revenue-sharing bill.
effecting public service. I ask why we, who have worked hard to build an efficient ad-
ministration, should be considered among the unlovables, when they are really very familiar with what we are doing. In any event, the way to improve our public image is to provide an adequate and
enough. It is going through extensive red tape with federal
agencies. However, the entire special revenue-
sharing program has not been pre-
ted to any Senator. But while
a museum for inventions that never got
off the ground. But while
an attack on despair-the most dangerous
threats ever confronted by our federal sys-
tem-a threat that can be eased by federal
aid. An attack on despair-the most dangerous
threats ever confronted by our federal sys-
tem-a threat that can be eased by federal
aid.

The two governments said they would meet
at the end of the year to reconsider the project.

[From the New York Times, Apr. 23, 1971]

SST IS ALIVE AND WELL IN EUROPE
(By Najeeb E. Halaby)

Congress has, for the time being at least, grounded the American SST. It had concrete
concerns about the SST, both ecological-
that it might threaten the environment; and
economic—that it might tax instead of bene-
fit the people.

But the SST and the issues it has fomented
remain with us. Indeed, the SST is alive
and dying in England, France and the Soviet
Union, and will soon be offered on the world
markets.

There is a time neither for gloating, as
though the SST had vanished; nor for grie-
ving, as though the SST had vanished. It is
a time for measured reflection.

Second, that the airlines conduct a thor-
ough “fly before buy” program of concen-
trated SST testing under actual airline con-
ditions, to assure that any SST meets all
these requirements—plus economic require-
ments—before being considered acceptable
for commercial service.

These proposals were first broached in
a personal letter which I sent to Secretary of
Transportation John A. Volpe on March 4,
1971.

Addressing the safety, efficiency and envir-
ONMENTAL standards for an SST is obviously
beyond the province of a single nation, because
the SST will affect many nations. And devel-
oping the panel, the machinists test and selecting standards may also prove beyond the capabil-
ity of a single nation.

Many local and industry vocal constituencies have proposed neighborhood noise laws to bar
SST’s from their airports. Aside from the
dubious constitutionality of addressing local
legislation to International problems, it must
be patently preferable to establish uniform
standards acceptable to all the neighborhoods
of the world, and in fairness applicable to
every new airplane, whether propeller, jet,
SST, or nuclear-powered, for that matter.

SST is obviously a threat to the atmosphere,
concern about harm to the atmosphere,
the world is a unified organic system,
world that yesterday’s air will fill the
California skies tomorrow.

The United States should take the initia-
tive in calling for such an International con-
ference on supersonic transport. The major
nations might be the four nations already involved
in SST technology, and an International
Commission might be set up. The Transporta-
tion Agency, staffed by scientists and engineers of
many nations, might grow from this nucleus.

The agency would espouse the principle of
environmental technology that has al-
ready enriched the world by sharing research
and knowledge in medicine, in the peacefull uses of atomic energy.

The second aspect of my proposal is that

Mr. President, so that all Senators can
consider this interesting story, I ask
unanimous consent that it be printed in
the Record at the conclusion of my
remarks.

Obviously, Mr. President, the Concorde
project is not without problems. No new
technology is without problems. No new
technology is without problems in the
early stages of research and development.
But the British and French leaders are
proceeding on the assumption that these
problems will yield to steady advanced
work.

Thus it continues to appear increa-
Singly likely that the age of commercial
supersonic flight will soon be a reality.
The day of the SST in the United States
comes to grips with the fact that, the
United States, along with the rest of
the world, must learn to live with
the supersonic flight.

In this regard, I call the Senate’s at-
tention to an important column pub-
lished in the New York Times of April
23. The author of the column is Mr. Najeeb E. Halaby, president of Pan
American Airways. Mr. Halaby’s call for
international cooperation in dealing with
issues relating to the SST is sensible.

Mr. President, so that all Senators may
consider Mr. Halaby’s wise counsel, I
ask unanimous consent that his column
be printed in the Record.

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

[From the Washington Post, Apr. 23, 1971]

CONCORDE MODELS GIVEN GO-AHEAD
(By Alfred Friendly)

LONDON, April 22—Encouraged by the
technological performance of the first two
models of the American Concorde, British
and France agreed today to authorize pro-
duction of Concorde models 6 to 10.

In addition, they permitted the manufac-
turers to begin buying supplies for models
11 to 16—all, it is hoped, for ultimate
commercial sale.

But, according to the French and British
ministers who made the decision, they still
are faced with the “very difficult” problems
of the Concorde. It is landing and in flight—and the uncertainty of what noise
levels will be allowed over the countries
and in the atmosphere. The Concordes must
operate if it is to be commercially viable.

At a press briefing, John Davies, British
Minister for Trade and Industry, declined
to say how the negotiators appraised the
recent vote of the U.S. Congress to refuse
more government money for construction of an American Concorde. United
sales opportunity for the Concorde or, al-
ternatively, pressed an American decision to
forbid any future Concorde flying from any
airport in the United States.

Reports here said that France favored a
price of about $24 million per plane while
Britain thought it should be closer to $30
million.

A communiqué issued after today’s meet-
ing referred to “encouraging” technological
progress and this could be taken as an
“implicit vote of confidence” in the airplane,
Davies said.

British Overseas Aircraft Corp. (BOAC)
and Air France, both controlled by their
countries’ governments, are reportedly
likely to buy the supersonic jet. Just how
many other airlines will follow suit remains
uncharted.

The two governments said they would meet
at the end of the year to reconsider the project.
even after an SST passes the muster of the international group, it undergo thorough prolonged tests under actual airline conditions.

It is one thing for a factory test pilot to put a new bird through its paces, to run it past all the red lines, to overload it, overstress it, break it and come home from it thinner and better than it will ever see in commercial service, and then to pronounce it sound. It is quite another thing to fly back and forth across the ocean every day on schedule in a new airplane.

We want, in effect, to take an advanced airplane and turn it into a routine transport, a completely familiar vehicle with no surprises or mysteries for either passenger, service, or society, and we want to accomplish this before we invite paying passengers aboard.

We know that worldwide supersonic flight will become as commonplace in the decades ahead as jet travel is today. And we know that Congress in voting against the American SST reflected the honest and sincere reservations of a constituted citizenry.

The program I propose is a responsible one for resuming the progress of that is certain, and the caution that is essential.

**POLISH CONSTITUTION DAY**

Mr. TAPT, Mr. President, today, May 3, Poles everywhere, including citizens of Polish origin in the United States, celebrate a Polish national holiday—the Polish Third of May Constitution Day. This holiday will be observed throughout the month by Americans of Polish descent to pay tribute to the Polish nation and to remind fellow Americans that Poland, a land of the first pioneering of individual freedom in Europe.

As was the case shortly after May 3, 1791, Poles again find their individual liberties stifled by outside intruders. Russia was one of the intruders in 1788, and Soviet Russia is again the culprit today.

Let all Americans join with the Poles this day in hopes that the principles of self-determination, freedom, and justice for all will be the right of the Poles and of all peoples throughout the world.

**AWFUL INCREASE IN FEDERAL SPENDING**

Mr. ALLOTT. Mr. President, all Senators and all Americans—at least those who did not enjoy their recent encounter with the Internal Revenue Service—owe a debt of gratitude to the distinguished junior Senator from Nebraska (Mr. CURTIS).

Senator CURTIS recently compiled a dramatic set of data regarding the awful increase in federal spending, and his presentation was well received in the Senate and has occasioned much comment elsewhere.

Today I invite attention to one journalist's response to Senator CURTIS' presentation. It is especially interesting because of what this journalist—Mr. Willard Edwards of the Chicago Tribune—has to say about the validity of more or less overdue journalists when it comes to reporting vital information about runaway Federal spending.

Mr. President, so that all Senators can profit from this column, I ask unanimous consent that it be printed in the Record.

**JUSTICE IN THE COAL FIELDS**

Mr. MCGOVERN. Mr. President, on Wednesday, April 28, U.S. District Court Judge Gerhard Gesell handed down a 45-page decision in which he removed W. A.—Tony—Boyle from his position as trustee of the United Mine Workers of America Welfare and Retirement Fund. Josephine Roche, another trustee, was similarly removed. The decision is one of far-reaching importance to this Nation's working and retired miners and their families. For the Nation's miners and their families the decision may mark the beginning of a new era.

The decision will come as no surprise to those who followed the investigation of the UMWA by the Senate Subcommit-tee on Labor, presided over by the Senator from New Jersey (Mr. Williams). Nor will it come as news to those who noted the Government Accounting Office report pointing out that the retirement fund is approaching insolvency, or those who read the January 1971 issue of Fortune which described it as "unquestionably one of the most poorly managed pension funds extant."

Most important, it will come as no surprise to those who estimated to have been arbitrarily denied pensions after paying into the fund throughout their working years. For the more than 70,000 miners who now receive some benefits, but who have found their hospitalization and other health benefits restricted, this decision can only mean good news.

As the report points out, the trustees have overlooked their exclusive obligation to the beneficiaries by improperly adjoining the collection of certain beneficiaries unfairly.

More than even this court decision is involved. Nearly 7 years ago, as a result of complaints by miners to the Secretary of Labor, the Secretary filed a legal action in the District Court in Pennsylvania. The court concerned the fact that in 23 of the union's 27 U.S. districts, union members do not have the right to elect their own district leaders. The district leaders are appoint­ed by the same Mr. Boyle who has just been required to step down as trustee of the union's welfare fund for actions which were harmful to the miner beneficiaries.

A second, more recent suit was filed in an attempt to invalidate the election which reinstated Mr. Boyle as president, the result of a government suit against numerous murders of his opponent Jock Yablonski, Mrs. Yablonski, and their daughter. That second case is set for trial on May 17. In the event that a new election should be called, the Landrum-Griffin Act requires that it must be supervised by the Department of Labor.

But the prior issue, the matter of who controls the districts—and by implication the voting procedures and the polls will not have come to court. Perhaps the Department of Labor believes that it can effectively police every square mile of coal country through employees of the state of Ohio, Pennsylvania, and elsewhere. The miners do not share their faith. As long as the issue of who controls the districts remains unsettled, the miners will be required to insure a free and safe election.

Because of that, I have been in correspon-dence with the Department of Labor and Justice in an attempt to learn why the case involving union autonomy in the districts could not come to court first.

The extraordinary answer that the Department of Justice gives is, that they have the same lawyers prosecuting both cases and they have dismissed. They have had responsibility for this case for some 76 months, most of which time preceded the suit to have the election set aside. Yet, they have not assigned another lawyer(s). The Department of Justice says it is "obviously impossible" to act to bring the prior case to trial first.

The Department of Justice has failed to meet the most rudimentary efforts on behalf of the miners' suit. The 76-month delay in making the judicial process available to the miners of Amer-
the last of which was completed in November 1968.

The Labor Department completed a pre-trial audit of the facts of the case on March 27, 1969, and on March 29, 1969, the Government filed with the Court its Certification of its readiness to proceed to trial. Despite opposition from the defendants, the case was placed on the ready calendar for April 1969.

On July 31, 1969, the defendants brought a motion to remove the case from the ready calendar. The motion was denied, however the very near future.

Then, in the changed situation. Over the Government’s vigorous opposition, Chief Judge Cun ran granted the motion and referred the case back to the Pretrial Examiner.

The defendants were permitted to take a number of depositions of officials of the Labor Department, and on July 7, 1970, the Government moved to end any further pre-trial proceedings, setting an immediate trial date. Judge Waddy, who was assigned as the Trial Judge for the case, denied the motion but specified that pretrial proceedings were to be concluded by January 15, 1971, after which the Pretrial Examiner was to issue a Pretrial Order for the Court.

A hearing before the Pretrial Examiner was scheduled for January 26, 1971; it was postponed by the Examiner to March 3 because defendants’ counsel was actually engaged in the preliminary injunction hearing of the case. On March 17, 1971, the Government moved to set aside the election of officers and to compel the election of a new slate of officers. On March 9, 1971, the Pretrial Examiner issued the required Pretrial Order and on March 5 the Government filed a new case set down for trial on February 11, 1970.

It is incredible to me that any suit should take this long to come to trial. During all this time some 170,000 miners have been denied the right to select their own District Officers and have been advised not to initiate further court action. After seven years of waiting, their case to be brought to trial, it would seem that serious questions might be raised—not whether their cause is meritorious—and the courts to decide—but whether the judicial process is available to them at all.

There being no objection, the items were ordered to be printed in the Record, as follows:

MARCH 17, 1971.

HON. JOHN N. MITCHELL, Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MS. MITCHELL: As you must be aware, on December 6, 1964, the Secretary of Labor filed suit in the action now titled Hodgson v. United Mine Workers of America, (U.S.D.C. D.C., Civil Action No. 3071-64). No trial date had been set though nearly seven years have elapsed.

It is incredible to me that any suit should take this long to come to trial. During all this time some 170,000 miners have been denied the right to select their own District Officers and have been advised not to initiate further court action. After seven years of waiting, in the year to be brought to trial, it would seem that serious questions might be raised—not whether their cause is meritorious—but whether the courts to decide—but whether the judicial process is available to them at all.

The case is important to me and I look forward to your prompt reply regarding the exact status of this suit.

Sincerely,

GEORGE MCGOVERN.

DEPARTMENT OF JUSTICE,

HON. GEORGE MCGOVERN, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: The Attorney General has asked me to reply to your letter of March 17, 1971, regarding the case of Hodgson v. United Mine Workers of America, et al., Civil Action No. 3071-64. No trial date had been set though nearly seven years have elapsed.

It is incredible to me that any suit should take this long to come to trial. During all this time some 170,000 miners have been denied the right to select their own District Officers and have been advised not to initiate further court action. After seven years of waiting, in the year to be brought to trial, it would seem that serious questions might be raised—not whether their cause is meritorious—but whether the courts to decide—but whether the judicial process is available to them at all.

The case is important to me and I look forward to your prompt reply regarding the exact status of this suit.

Sincerely yours,

L. PATRICE GRAY III, Assistant Attorney General.


HON. GEORGE MCGOVERN, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: This is in reply to your letter dated March 17, 1971, requesting information about the case filed by the Department of Labor in the District Court for the District of Columbia.

This action to dissolve the trusteeships which had been imposed on a number of the Districts of the United Mine Workers was filed in December 1964 and is a pretrial proceeding in accordance with the Act providing that once the Secretary of Labor has filed a suit to dissolve the trusteeships, the courts may order the union to conduct further pretrial proceedings. The District Courts may order the union to conduct further pretrial proceedings, and the Secretary of Labor may file a motion requesting the court to give this matter preferential treatment by setting an immediate trial date. On or about March 11, 1971, the United Mine Workers filed an opposition to this motion. This matter has been referred to Judge Joseph C. Waddy and we are hopeful that he will set this case down for trial in the very near future.

Let me assure you that we will do everything possible to avoid any further delay in the resolution of the important issues involved in this case.

In your letter you state that Union members have been advised not to initiate further court action. This is contrary to the Labor-Management Reporting and Disclosure Act of 1959 which would preclude a member from challenging his union’s actions. In the suit filed by the Department of Labor. With respect to the trusteeships being challenged by the Government, however, section 306 of the Act provides that the Secretary of Labor has filed suit “the jurisdiction of the district court over such trusteeships is exclusive and the final judgment shall be res judicata.”

Sincerely,

J. D. HONSEN, Secretary of Labor.

APRIL 12, 1971.

HON. JOHN N. MITCHELL, Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. MITCHELL: On March 17, 1971, I wrote both you and the Secretary of Labor that the case in the trial of Hodgson v. United Mine Workers of America, et al., CA #3071-64, in the U.S. District Court for the District of Columbia is very important to me and I look forward to your prompt reply regarding the exact status of this suit.

Sincerely yours,

GEORGE MCGOVERN.

DEPARTMENT OF JUSTICE,

HON. GEORGE MCGOVERN, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: The Attorney General has asked me to reply to your letter of March 17, 1971, regarding the case of Hodgson v. United Mine Workers of America, et al., Civil Action No. 3071-64. No trial date had been set though nearly seven years have elapsed.

It is incredible to me that any suit should take this long to come to trial. During all this time some 170,000 miners have been denied the right to select their own District Officers and have been advised not to initiate further court action. After seven years of waiting, in the year to be brought to trial, it would seem that serious questions might be raised—not whether their cause is meritorious—but whether the courts to decide—but whether the judicial process is available to them at all.

The case is important to me and I look forward to your prompt reply regarding the exact status of this suit.

Sincerely,

GEORGE MCGOVERN.
Defendants are the Fund and its present and certain past trustees; the United Mine Workers of America; and the National Bank of Washington and a former president of that Bank.7

Plaintiffs seek substantial equitable relief and, in addition, damages for the various alleged breaches of trust and conspiracy. Defendants oppose these claims on the merits and in addition interpose defenses of limitations and doctrines of laches.

Following trial, the case was fully argued and detailed briefs were exchanged. This Opinion and Order of the Court’s findings of fact and conclusions of law on the issues of liability and equitable relief.

I. BACKGROUND

A. Organisation and Purpose of the Welfare Fund

The Fund was created by the terms of the National Bituminous Coal Wage Agreement of 1960, executed at Washington, D.C., March 5, 1960, between the Union and numerous coal operators. It is an irrevocable trust established pursuant to Section 309(c) of the National Railway Labor Act of 1947, 29 U.S.C. § 186(c), and has been continuously in operation with only slight modifications made over the years.

The Fund is administered by three trustees: one designated by the Union, one designated by the operators, and the third “neutral party designated by the other two.” The Union representative is named Chairman of the Board of Trustees by the terms of the trust. Each trustee, once selected, serves for the term of the Agreement subject only to resignation, death, or an inability or unwillingness to serve. The trustees named in the Agreement were Charles A. Owen for the Operators, now deceased; John L. Lewis for the Union, now deceased; and Miss Josephine Roche. The present trustees are W. A. (Tony) Boyle, representing the Union; C. W. Davis, representing the operators; and Roche, who still serves.8

Each coal operator signatory to the Agreement (there are approximately fifty-five operator signatories) is required to pay a royalty (originally thirty cents, and now forty cents per ton of coal mined) into the Fund. These royalties (the highest of ninety-seven percent of the total receipts of the Fund, the remainder being income from investments) were paid into the Fund June 30, 1968, royalty receipts totalled $163.1 million and investment income totalled $4.7 million. Total benefit expenditures amounted to $136 million.

In general, the purpose of the Fund is to pay various benefits, “from principal or income or both,” to employees of coal operators, their families and dependents. These benefits cover medical and hospital care, pensions, compensation for work-related injuries or illness, death or disability, wage losses, etc. The trustees have considerable discretion in the determination of the levels of benefits that will be recognized. While prior or present membership in the Union is not a prerequisite to receiving welfare payments, more than ninety-five percent of the beneficiaries were or are Union members.

The Fund has maintained a large staff, based substantially in Washington, D.C., which carries out the day-to-day work under policies set by the trustees. Roche, the neutral party, is also in Washington. The Fund, serving at an additional salary in this full-time position, Thomas Eyan, the Fund’s Comptroller, is the senior staff member next in the line of succession.

Trustees hold irregular meetings, usually at the Fund’s offices. Formal minutes are prepared and circulated for approval. In the past, a more detailed and revealing record of discussions among the trustees has been kept. The earlier record is now part of the Fund by the Fund’s counsel, who attended all meetings. The Fund is regularly audited. The process includes an examination of the minutes, summarizing the audit and other developments was published and widely disseminated to beneficiaries, Union representatives, and coal operators, as well as to interested persons in public life.

From the outset the trustees contemplated that the Fund would invest its growing funds in United States Government securities and purchased certificates of deposit. It also purchased a few public utility common stocks, and in very recent years invested some amounts in tax-free municipal securities. The chart attached as Appendix A reflects in a general way the growth of the Fund’s assets and its investment history until June 30, 1969.

From its creation in 1956, the Fund has done all of its banking business with the National Bank of Washington, D.C. Under the Federal Reserve Act for more than twenty years it has been the Bank’s largest customer. When this lawsuit was instituted, the Fund held $22 million in checking accounts and $50 million in time deposits in the Bank. The Bank was at all times an interested party designated by the operators, as well as to interested persons in public life.
ties urge that trustees as representatives of labor or management may properly operate the Fund so as to give their special interests collateral advantages. (E.g., the choice of a bank for the funds so as to increase tonnage of Unionized coal.) And that this is not inconsistent with a fiduciary responsibility to the beneficiaries if that responsibility is not manipulated to advance the special interests of the trustees at the expense of the beneficiaries. The beneficiaries must be protected against this temptation. It is generally, if not universally, agreed that the beneficiaries, as well as the trustees, have an interest in the sound administration of the Fund. The beneficiaries receive a return on their contributions, and the trustees receive a fee for their services. But each is interested in the other's success. The beneficiaries recognize that the funds must be administered in their interest. The trustees are subject to the legal requirement that they act in the beneficiaries' interest. But for the trustees, the beneficiaries exist; for the beneficiaries, the trustees do not. Moreover, the beneficiaries have no voice in the selection of the trustees. Thus, the beneficiaries, as well as the trustees, have an interest in the successful administration of the Fund.

3. The right of beneficiaries to review the acts of trustees. Basically, beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert. The beneficiaries have a right to review the acts of trustees. That right is established by the common law and is a condition of the beneficiaries' agreement to act in the beneficiaries' interest. It is a condition which the beneficiaries are entitled to assert. It is a condition which the beneficiaries have a right to assert. It is a condition which the beneficiaries must assert. It is a condition which the beneficiaries may assert.
investment income that exceeded its administrative expenses. In fact, investment income never exceeded administrative expenses and instead went to reserve, which in 1968 had accumulated to $2.4 million. It was obvious that even if income exceeded expenses and taxes became due on the excess, the Reserve would be able to meet the liens. An additional latent worry was that another witherspoon would appear, and the Internal Revenue Service might then assert that the witherspoon had included income that was not income, and they were so reported. The Internal Revenue Service agents conducting the investigation determined that this was not so, but took no action. The Fund never asked for a ruling, preferring to let the Internal Revenue Service make the first move. When the question arose as to another welfare fund, the Anthracite Fund, the IRS eventually ruled that royalties were not income. Significantly, the Fund's representatives, although familiar with the Anthracite Fund's problem, were not sufficiently concerned even to inquire as to the final ruling of the IRS in the matter.

Thus none of these tax considerations can justify the Fund's continued failure to invest. (c) Accident or Inadvertence. There was no proof to support this desperate theory which the Fund itself does not advance and which in this case seems an admission of failure to adhere to minimum fiduciary standards of care and skill in administering the Anthracite Fund Trust. 2

The Fund's Comptroller stoutly denies accident or inadvertence, and the proof shows that the trustee well knew at all times that cash was steadily accumulating.

Under the most charitable view, this accident was a conscious decision of the two to avoid the staggering accumulations of cash in the period 1966 to 1968, when Lewin was in failing health and the trustees met infrequently. However, as is clear from the discussion of the conspiracy aspects of this case, infra, these accumulations were only an extension of a conscious, longstanding policy of the trustees.

The following testimony by Roche is revealing:

"Mr. Lewis felt very strongly, sir, the necessity of having a good deal beyond what we could invest to cover the taxation problem, keeping it very much in a situation where we could get at it at once. He did not feel enthusiastic for a long time over tax-exempt investment, at least.

"I talked to him frequently about it personally, aside from the general discussions we had on the policy of the Fund. I strongly I probably had been mistaken myself on anything that had to do with minute fiscal things. And I said, you know, when Ryan we both have the utmost confidence in, and he feels we ought to get some of this money out, make it earn money. Now let's think again about municipals. And he did.

"And finally he definitely agreed in '68, he said, Yes, we better go ahead, go ahead.

"So it was really a long-delayed decision which really probably, and I know completely from my own knowledge, the Board of Trustees, that year that there is no excuse perhaps for it at all. To us who had felt that need, too, but felt they had to be very prudently imminent, it is not the brightest chapter that we have, but we did some other things that perhaps made up for it a little bit.

"[T]he fiscal requirements certainly didn't justify what we had on deposit. I know that perfectly well." (Transcript pp. 907–908.)

The fiscal requirements certainly did not deplete the Fund's resources. On the contrary, the Fund had substantial accumulations of cash which it could invest without raising the taxation liabilities of those beneficiaries who were entitled to receive the Fund's income. The Fund's Board of Trustees, under the leadership of Lewis, was fully aware of this fact, and the trustees had an opportunity to invest these balances which existed.

Considering this testimony, and the enormous cash holdings of the Fund, the trial judge was correct in concluding that the trustees were in breach of trust. 4

The following testimony by Roche is relevant:

"[T]he trustees' decision to leave the Fund with an accumulation of cash instead of in the Bank, but uttered not a word of the prospect of the creation of the Fund.
protest. While Boyle, in the period after 1960, often suggested that Lewis raise pension levels, he would have had the effect of reducing the Bank's balance, neither particularizing nor any other officer sought to break the long-standing practice of retaining Fund monies in the checking account at the Bank rather than in investments. When the Welfare Fund agreement was renegotiated in 1968, the Union could have designated another representative to act as trustee, had it been unwilling to accept the benefits of the course that Lewis had chosen.

The inference is also unavoidable that Lewis made more than a mistake of judgment; he acted to benefit the Bank and to enhance its prestige and indirectly the prestige of the Union, not simply to keep money needed by the Fund in a safe place. The minutes show that he saw large demand deposits were unnecessary for any legitimate purpose of the Fund. Moreover, he was not lacking sophistication. He had been president of a bank himself and the record shows his many financial dealings and the manner in which, throughout the twenty-year period, the Bank to loan money to the Union and to enhance its prestige and image.

The Bank, when it entered into the conspiracy, knew that the accounts came to the Bank without solicitation of the Fund's exclusive needs, that the Fund's investments were custodially maintained by the Board of Directors, and that the Bank had no conscious role in these arrangements. The inferences are irresistible that the Bank knowingly perpetuated the breach and continued the pre-existing breach, in violation of the Bank's fiduciary duties toward the Fund, and was aparticipant without adequate security and no consequent business interest in the use of those funds.

The inference is that the Union, in order to reduce its tax liability, for the resulting loss to the owner of the Bank. In the law the Union, to increase its economic position in non-interest-bearing checking accounts, and from its own extensive experience in acting as trustee knew of the size of the deposits involved, but also the close interlocking relationships among the Fund, the Union, and itself. Any such relationships were justified by the Bank's knowledge of the money's $465,000,000 in the Fund's various interest-free accounts, and the percentage of the Fund's total assets that these accounts represented.

The inference is also unavoidable that Lewis was aware of the Bank's position to make money on the Fund's large demand deposits and in fact profited thereby. When the Bank was in a position to make money on the Fund's large demand deposits, in fact the Bank profited thereby. When the Bank was in a position to make money on the Fund's large demand deposits, in fact it advantageously made a large profit. The deposits exceeded the Bank's earnings and its prestige and position in the banking community.

The inference is that the initial action was a breach of the Bank's fiduciary duties toward the Union and the Bank, and from the facts established at trial. A review of those facts leads the Court to a contrary conclusion.

The inference is that the Bank, when it entered into the conspiracy, knew that the accounts came to the Bank without solicitation of the Fund's exclusive needs, that the Fund's investments were custodially maintained by the Board of Directors, and that the Bank had no conscious role in these arrangements. The inferences are irresistible that the Bank knowingly perpetuated the breach and continued the pre-existing breach, in violation of the Bank's fiduciary duties toward the Fund, and was a participant without adequate security and no consequent business interest in the use of those funds.

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disregard of the best interests of the beneficiaries; knowing participation in the breach of trust by the Union and the Bank, beginning in 1956 and continuing through 1971, and this participation resulting injury to the beneficiaries measured by the loss of income on funds wrongfully maintained in the Bank.

III. OTHER BREACHES OF TRUST

Plaintiffs specified at pretrial six categories of conduct, in addition to the excessive cash balances, allegedly constituting breaches of trust. These were: (1) The Union's breach of trust in regards to the Bank, and the individual defendants conspired. Some of these claims were abandoned in whole or in part. The Bank's alleged breach of trust, however, they should have recognized the potential for abuse of the benefit application process. (2) The trustees were concerned. In continuing to use their authority to the extent that constitutes breach of trust. (3) The trustees were clearly negligent.

A. Withholding health cards

The proof on this issue reflects evidence that applicants were improperly certified by the locals in some sections of the country. Union members were concerned. In continuing to use these misleading forms. Damages are recoverable only to an extent that constitutes breach of trust. (4) The trustees have apparently not acted decisively even to this date to terminate use of these misleading forms. No cause of action was pleaded against the Union for fraud in collecting back dues from individual beneficiaries. Although the Union knew about the trusts' neglect to its advantage, damages are recoverable only by individual beneficiaries who were defrauded, not by the trust itself. This action is only

C. Investment in utility stocks

This issue relates to the Fund's purchase of stock of certain electric utility companies, principally Cleveland Electric Illuminating Company and Kansas City Power & Light Company. While these stocks are on the list approved for trustees, the propriety of these stocks was not approved by the Union. They were made primarily for the purpose of benefiting the Union and the operators, and membership was a prerequisite to receiving benefits, the trustees were grossly negligent, to an extent that constitutes breach of trust.

B. Use of misleading application forms

The proof showed that the Fund called on Union locals to assist beneficiaries and potential beneficiaries of the Fund in preparing pension applications, and to carry out other administrative functions. It should be understood that the Fund as a practical matter is required to work through the locals in processing applications. The establishing field offices exclusively for the Fund would be enormous, and in any event information from Union records may be considered as corroborating the representatives' representations. This arrangement, however, has been seriously abused, and the trustees must be held at least partially responsible.

The trustees sponsored an application form which incorrectly implies that Union membership was a prerequisite for eligibility, and were often forced to make substantial payments, sometimes running over $700,000, to applicants to “reassure” their Union membership. The full extent of illegal collection of back dues by the Union through this device is unknown. The proof developed in the cases that the trustees had actual knowledge of these improper practices by Union locals. In delegating certain func-

Footnotes at end of article.
nal operator, in 1963 eventually made its royalty payments current with aid of an ear-marked loan from the Union, and its royalty payments in the Fund exceeded $40 million. Difficult judgments had to be made by the Fund's representatives during the period of unexpected recovery, and money was paid honestly and the decision temporarily to tolerate substantial non-payment ultimately redounded to the benefit of the Fund.

The Union's heavy stock interest in West Kentucky (acquired as early as 1964) should have entitled Lewis from any particular tion as a trustee in decisions involving royalty collections from that company. He was potentially in a conflict of interest. The Fund was placed in an indefensible position of having to deal with a Union-controlled operator. The royalties were eventually paid, however, and no substantial dispensations were granted West Kentucky which were not granted额度ually to other operators. Thus the West Kentucky episode reflects the loose standards of fiduciary responsibility which governed Lewis' conduct rather than a breach of trust by any other trustee.

E. Pension Increase

One of the principal subjects of inquiry at the trial was the circumstances under which monthly pensions were raised from $115 to $150 on June 24, 1969. This $35 increase was justified on the ground that it involved an additional annual disbursement from the Fund of approximately $90 million, and it was essential to the pension increase, but assert that the motives for which it was made, and the manner in which the decision for the removal of Boyle as a trustee, and for monetary relief from Boyle, Judy, and the Union for any injury resulting from the action. A full discussion of the incident is required.

Roche broke her hip early in June, 1969, and was not readmitted to the Washington Hospital Center until June 24. Judy was not readmitted and was otherwise completely immobile. Roche, already hospitalized, knew of the meeting because she had been warned by the Association's lawyer that matters of substance might be handled as an arrangement between Judy and management with little recognition of its fiscal and fiduciary aspects.

Prior to June 24, Judy had never attended a meeting of the trustees except for the formal meeting at Lewis' home earlier that month. He was president of the BCOA and well familiar with the negative attitudes of some operators towards higher benefits. He had been raised from the Fund's fiscal position. Before he entered the meeting he had been warned by the Association's attorney that further action might be taken by Boyle, and it had been suggested, he act without further consultation. He felt that the unexpended balance of the Fund was insufficient to meet the needs of the active and retired members. He brought about the action by a hasty power play, fortifying his position by falsely indicating that Roche supported his proposal. Unanimous action by Boyle and Judy has been shown by testimony and by Boyle's demeanor at the trial that he considers the Union leadership of the United Mine Workers of America inconsistent with the principles of fiduciary responsibility. The case demonstrates, all the while, the difficulties of managing a pension fund.

In the 1971 pension increase, the fund's fiscal position was made more stable, and the fund was able to provide increases to the beneficiaries. The decision was made by the Trustees, and it was supported by the majority of the Board of Trustees. The increase was made possible by the revenues of the fund and the contributions of the operators and the fund's investments. The increase was necessary to keep up with the rising cost of living and to provide a decent pension for the retired miners. The decision was made after careful consideration and consultation with the beneficiaries and the operators. The decision was supported by the majority of the Board of Trustees and the Union leadership.

Boyle of course also proceeded without regard to his fiduciary obligations in pushing through the pension increase. He failed even to notify the neutral trustee of the meeting or of the contemplated pension increase, which was itself in neglect of the duty of a co-trustee. See Wilmington Trust Co. v. Coulter, 41 Del. Ch. 543, 200 A.2d 441, 451 (1964); Bogert, 1§1, 27 Del. 368, 260 A. 304 (1952). The trustees took no contemporaneous steps to offset the added expense by eliminating unnecessary administrative expenses or by investing cash in income-producing securities. In short, the fusion of the trustees was not to justify his action on the merits. He rather argued that he had no obligation to consult the operators, pointing out that his predecessor had not act without further consultation. He felt that the unexpended balance of the Fund was insufficient to meet the needs of the active and retired members. He brought about the action by a hasty power play, fortifying his position by falsely indicating that Roche supported his proposal. Unanimous action by Boyle and Judy has been shown by testimony and by Boyle's demeanor at the trial that he considers the Union leadership of the United Mine Workers of America inconsistent with the principles of fiduciary responsibility. The case demonstrates, all the while, the difficulties of managing a pension fund.

The most revealing document in this entire episode is the full text of the press release announcing the pension increase. It was issued on the day of the pension increase. It reads as follows:

"WASHINGTON, D.C.—W. A. "Tony" Boyle, President of the United Mine Workers of America, succeeded John L. Lewis today as the Chief Executive Officer and Trustee of the Union's Welfare and Retirement Fund, and immediately boosted the pension of retired soft coal miners from $115 to $150 monthly.

"The new pension rate will be effective August 1. It was voted at the first session of the 1971-1972 Annual Convention.

"Boyle was chosen trustee at a meeting of the International Executive Board yesterday, and as chief executive officer of the Fund, under the bylaws of the union. Boyle is a 23-year-old Fund, with complete analysis of the entire program for miners, their widows and children, and is working on suggestions for possibly improving the benefits at a series of rallies in the coal fields of West Virginia, Pennsylvania and Illinois in recent months.

"The new chief executive of the Fund, like his predecessor, will accept no pay for serving as Trustee.

"Nothing could more brutally expose the results of the decision and had been having for some time. However correct or incorrect the pension increase decision may have been, it reflected the Un-
Before considering the involvement of each of the named individual defendants, a brief statement of the applicable legal standards is in order. A party or participation in breach of trust discussed earlier with respect to the Union and the Bank are equally applicable to the individual defendants. As a result, if any other entity found to have participated in a breach of trust is not liable simply by reason of being a director or officer of that entity. If he personally knows of the breach of trust and participates therein or fails to take action to correct it, see Strauss v. United States Fidelity & Guaranty Co., 83 F.2d 174 (4th Cir. 1938); 4 Scott on Trusts § 226.3 (1919). It is not necessary to prove that the individual personally profited from the transaction. And one who knowingly joins a conspiracy "even at a later date takes the liability as he finds it, with or without knowledge of what has gone on before." Myzel v. Fields, 306 F.2d 710, 738 n. 12 (8th Cir. 1962); 7 Josephine Roche. Roche had a distinguished public career before joining the Fund and was undoubtedly involved in the affairs of the Fund since its inception. She has been both the neutral trustee and the administrator, a full-time salaried position. That was not important in her commitment to the welfare objectives of the Fund and has contributed substantially to many of the decisions made. Her business experience was more limited. She did not profit personally in any way by any of the actions taken. She only followed John Lewis and felt entirely confident to follow his leadership in financial matters, apparently because she acquired, or was to acquire, an active participant in each breach of trust except the pension increase. Indeed, without her affirmative approval they probably would not have occurred. She accepted without question the accumulations of excessive cash at the Bank even when the propriety of depositing these balances was raised as trustee meetings, and in the face of advice that the cash could be invested without impairment of the Union's authority to act. When Fuld assured her that she had violated her duty as trustee in all the respects previously discussed, and she must be said to have knowingly furthered the conspiratorial acts, both of the cash and the utility company investments.

W. A. (Tony) Boyle: Boyle was not a party to the original conspiracy, and never adopted its ends. He was not responsible for the accumulation of excessive cash at the Bank, though he knew about it. From the moment he became President of the Union in 1938, and indeed earlier, he sought to persuade Lewis to have the Fund pay out larger benefits, which it was doing. He sought to eliminate, or at least reduce, cash balances. Boyle also insisted that various loans and other financial involvements made unnecessary by the Union's position of wealth, and he was opposed to the Union's failure to the Union to supplant Lewis after Boyle became president cannot, on the evidence before the Court be considered sufficient ground for participation in any conspiracy although the agreement was renegotiated after 1953 and Lewis could have been discharged during this time.

Boyle, however, violated his duty as trustee in several particulars. His actions in force through the pension increase, partly by misrepresentation, in haste and without consulting the neutral trustee, reflect an insensitivity to fiduciary standards. In addition, his actions in the Fuld and member of its Executive Committee after Boyle became president, a relationship which continued until his resignation was required of a trustee under the circumstances of this case. He took only limited action to facilitate the investigation, for example, by encouraging improper cash levies by the Union on applicants as a condition precedent to receiving benefits.

George L. Judy: Judy is guilty of poor judgment but not of conduct that violated his duty as trustee. He should have consulted his lawyer before making any declarations hastily at Boyle's insistence and without adequate information in approving a pension increase which had substantial effect upon the long-term operations of the Fund. No relief is required as to Judy, since he is no longer a trustee and there is no likelihood he will be one in the future. He was a trustee for only six years, and did not participate in any conspiracy. The case as to him is dismissed.

Bert A. Colton: Colton was party to the original conspiratorial agreement to place excessive cash in the Bank, and as the energy with the Bank's investment policy participated in carrying out that breach of trust. His collaboration with the Union was far more than that which followed merely from his office.

C. W. Davis: Davis, the trustee representative of the Operators, is a nominal defendant, having agreed to assent to the Union's arrangements. He has no equitable relief against the Fund. He is not shown to have engaged in any improper conduct. All improper conduct occurred prior to his designation as trustee.

V. RELIEF

All defendants contend that the doctrine of laches bars any relief for the claimed breaches of trust, and alternatively that the statute of limitations bars any claim for damages by reason of events occurring more than three years prior to the filing of this suit. plaintiff's suggested that laches, not the statute of limitations, is applicable to all causes of action herein, and urge that they have not been guilty of any unreasonable delay which would bar relief.

It is clear that an action to redress a breach of trust, even if the Court finds that the statute of limitations is applicable to such a suit in the District of Columbia, Davis v. Niederhauser, 392 U.S. 287, 198 F. 2d 1005 (1951); Haliday v. Haliday, 56 App. D.C. 179, 11 F.2d 565, 569 (1929); Nederhauser v. Davis, 77 (M.D. Pa. 1970) 3 Scott on Trusts § 219 (5th ed. 1967). Nor is the statute of limitations strictly applicable to the cause of action against the Union or the Bank, for it is the breach of trust they conspired to carry out, not the conspiracy itself, which is the gist of the action. See cases cited supra: Restatement of Trusts 2d § 227 (e), Comment K. It is true that courts customarily decide the issue on the facts even in equity cases where essentially legal relief, such as damages or an accounting, is denied because the cause of action is barred by the statute of limitations, 28 App. D.C. 124, 131 (1908). This rule, however, is not strictly followed in this jurisdiction. Foster v. Foster, 295 D.C. 179, 11 F.2d 565, 569 (1929). The guiding principle is that "laches is not liable from delays of time, but principally a question of the inequity of permitting the claim to be enforced." Holmberg v. Armbricht, 327 U.S. 392, 396 (1946). Boyle next shall continue to serve as a trustee. Each shall be replaced by June 30, 1971, under the following procedure set up by the Union. Consonant with the provisions of the Agreement, the new Union trustee and
The Union claims that it cannot be held liable for the acts of Lewis except upon "clear proof" that the membership of the Union authorized, authorized or ratified his actions. This position is based upon Section 6 of the Norris-LaGuardia Act, 29 U.S.C. § 186(a), and it is applicable only to actions taken in the course of a labor dispute. By no view of the facts in this case can the management of the Welfare Fund by its intervention in the Supreme Court and in the trajectory that phrase is defined in 29 U.S.C. §119(c). See Columbia River Packers Ass'n v. Hinton, 315 U.S. 293, 296 (1942).

This theory of the case would present the question whether it was a breach of trust for the Fund to make any money whatsoever in the Union's bank. There is a conflict among the cases as to whether a trustee may under any circumstances deposit trust funds in a bank in which he has a substantial interest. See the full discussion in 2 Scott on Trusts §§170.18, 170.19 (3d ed. 1957); 87 A.L.R.2d 1044 (1962); 15 F. Supp. 46 (S.D. Ga. 1946) (deposit improper), with In re Sexton, 61 Misc. 869, 115 N.Y.S. 973 (1910) (deposits proper). It is universally held, however, that any such deposits will be subject to the closest scrutiny for signs of self-dealing or negligence where the bank fails or is solvent and the deposit was made for an excessive period of time. See, e.g., In re Ouilhance's Estate, 260 Mich. 86, 256 N.W. 807, 809 (1934). (Judge Griffith, dissenting) held that the trustee is acting in breach of trust in allowing such deposits to be made, it is liable along with the bank to the trust. See Olin Cemetery Ass'n v. Citizens Savings Bank, 222 Iowa 1083, 370 N.W. 455, 459 (1939). Where the initial deposits are small, the problem is whether there is any difference between the percentage of the bank's business, as in the case of the Fund, it would be an excessive period. Is it fair to the bank from any responsibility for resulting losses to the trust.

In considering the interlocks between the Bank and the Fund, two individuals involved occupied positions of special significance. Ryan, the Fund's comptroller, knew full well at the time the deposits were made that the Fund's assets, including the right to the deposits, would be deposited with the bank. There is a substantial percentage of the bank's business, as in the case of the Fund, it would be an excessive period. Is it fair to the bank from any responsibility for resulting losses to the trust.

In conclusion, the tenure of a director in the Constitution and deeply felt by the people of the country of the Union, ROTC candidates, and non-ROTC students and the Army, ROTC, and Land-Grant Colleges stated:

The continued presence in substantial numbers in the Armed Forces of officers from these diverse universities, paying institutions and backgrounds is one of the best guarantees against the establishment in this country of a military caste or clique. . .

I invite the attention of Senators to the following question in the report of the Commission on Foreign Policy entitled "ROTC, Myla, and the Volunteer Army." The authors carried out an attitude questionnaire of ROTC, selected service academy, ROTC, and University ROTC students and surveyed the existing literature concerning officer attitudes. The authors concluded that ROTC officer candidates, and particularly humanities majors—those
least likely to enter the military in an all-volunteer system were: less willing to obey immoral orders, less willing to use nuclear weapons, least capable of imagining a situation in which a military takeover of the U.S. Government would be politically feasible, and the size of the military budget.

The authors argued that the citizen officer should represent the noblest attitudes and values in American society—values which we maintain would include a refusal to obey immoral orders, a reluctance to sing nuclear weapons around, and a strong disinclination for any military coup or other invasion of the political process.

They also concluded:

If you don't like the way the military functions, you can't expect it to improve by insulating yourself from it.

Their final statement is of importance to those who see the need for internal reform in the military as well as in our other institutions.

A volunteer army of 'pros,' void of citizen officers, may well be the draft for the draft. As Mr. Gates recently put it: "... an end to the draft would shield the army from the draft." Citizen-soldiers are the yeast of internal change. The army needs Yeasians, Ronald Bidenhouse, independent-minded ROTC junior officers, and J.A.G. volunteers who do their jobs, whose loyalties are to civilian, not careerist army from the adequate to meet anticipated accession requirements. The best way of answering such a question is, the demise of ROTC would only temporarily dislocate military leadership plans. And any increase in the percentage of authoritarian, aggressive "leaders" would, submit, be undesirable. But are the citizen officer defenders correct?

The question concerns the nature of citizen-officers—ROTC and college grad OCS types versus the army's one-percenters—full platoon and company grade officers or pilots and then either stay on as careerists or (in the case of ROTC) retire with three years' service and then go to high command, but all, whether they stay on or not, may be faced, due to the nature of modern, dispersed military defense, with awkward decisions. For the inhabitants of many a Vietnamese hamlet or river village, survival may depend on whether his leader is college president, gunboat skipper, or helicopter gunship pilot approaching, guns trained, on their homelands.

We know that the average ROTC or college grad OCS student scores lower on F-scale (authoritarianism) psychological measures than the average enlisted man or non-college peer. Thus, for those concerned about the attitudes and values of individuals placed in positions of military authority and responsibility, the ROTC or college grad OCS officer would appear to be a safer bet than one acquiring a college degree, it is probably not simply the fact that the college experience makes the difference. Less advantaged (in school, etc.) students who have received a college education in their environments than do the college-bred, suburban children of the middle-upper-upper-prestige levels. Whatever the case, the differences between the two potential military leader groups is a known, significant quantity.

What is unknown is just how such ROTC students compare with their service academy counterparts. Are the ROTC types more "flexible" than the academy types, as claimed? One leader of the anti-ROTC movement at Harvard thinks not: "An officer trained at the West Pointer kills on orders as quickly as an officer trained at the Point." Is there any significant attitudinal distinction between the two types?
Ohio State University), and 117 male non-ROTC college undergraduates. Such a comparison may be of limited value if earlier researchers are correct when they claim that ROTC graduates quickly adjust and adapt to the codes and mores of the professional military. A claim is highly suspect even if a certain amount of adjustment and adaptation does occur, if significant differences between ROTC and academy types exist upon entry into the officer corps. It seems reasonable to expect that some of those differences would persist.

Over the years, a number of studies have made use of attitude questionnaires to analyze service academy students, and to compare ROTC undergrads to non-ROTC undergrads. But to the best of our knowledge, service academy and ROTC students have never been systematically compared. G. J. Lamers has compared the developments of values and attitudes, i.e., the "socialization," of Royal Netherlands Naval College midshipmen and Candidate Reserve Officers, but the circumstances of that socialization process are not altogether the same as those we are dealing with. And furthermore Lamers was concerned only with "the socialization process," not with attitudes. John Lovell, in his study of "the professional socialization of the West Point Cadet," compared West Pointers to a sampling of Dartmouth students, 82 percent of whom expected to perform military service upon graduation, but the samples did not appear to be exclusively composed of ROTC students, and Lovell did not pursue the attitudinal comparisons very far. R. W. Gage and William A. Lucas have compared the attitudes of ROTC and non-ROTC students, and both have concluded that ROTC students are significantly more accepting of authority and military ideology than non-ROTC students; but neither study included a sampling of service academy students. Thus the need for our own study.

**Three Groups**

Our three sample groups do not spring from the same social background. In terms of family income, parents' level of education, and father's occupation, our Annapolis respondents come from families with slightly higher incomes, better educated parents, and more professional fathers than either the non-ROTC students, whose social origins were slightly more humble than either of the other groups. But these differences in social origins are not relevant to the differences we found in the attitudes of members of our three groups—that is, there was no difference in the response of representatives of one level of social origin from those of any other level.

This surprised us, since one would expect lower class respondents to be somewhat more authoritarian than those whose parents were college graduates and professional people. And this would probably have been the case respondents were not isolated at random from the public at large. But Annapolis students were overrepresented in the upper economic echelons. And since these same Annapolis students were consistently more authoritarian, absolutistic, and militaristic than either of the other two groups, the "class differentials" were neutralized.

R. W. Gage, in his earlier study, found that Annapolis students were more "absolutistic," not accepting of military discipline than non-ROTC college students, and we found that ranking to apply with every aspect of aggressiveness, absolutism, "patriotism," and military discipline tested for. But our service academy students were consistently more aggressive and absolutistic than our non-ROTC sample when asked what their reaction might be if, while walking with their girl friend, someone were to make an obscene comment about her," nearly half (49 percent) of our sample of Annapolis officers—and gentlemen—to be indicated that they would offer some form of physical response, typically: "I'd kick his teeth in." Only 81 percent of the non-ROTC sample, and only 28 percent of the non-ROTC group, gave similar responses (see Table 1). No less than 60 of the 60 Annapolis respondents indicated that, if given the choice, they would prefer to serve in a "combat" capacity, while only 82 percent of the other students preferred "combat" duty to the alternatives offered: administrative or technical duties. We questioned the"military" feeling for the non-ROTC male undergraduates, many of whom will see no service at all, but, for those who might, our results indicated that they would prefer combat service to the other less belligerent options.

**Table 1**

<table>
<thead>
<tr>
<th></th>
<th>Other physical response or insult to girl friend</th>
<th>Other verbal response or ignore insult</th>
<th>Prefer combat duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annapolis</td>
<td>48.9 (44)</td>
<td>16.1 (29)</td>
<td>66.7 (60)</td>
</tr>
<tr>
<td>ROTC (177)</td>
<td>56.4 (47)</td>
<td>29.4 (23)</td>
<td>73.7 (61)</td>
</tr>
<tr>
<td>Non-ROTC control group (117)</td>
<td>62.4 (21)</td>
<td>17.3 (31)</td>
<td>79.6 (91)</td>
</tr>
</tbody>
</table>

*Note: Figures do not always total 100 percent because some respondents had no opinion or no preference.*

John Lovell long ago noted that West Point students "tend to be more 'absolutistic' in their strategic perspectives than their Dartmouth peers." Our study revealed the same distinction between our Annapolis and our Pittsburgh—Ohio State sample (see Table 2). Seventy-seven percent of the Annapolis sample agreed with the statement, "war is the inevitable result of man's nature," while only 55.3 percent of the ROTC, and 59 percent of the non-ROTC samples agreed. And twice as many Annapolis students (24 percent) agreed strongly with that statement as their Pittsburgh—Ohio State peers. No less than one in every three midshipmen could conceive of circumstances in which a takeover of the U.S. government by the military would be justified, while only 10.8 percent of ROTC, and 18 percent of non-ROTC students, were of the same mind. Only 8 percent of the non-ROTC "control" sample felt that the U.S. should ever use nuclear weapons in situations other than retaliation. A larger percentage (16 percent) of ROTC students, and a still larger percentage (28 percent) of Annapolis students were "first-strikers."

**My Country, Right or Wrong**

While only 39 percent of our combined sample of academy and ROTC officer candidates indicated that they would obey orders morally repugnant to them (see Table 3), nearly half (46 percent) of all our officer candidates who indicated a preference for combat duty, and 44 percent of those who indicated that they would offer physical violence to one who insulted their girl friend, would obey such orders. The same positive correlation between the "war" and "first-strike" responses of our Annapolis sample, whose social origins were slightly more humble than either of the other groups, and who agreed, 46 percent of Annapolis graduates would, on principle, defend one's country, and only 23 percent of the non-ROTC group, gave similar responses (see Table 1). No less than 60 of the 60 Annapolis respondents indicated that, if given the choice, they would prefer to serve in a "combat" capacity, while only 82 percent of the other students preferred "combat" duty to the alternatives offered: administrative or technical duties. We questioned the "military" feeling for the non-ROTC male undergraduates, many of whom will see no service at all, but, for those who might, our results indicated that they would prefer combat service to the other less belligerent options.

Our heroe fighter sample were not the only ones to correlate positively to "first-striker." We asked our subjects whether or not they agreed that "the practice of war is a science best left to professionals." Of those who agreed, 38 percent were also "first-strikers." 39 percent of the Annapolis students (24 percent) agreed may have spoken for this group when he recently observed that "small tac nukes" could be of considerable value in suppressing revolution in Latin America: "Well, you have got to hold the spread of Communism which he defined as 'sedition, and so forth'! down, and keep whatever government there. That's what's important."

**Footnotes**

Footnotes at end of article.

Lieutenant William Calley says that he went to Vietnam with the absolute philosophy that the U.S.A.'s right. And there was no grey...there was just black or white. In another interview he told John Sack: "I'll do as I'm told to do. I won't revolt. I'll put the will of America above my own conscience, always."
Moreover, as in the case of our fighter group, no less than 38.3 percent of those who agreed that war was a science best left to the control of pros indicated that they would obey morally repugnant orders. Over half (61.7 percent) of all officer candidates agreed with that pre-Nuremberg canon of the ardent statist, "My country, right or wrong," but no less than 67.3 percent of those feeling war to be a science best left to professionals, and approximately the same percentage of "fighter" types found this conscience-evading dogma attractive.

For one familiar with Morris Janowitz's distinction between "heroic" and "managerial" professional military officers, this high correlation between "fighters," "professionals," service academy students (see Table 3), and undesirable propensities may be somewhat surprising, unless one is also familiar with John Lovell's research. Lovell could find no statistically significant difference at West Point between "heroic" fighter types and "managerial" types (our "pros") in terms of absolutism. "Pros" are just as dangerous to have around as "fighters."

The Science of War

How did our three categories of students like the "pro" and "statist" tenets? No less than 72 percent of Annapolis respondents agreed with the remark that war was a science best left to professionals (with 38.3 percent agreeing strongly), whereas only 47.5 percent of our ROTC "citizen" officer candidates, and only 18 percent of the non-ROTC "control" group, agreed. And the same proposition held for the dogma found to be so attractive to our "pros." Almost three of every four Annapolis students sampled (74 percent) found the adage of Captain Stephen Decatur, U.S.N., "My country, right or wrong," to be attractive, whereas only 40 percent of the ROTC and 19.5 percent of the non-ROTC students approved of this pre-Nuremberg code of conduct.

These attitudinal distinctions occurred again when our subjects were asked their opinions about the military budget and the war in Vietnam. Only a few non-ROTC students and only a handful of the ROTC sample felt the military budget was too small (Table 4), but 39 percent of the Annapolis sample thought the budget inadequate. On questions relating to the Vietnam war, however, ROTC students were closer to their fellow officer-candidates than they were to their non-officer-bound peers. Four of every five non-ROTC students objected to the war in Vietnam, while only 56.7 percent of ROTC, and 28 percent of Annapolis students found the war objectionable. Only 10 percent of our sample of non-ROTC students expressed a willingness to volunteer for service in Vietnam, while 40 percent of the ROTC, and 60 percent of the Annapolis samples indicated they would volunteer for service in war. Only a few of every non-officer-candidate respondents imagined that he would obey a direct order morally repugnant to him; less than 36 percent of the ROTC sample and 41 percent of the Annapolis sample indicated that they would obey such an order. Only 18.7 percent of non-ROTC students felt that the atrocities committed at Mylai were "extremely rare," while the same percentage (38 percent) of the Annapolis samples considered Mylai "extremely rare."

It could be argued that our officer candidate groups, having once committed themselves to military service, find Vietnam tolerable and Mylai exceptional largely because they recognize that they must live with a decision to serve that may one day thrust them into a Southeast Asian rice paddy or river delta. They may have come to accept the validity of "morally repugnant orders" as a result of their introduction to the military's traditions, mores, and missions—the military's point of view.

However, we think it more likely that they were always more positive toward the war and the military than those who avoided the officer candidate programs. We suspect that the reasons for the persistent attitudinal differences between those who are officer candidates and those who are not lie primarily in the process of self-recruitment by which means they selected military futures in the first place, and less in the process of military "socialization" taking place as they prepare for command. Our reasons are twofold, having to do with (1) self-selection and (2) the impotence of "militarization."

The research of William Lucas and C. J. Lammers shows that there is a self-selection process at work in both the American sore and the Dutch naval officer corps. "Militaristic" young men elect at age 17 or 18 to pursue a course that will make them officers. Moreover, Lammers notes that the regular academy midshipmen, many of the sons of naval officers, are considerably more accepting of military ideology than their reserve officer candidate counterparts. That seems to be the case at the Annapolis and sore samples, and the reason may well be related to the reasons they gave for selecting Annapolis or sore. Nearly half of the Annapolis sample (48 percent) indicated that one of their reasons for seeking appointment was a desire to "be a career officer." Only 17 percent of the sore sample indicated that such ambitions had motivated them (Table 5). Nearly in every four (73 percent) of the sore sample confessed that a prime motive for joining the program was a "preference to serve as an officer versus an enlisted man" (a few wrote in "to dodge the draft"). Slightly more Annapolis (36 percent) than sore (19.2 percent) students indicated that an important reason for joining was a "belief in military traditions and methods." Conversely, nearly half (47.5 percent) of the sore sample said that an important reason for seeking a commission was a desire to secure "training for assuming positions of responsibility in civilian life," while only 36.5 percent of career-bound Annapolis midshipmen gave a similar response. In short, the sore students appear to have a more limited and "practical" reason for service than the professional-minded middies. As one anonymous Annapolis ditty puts it:

TABLE 3—REASONS IMPORTANT IN DECISION TO SEEK COMMISSION

May 3, 1971

OCTOBER RECORD—SENATE

TABLE 3

[Percent and (number)]

<table>
<thead>
<tr>
<th>Percent who would obey morally repugnant orders</th>
<th>Percent who consider &quot;first, strictly military&quot; acceptable</th>
<th>Percent who agree with &quot;My country, right or wrong&quot;</th>
</tr>
</thead>
<tbody>
<tr>
<td>39 (165)</td>
<td>19.5 (52)</td>
<td>52 (138)</td>
</tr>
<tr>
<td>48 (56)</td>
<td>27.1 (42)</td>
<td>63.2 (74)</td>
</tr>
<tr>
<td>44 (46)</td>
<td>25.0 (69)</td>
<td>69 (46)</td>
</tr>
<tr>
<td>35.6 (67)</td>
<td>28 (15)</td>
<td>67.2 (45)</td>
</tr>
<tr>
<td>41 (46)</td>
<td>28 (15)</td>
<td>67.2 (45)</td>
</tr>
<tr>
<td>14.0 (71)</td>
<td>19.5 (25)</td>
<td></td>
</tr>
</tbody>
</table>

The Annapolis sample was somewhat more likely to have considered Mylai "extremely rare." The ROTC sample was closer to their fellow officer-candidate peers than they were to their non-officer-bound peers.

It is of some importance to note that the military presence of American forces in Vietnam was considered in the sense of being an "objective" of the war, a result that was of the utmost concern to Annapolis students. Over 50 percent of the Annapolis sample thought the budget inadequate. On questions relating to the Vietnam war, however, ROTC students were closer to their fellow officer-candidates than they were to their non-officer-bound peers. Four of every five non-ROTC students objected to the war in Vietnam, while only 56.7 percent of ROTC, and 28 percent of Annapolis students found the war objectionable. Only 10 percent of our sample of non-ROTC students expressed a willingness to volunteer for service in Vietnam, while 40 percent of the ROTC, and 60 percent of the Annapolis samples indicated they would volunteer for service in war. Only a few of every non-officer-candidate respondents imagined that he would obey a direct order morally repugnant to him; less than 36 percent of the ROTC sample and 41 percent of the Annapolis sample indicated that they would obey such an order. Only 18.7 percent of non-ROTC students felt that the atrocities committed at Mylai were "extremely rare," while the same percentage (38 percent) of the Annapolis samples considered Mylai "extremely rare."

It could be argued that our officer candidate groups, having once committed themselves to military service, find Vietnam tolerable and Mylai exceptional largely because they recognize that they must live with a decision to serve that may one day thrust them into a Southeast Asian rice paddy or river delta. They may have come to accept the validity of "morally repugnant orders" as a result of their introduction to the military's traditions, mores, and missions—the military's point of view.

However, we think it more likely that they were always more positive toward the war and the military than those who avoided the officer candidate programs. We suspect that the reasons for the persistent attitudinal differences between those who are officer candidates and those who are not lie primarily in the process of self-recruitment by which means they selected military futures in the first place, and less in the process of military "socialization" taking place as they prepare for command. Our reasons are twofold, having to do with (1) self-selection and (2) the impotence of "militarization."

The research of William Lucas and C. J. Lammers shows that there is a self-selection process at work in both the American sore and the Dutch naval officer corps. "Militaristic" young men elect at age 17 or 18 to pursue a course that will make them officers. Moreover, Lammers notes that the regular academy midshipmen, many of the sons of naval officers, are considerably more accepting of military ideology than their reserve officer candidate counterparts. That seems to be the case at the Annapolis and sore samples, and the reason may well be related to the reasons they gave for selecting Annapolis or sore. Nearly half of the Annapolis sample (48 percent) indicated that one of their reasons for seeking appointment was a desire to "be a career officer." Only 17 percent of the sore sample indicated that such ambitions had motivated them (Table 5). Nearly in every four (73 percent) of the sore sample confessed that a prime motive for joining the program was a "preference to serve as an officer versus an enlisted man" (a few wrote in "to dodge the draft"). Slightly more Annapolis (36 percent) than sore (19.2 percent) students indicated that an important reason for joining was a "belief in military traditions and methods." Conversely, nearly half (47.5 percent) of the sore sample said that an important reason for seeking a commission was a desire to secure "training for assuming positions of responsibility in civilian life," while only 36.5 percent of career-bound Annapolis midshipmen gave a similar response. In short, the sore students appear to have a more limited and "practical" reason for service than the professional-minded middies. As one anonymous Annapolis ditty puts it:
Some join for the love of the Service, Some join for the love of the Sea, Enlist, become a guy who's in RotCete, He joins for the Sea.

Similarly, just as Lammers found disproportionate numbers of naval officers' parents in the programs, we also found that the sons of military personnel who had served in non-ROTC units were overrepresented. In fact, only 16.5 percent of our sample's respondents were not commissioned officers, compared to 23.1 percent of our non-ROTC sample.

The liberal arts environment of academies may have had its effect on the fact that the ROTC students are less absolutistic, less aggressive, less militaristic than service academy students, but our data could not prove this. Furthermore, if ROTC units on campus do not significantly "socialize" any of those who volunteer to take their programs, neither do we find any evidence suggesting that the "liberal arts" environment of academies does any "militarizing" of ROTC students. The responses of freshmen and sophomore students fall in the middle of the spectrum. Not only do they want to drive the student out of the program, but when we asked respondents to recall college years, they may actually serve as an officer rather than an enlisted man.

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that Arnheiter had hazarded his vessel, falsified its location while entering prohibited areas, sought to draw enemy fire on his ship, and generally taken the vessel, as Arnheiter put it, "to make the action." 

At one point, the junior officers claimed, he ordered Lieutenant (j.g.) Mason, in an armed motor whaleboat, to fire at a number of Vietnamese ashore. Mason refused. "I can't see shooting a bunch of civilians or even shooting at them," he told Arnheiter. Mason says he feared that Arnheiter would "interpret my shooting as somebody else's shooting and start shooting himself." The Vietnamese turned out to be refugees from a coastal village bombed out by American air strikes. As one crewman put it, "that kind of guy [Arnheiter] could start World War III."

Arnheiter's executive officer, Lieutenant Ray Hardy, another product of the Naval Academy, remained loyal to his chief and enforced Arnheiter's often bizarre orders. (Hardy acquired an ulcer in the process.) All of those who came to Arnheiter's defense (Rear Admiral Walter Baumberger, Rear Admiral Daniel Gallery, and Captain Richard Alexander) were Academy graduates. Admiral Gallery referred to the non-Annapolis critics of Arnheiter "as a closed system that is not capable of thinking outside the box." 

Would there have been a Mason at Myitlal?

The responsibilities of "Harvard bastards"

What are the lessons of our experiment in attitude-behavior analysis and our excursion into the backgrounds of officers involved in "alleged misconduct" in Vietnam?

<table>
<thead>
<tr>
<th>Military takeover</th>
<th>Willing to obey</th>
<th>Willing to repudiate</th>
<th>Willing to reconcile physically to lost goals</th>
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<tbody>
<tr>
<td>ROTC</td>
<td>41</td>
<td>37</td>
<td>24</td>
</tr>
<tr>
<td>Social Science</td>
<td>39</td>
<td>35</td>
<td>31</td>
</tr>
<tr>
<td>Physical Sciences</td>
<td>37</td>
<td>30</td>
<td>28</td>
</tr>
<tr>
<td>Engineering (117)</td>
<td>42.5</td>
<td>30.5</td>
<td>22</td>
</tr>
</tbody>
</table>

The trouble is that humanities majors do not always perceive the military, or are not the bemuddled recruiting officer's dream-come-true. Isabella Willig recently put it to bees interested than any of the other majors in joining ROTC, and more insistent than others on "the right of the soldier to criticize his superiors and/or government policies without facing sanctions for his dissent." Very few (less than 5 percent) of our ROTC sample were humanities majors. But they were disproportionately represented in that group of respondents who feel that the military, as an organization, constitutes one of the "most dangerous" threats to the American system of government (see Table 3). Many military men, convinced that they are with "leadership," body counts, power, and discipline, are probably quite satisfied with any system that allows Yosarians, Pete Seegers, and Stoughton Lynds to stay clear of the military. The advocates of a volunteer professional army argue the virtues of such a self-selection process. We are not as convinced of the advantages of any system that can do without the citizen officer or, for that matter, the citizen professor.

which brings us to our third conclusion.

If you don't like the way the military functions, you can't expect it to improve by

Footnotes at end of article.
pended-minded morose junior officers and J.A.G. lawyers—soldiers who do their jobs but who are not committed to the over-riding loyalty of the Army, whose loyalties are to civilian, not careerist values.

Critics of morose, ironically, the Army needs you-

FOOTNOTES

2 "Weed out of West Point and the Air Force Academy for permission to survey random samples of their cadets, but neither academy authorized the study.


7 The Officer Corps in an All-Volunteer Force: Will College Men Serve? (By Col. Robert L. Nichols, U.S. Marine Corps; Capt. Alfred R. Sager, Jr., U.S. Navy; Col. John Masland, Air Force; Lt. Col. LeBoye House, U.S. Army; Comdr. Richard G. Reid, U.S. Navy) (Note.—In order to determine the feasibility of an all-volunteer officer corps in the absence of a draft, a group research project at the Naval War College examined the attitudes of college youth toward military service. They concluded that the draft provides the major incentive for first-term officer volunteers in all services and that without it the draft is needed to maintain a sufficient supply of qualified officers to maintain a 2.5 million man force.)

8 "We are all involved with national security, it is a critical period in time. The whole issue of national defense is a national issue that mig..."

9 In December 1969 President Nixon announced the creation of a Selective Service Commission to develop a comprehensive plan for eliminating conscription and moving toward an all-volunteer armed services. Members appointed by President Johnson, while finding certain inequities in the Selective Service System, rejected the idea that the Nation adopt a voluntary system of manpower procurement because of its inflexibility in times of crises. It is interesting to note that some members of the Selective Service System commission were the use of lottery-type selection system, the draft of 19-year-olds, and the increased number of deferments. Similarly, the Clark Panel, appointed by the Congress that same year, also followed the idea that the system be changed on the grounds of inefficiency, expense, and lack of a unifying influence on the Nation.

10 The draft in August 1941 was a national peace-time draft on 8 September 1940. This act subsequently resulted in the induction of over 16 million men during the 5-year period of hostilities. At the time of its passage, opposition to the first peacetime draft in 1940, however, was significant. The act was narrowly approved by one vote.

11 In the post-World War II period the United States for the first time found itself in a significantly different international role. In 1945, when the United States began its world-wide commitments the demand for the peacetime military force in the history of the nation was unprecedented. Congress to extend the Military Training and Selective Service Act of 1940. The legislation was extended to 31 March 1947, but upon the initiative of the President, Harry S. Truman, Congress permitted the act to expire.

12 Attention was directed to enhancing the image of the Armed Forces and making service life more attractive to the candidate. To this end, Congress was taken to improve the living, working, and training conditions of men in service. The legislation for recruiting in an effort to induce eligible young men to volunteer. Despite these concerted efforts, the Army fell more than 30 percent below minimum manpower goals. President Truman ended the experiment on 17 March 1948 and asked Congress to enact universal military training and service. Congress rejected the request for universal military training but acceded to his desire for the selective draft. The act culminated in passage of the Universal Military Training and Service Act of 1951 which has been the basis in law for maintaining U.S. military strength for the past two decades.

13 In 1966 the President and Congress again reviewed the operation of the Nation’s conscription laws. The President appointed, appointed by President Johnson, while finding certain inequities in the Selective Service System, rejected the idea that the Nation adopt a voluntary system of manpower procurement because of its inflexibility in times of crises. It is interesting to note that some members of the Selective Service System commission were the use of lottery-type selection system, the draft of 19-year-olds, and the increased number of deferments. Similarly, the Clark Panel, appointed by the Congress that same year, also followed the idea that the system be changed on the grounds of inefficiency, expense, and lack of a unifying influence on the Nation.

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15 A key element to the effectiveness of any military establishment is the procurement and composition of its officer corps, and it is one that has been of concern which has some depth. Noteworthy is the fact that in recent years the major portion of the officer corps has been composed of college graduates. While it is important to continue to attract college-graduate officers, it is generally acknowledged that without a draft a college-graduate officer corps will be more difficult to recruit. Consequently, crucial to determining the feasibility of the all-volunteer force concept is an understanding of the college-trained officer procurement programs currently in being. By far the largest single group to benefit in the early stage of the All-Volunteer Force, the ROTC located on college campuses across the country. The Navy relies on its Officer Candidate School (OCS) for the majority of its new officers. In the Air Force, the ROTC and Officer Training School (OTS) programs are the mainstay for its commissioned officers. Both the Navy OCS programs and the Air Force OTS programs are currently recipients of ROTC programs.

16 During the last few years, a number of schools have either ended their ROTC programs or indicated they planned to phase out programs at end of article.
them out in the future. It is not clear whether these are isolated incidents or the beginning of a trend. However, with advancing years and the complexity of the roles required of officers, it is important that the majority of new officers continue to come from college campuses. Consequently, the campus-centered ROTC and college-graduate OCS/OTS programs will continue to be the major source of new officers for the military.

While this may be so, one needs only to read the daily newspapers to be aware of the fact that the increasing pressure has been upon college campuses over the past several years. Campus unrest and disorders have resulted in such acts as the physical takeover of administration buildings and the burning of ROTC offices. These actions are not confined to any particular section of the country. They occur at both large and small colleges, both public and private schools, and involve some of the most prestigious and respected schools in the country.

Much of the unrest and the resulting physical violence have been attributed to youth's hostility toward existing authority, symbolized by the draft, and sparked by revulsion against the war in Vietnam. Another element that is contributing to campus unrest, and will continue to be a factor for a few years, is the term "new breed," ascribed by academic officials as a "new breed" of youngsters to whom the traditional campus becomes dead. Dr. David Hoffman, professor of mathematics and chairman of the commission studying the future of education at the Massachusetts Institute of Technology, conceded: "The change in students during the 1960's was tremendous; yet you wonder what is going to come in the 1970's when you see the pace of change, as reflected in our entering freshmen and the unrest in high schools.

While much of the unrest has been conducted by various groups concerning the development of a voluntary armed force, they tend to pose the question of professional officer motivation primarily in economic terms. Little has been done by way of measuring the attitudes of college youth toward military service. The question that presents itself is: How deep do these antimilitary feelings run, and how will they affect officer procurement efforts in the future? It is recognized that the attitudes of college youth toward the military, even the United States, exist before enrollment. If college students in the Armed Forces under a volunteer force concept? To answer this question, a national survey was conducted during the fall of 1969 on college campuses over the past several years. Resulted in such acts as the physical takeover of administration buildings and the burning of ROTC offices. These actions are not confined to any particular section of the country. They occur at both large and small colleges, both public and private schools, and involve some of the most prestigious and respected schools in the country.

The ability to attract and retain officers is a desirable requirement for a commission, and social life. They must have technical knowledge of our national, political, economic, and social life. They must have technical competence as well as a broad outlook, judgment, and wisdom.

The demand for highly skilled military officers coincides with the increased complexity of the American economy. The armed forces must have officers who are college graduates in order to meet minimum officer needs. Approximately 25 percent of the present officer corps are not college graduates (the majority of these officers are products of older programs which required only 2 years of college or in some instances no college at all). The emphasis on college-trained officers is reflected in the increasing proportion of officers who are college graduates as demonstrated in table II.

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<td>85%</td>
</tr>
<tr>
<td>High school</td>
<td>70%</td>
</tr>
</tbody>
</table>

The accelerated rate of change in weapons technology, coupled with the many options available for their deployment, has carried with it the demand for increased numbers of technically and managerially qualified commissioned officers. The impact of battlefield mobility tactics and small-unit independent actions in unconventional ground warfare has created new demands for tactical and technical leadership skills among junior officers. The armed forces have emphasized that military officers must not only possess the traditional military attributes and skills, but must thoroughly appreciate the many aspects of our national, political, economic, and social life. They must have technical competence as well as a broad outlook, judgment, and wisdom.

The ability to attract sufficient numbers of these young men to military service is a prerequisite to an all-volunteer force.

The U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy all contribute highly trained men to the armed forces and military education and all award a bachelor's degree. The services are currently experiencing a career retention rate of approximately 70 percent among Army graduates after the initial 4 or 5 years of obligated service have been completed.

For the Army, the ROTC program is a major source of new officers each year. There are both 2- and 4-year programs leading to Reserve commissions, although outstanding graduates may qualify for the Regular Army, Navy, or Air Force. The U.S. Military Academy is unique in that a distinct part of its "Regular" program provides a special number of opportunities for cadets to serve for the Regular Navy. The "contract" programs of NROTC compare to the Army's standard ROTC program. The Marine Corps programs-service academies, ROTC (Reserve Officer Training Corps), and OCS (Officer Candidate School)—is necessary for subse-

<table>
<thead>
<tr>
<th>Army</th>
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<tbody>
<tr>
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<td>20%</td>
</tr>
<tr>
<td>Air Force</td>
<td>22%</td>
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These data represent requirements which officer procurement programs must satisfy. The projections indicated in the Armed Forces will require approximately 28,300 first-term officers annually in order to support a 2.5 million man force. The primary source for meeting this need is the college graduate. Officer procurement programs have traditionally emphasized the baccalaureate degree as a desirable requirement for a commission, although each of the services has commissioned officers with less than this level of academic education during periods of mobilization in order to meet minimum officer needs. These data represent requirements which officer procurement programs must satisfy. The projections indicated in the Armed Forces will require approximately 28,300 first-term officers annually in order to support a 2.5 million man force. The primary source for meeting this need is the college graduate. Officer procurement programs have traditionally emphasized the baccalaureate degree as a desirable requirement for a commission, although each of the services has commissioned officers with less than this level of academic education during periods of mobilization in order to meet minimum officer needs.

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This group is obviously vital to the maintenance of a viable and well-qualified professional officer corps.

Table III—Percentage of Total Annual Officer Accessions by Source for Fiscal Years 1961-65

<table>
<thead>
<tr>
<th>Service</th>
<th>OCS/OTS</th>
<th>RMC/PLC</th>
<th>OCS/OTS</th>
<th>RMC/PLC</th>
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<td>4</td>
<td>8</td>
<td>4</td>
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<tr>
<td>Navy</td>
<td>4</td>
<td>6</td>
<td>4</td>
<td>6</td>
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<tr>
<td>Marine</td>
<td>3</td>
<td>9</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>Air Force</td>
<td>3</td>
<td>7</td>
<td>3</td>
<td>7</td>
</tr>
</tbody>
</table>

1 Includes Navy OCS, Marine OCS, Air Force OCS, and AEP. Air Force OCS is reduced by the 25 percent rotation of officers in the call years 1964-65 and 1965-66.
2 Includes direct appointments, dental, medical, nurses, chaplains, and ROTC
3 Includes Naval ROTC, Dental, Medical, and Nursing Programs.
4 Includes Navy LHD, ONI/OTC, and recalled Reserve officers.
5 Program included in Naval War College Survey, March 1970.

One reason for suspecting that an adequate supply of volunteer officers could prove difficult to obtain is that the center of current dis- sent is the college campus. The most vocal and physical manifestations of opposition to the Vietnam war are found among college students. Before specific methods of collection were estab- lished, it was necessary to formulate the questionnaires that would be mailed to those having voluntary ROTC programs only to insure adequate represent- ation along geographic, size, and school type lines. At the universities selected, approximately 20 percent of the ROTC enrollment in each school year was sur- veyed. As a result, 1,685 questionnaires were mailed to 20 universities. Of these, 2,400 were returned, this repre- senting 12 percent of the total Army and Air Force 1969-70 ROTC population of 145,000 students.

The basic questionnaire was designed to obtain information from Professors of Military Science and Aerospace Studies, pertaining to the overall ROTC program. The ins- pires provided by these senior officers from their vantage points proved extremely valu- able in the development of the basic questionnaire. The questionnaires of these officers were mailed to 20 universities, of which 49 percent were returned. The inherent danger of sponsorship bias was recog- nized; however, steps were taken to minimize these effects. First, individual en- velopes were attached to each questionnaire. Professors of Military Science and Aerospace Studies, pertaining to the overall ROTC program. The insights provided by these senior officers from their vantage points proved extremely valu- able in the development of the basic questionnaire. The questionnaires of these officers were mailed to 20 universities, of which 49 percent were returned. 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entered military service as a voluntary action and not as a result of being conscripted. It has been argued that since the officer corps is currently composed of volunteers, there is little reason to believe that it would be difficult to recruit sufficient numbers of officers under other circumstances. 

Realistically, it should be recognized that a given percentage of the current officer corps was motivated to volunteer by the pressures of the draft. The ORT program, while it has succeeded in drawing its combat troops from Vietnam and the absence of the draft, has also had an influence on the youth who would have volunteered without the draft. It is obvious that the current study shows that of the young men who would have volunteered without the draft, more than one in five would have joined these programs, a statistic that accords with other data obtained during this earlier period.

The high percentage of volunteerism displayed in the Marine Corps OCS program is probably due to the large number of noncollege graduates (35 percent) and the high percentage of prior enlisted personnel (20 percent).

It is important to note that the overall percentage of respondents who volunteered in the Army and Air Force ROTC includes all participants, freshmen through seniors. While the students enrolled in ROTC III and IV (primarily juniors and seniors) must commit themselves by contract to serve on active duty upon graduation, this is not the case for freshmen and sophomores in ROTC I and II (primarily freshmen and sophomores). On those campuses where no compulsory ROTC program exists, students may enroll in ROTC I and II as an elective for academic credit without committing themselves to the formal training required for subsequent military service. Upperclassmen, on the other hand, have arrived at a hard decision point. If they become eligible for drafting in the next year, they can either be conscripted in the Army enlisted ranks or enter one of the officer procurement programs. Since the underclassmen are still several years away from having to face this decision, the pressure of the draft is considerably less.

Table IV provides a detail of the degree of volunteerism associated with each college class year group, the ROTC senior and not the freshman that becomes eligible for drafting in the next year. If these differences are consistent for the candidates, this information indicates the relative "interest in a military career" among the candidates of the various programs. These results are consistent with the hypothesis that a significant difference is present among the responses of the various programs.

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Based on the responses to the Naval War College questionnaire, the typical officer candidate surveyed felt that the programs surveyed felt rather strongly that he could obtain a good position in civilian life if in the Armed Forces and believed that the Armed Forces would clearly enhance his potential for a rewarding position when he returns to civilian life.

Conclusions.

The study group experience supports this observation on the basis of its contact with college students during the pilot testing of the survey questionnaire. Students requested elementary information about first-term officer pay and allowances offered by the ROTC program. In some cases, there was a considerable unfamiliarity with officer pay and allowances, particularly among those at the freshman and sophomore level.

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May 3, 1971

all-volunteer basis is not considered feasible. Consequently, it is concluded that in the current environment, minimum officer needs for the Army, Navy, and Air Force can be met only by retaining Army, Marine Corps, and Navy officer requirements will be unacceptable except at the expense of other services.

2. The possibility of military service as a conscripted enlisted man in the U.S. Army provides the major incentive for first-term college oriented officer procurement programs. However, without this pressure, monetary incentives would entice some college youth to enroll in regular officer procurement programs. College-oriented financial assistance, such as a combination of scholarships and increased monthly allowances for officer volunteers in all the services. However, these factors will entice some college youth to enroll in the Armed Forces. Consequently, the selection criteria in the selection of scholarship candidates, service, and career interests will be required to meet the college-oriented officer procurement programs to remain productive.

3. A significant downward trend in ROTC enrollment was established before the Vietnam war became a major issue. This trend was observed by the dramatic increase in draft calls during the 1966-69 period. Under the pressure of high draft calls, the current and future ROTC student body committed themselves in 1968 for military service upon graduation. Consequently, it is expected that a reduction of high draft calls and negative campus attitudes will result in sharply curtailed ROTC enrollment and production beyond the 1970 time period.

4. The degradation of ROTC selective new officer programs enjoyed by the Navy OCS and the Air Force OTS programs will diminish substantially in the absence of a draft. While deterrence in quality can be expected without the draft, overall motivation and retention should improve. Pay, career prospects, and candidate career interests rub off on candidate careers rather than draft pressure.

5. The prolonged involvement in Vietnam has exerted a negative influence on the college-oriented officer procurement programs. It has, in fact, contributed to the decision by several prestigious universities to abandon their ROTC programs. In addition to the immediate impact on enrollment, withdrawal actions by these schools may permanently change the character of the ROTC program. If generally higher quality university students are not replaced in kind, the overall quality of the ROTC product will be adversely affected.

6. The ROTC scholarship program is economically attractive to many potential students. Unlike the Navy Regular program, however, there is no evidence that the Army and Air Force employ career motivation criteria in the selection of scholarship students. Consequently, in the absence of a draft, approximately 60% of the ROTC scholarship holders questioned would drop out of the program.

7. In the absence of a draft, the officer corps would attract college youth of lower socioeconomic background and reduced level of academic achievement. Furthermore, existing ROTC programs in the officer corps would be averted somewhat by virtue of the higher percentage of volunteerism in the ROTC program and the lower average officer income in the Northeast.

8. Candidates are generally enrolled in the college-oriented officer procurement programs regardless of their academic field of study. Almost half the candidates surveyed were from non-military discipline fields. Training, career planning, and personal interests in the utilization of college graduates is a primary influence for college-oriented officers to reject a service career.

Recommendations

1. That a system of conscription be retained and incentive programs progressively implement a reward for the volunteer. The monthly allowance and that a substantial increase be made in the number of ROTC scholarship candidates.

2. That the military departments establish criteria for identification of officer requirements and field of study needs. That such criteria be the award of ROTC scholarships be revised to include consideration of the career motivation of recipients. That award of ROTC scholarships be revised to include consideration of the career motivation of recipients.

3. That consideration be given to the utilization of monetary incentives in non-ROTC institutions as a means of inducing contract commitment to one of the college graduate officer programs such as OCS/OTS.

4. That first-term officer pay be raised to a level of recruitment and officer retention. That early purchase of officers with selected degree candidates.

5. That maximum public be given to existing and proposed monetary incentive programs. That in-service programs cannot be realized unless the desired population is aware they exist.

FOOTNOTES


7. It should be noted that force levels during this period averaged 2.6 million officers and men.


13. It is recognized that control of random

ness in the selection of individuals was relinquished to the ROTC faculty.

4. A 1961 DOD study indicates that 33 percent of Army officers surveyed (liutenant colonel through colonel) indicated that their initial motivation for entering the service was not "to be in the Army," (As reported in Morris Janowitz, ed., The New Military Changing Patterns of Organization (New York: Russell Sage Foundation, 1964), p. 274.)
ed from acting, the issue—as I said—is moot.

 Voting now on this amendment would thus be a gesture of blatant futility. If action is taken, I believe the legislature would adopt the amendment—nothing would be gained; nothing at all. It has never been customary for me to ask the Senate to undertake meaningless acts of futility. I would prefer instead to endeavor to find a remedy; I would prefer to take action that will have meaning—action that will result in the correction of the inequity visited upon the people of Montana and other states through the abolition of sufficient rail passenger service. That is the real issue at stake—the restoration to my part of the country of adequate rail service. It is to this question that I intend to devote my efforts and energies in the days ahead.

In this regard, it should be said that as recently as last Friday, negotiations began with officials of the National Rail Passenger Corporation to determine how to meet the rail crisis facing Montana. I am encouraged but not satisfied with the progress thus far. I am encouraged because the last Saturday in town is the last day of meetings with the administration and the legislators. Remedies that could be taken in connection with appropriate authorization or appropriation are available here in Congress—remedies that I intend to see that they soon will be and will remain available in Congress—remedies that remain available here in Congress—remedies that could be taken in connection with the line designated as the Twin City.

Mr. President, shortly I shall move to proceed to the consideration of calendar No. 81, S. 166, and to other items on the calendar that have been cleared. That action will involve the displacement of the Metcalf-Mansfield amendment and also with it, the underlying bill. They will go back to the Senate calendar, they will remain there until again called up on more appropriate time in the future. I intend to again call up S. 659 to which the Metcalf-Mansfield amendment is pending and, assuming the entire issue has been resolved, S. 659 unambiguously be placed in full at the conclusion of my remarks.

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

Mr. MANSFIELD. The article reads in part as follows:

Many regard it as another doubtful step in the march of civilization, on a par with the slaughter of the buffalo and the pollution of the Yellowstone River, which runs past Miles City.

Another part of the article reads as follows:

Part of the recension is peculiar to the Western so-called Republicans. Our Government gave the railroads large tracts of land in the 19th century to induce them to extend their lines into and across the West. The Burlington Northern still owns 1,496,137 acres in Montana, most of it valuable for ranching, oil and coal. These holdings stir deep animosities among many people. Half a dozen men sat drinking at the bar of the Golden Spur yesterday afternoon. "Damn it," said a Stetson and cowboy boots, "if the railroad is not going to run passenger trains, then I say let's make them give back the land and oil and coal we gave them."

Mr. President, today's mail brought a letter from a visitor to Montana whose condition may be diagnosed as pre-Railpaxfrustrated. His recital suggests that he will not again attempt a visit by common carrier to the Big Sky Country, because his condition would clearly worsen after May 1 when all of the passenger trains on the southern route of the Burlington-Northern are discontinued and instead of being unable to get reservations to travel on one of two trains, he will be unable to get reservations to travel on no trains.

Miles City, a ranching center with a population of about 10,000 on the Burlington Northern line, is one of hundreds of towns and cities that are without passenger trains since the National Railroad Passenger Corporation, or Amtrak, took over all railroad passenger trains this weekend.

In theory, service will improve in the towns that are left with service because of the savings from not having to serve the unprofitable places that have been cut off.

Such places as Harper's Ferry, W. Va., Barnevville, Ga., and Dothan, Ala., are in the same predicament as Miles City; Glendive, Missoulia, Forsyth, Billings and Bozeman, Mont. They are all without passenger trains, most of them for the first time since the beginning of the railroads.

The people of Miles City are not simply saddened by the loss of passenger service. They are angered.

Many regard it as another doubtful step in the march of civilization, on a par with the slaughter of the buffalo and the pollution of the Yellowstone River, which runs past Miles City.
I might point out that the Committee on Commerce took action last Thursday which will require the directors of Amtrak to appear before the committee and indicate in detail the whole situation as it relates to trains that are not now or will not be in operation. That was done in large part because of the respect and admiration of members of the committee for the integrity of the distinguished majority leader. My objection is the same as his. I want passenger service restored in this country. My home town of New Glen has no passenger service whatsoever. We have no trains taken off. We have none now. The Senate Joint resolution which the committee ordered reported last Thursday requires Amtrak to report to Congress by June 30, 1971, on the feasibility and desirability of expanding service beyond that included in the basic system.

It is because I believe that Amtrak will be the method and the means through which we can restore service in that area, as well as in the State of the distinguished Senator from Montana, and elsewhere throughout the Nation, that I felt his amendment was not wise at the time.

It threatened to destroy the operation so painstakingly put together by the corporation at its inception, rather than building upon the basic service system established by it.

In conclusion, I would like to express my opposition to the action taken by Congress in establishing Amtrak and the actions of its directors in the past months to begin its operation are firm steps forward toward a national rail passenger system.

The course which Congress must take is one which builds upon this established base—not one which sets back, or even cripples, its development. Accordingly, I will urge immediate passage of the study resolution when it is reported by the Commerce Committee this week. This study will provide the explicit information needed by Congress to determine if Amtrak should be strengthened and expanded to serve the needs of the Nation.

But, again, I say to the Senator from Montana, the distinguished majority leader, he is entitled to the greatest credit from all of us who are interested in railroad passenger service.

Mr. MANSFIELD. I thank the distinguished Senator from Vermont very much.

MILES CITY, MONT., May 2.—Casey Barthel­mess, 80 years old, once a bronco buster and a cowpoke, shifted on his crutches, outside the depot today, and asked the Amtrak agents, "Is the train still going to carry passengers through Miles City?" He said, "I wasn't simply interested in the train. I thought there might be a little excitement," he said. "It was just pretty quiet." He offered to pay him by going horseback in mid-stentence.

He had just watched the coming and the going, of the last passenger train through Miles City. As he spoke, the train could still be heard in the distance as it sped toward the end of the line at St. Paul.

"It had been a dream," as Mr. Barthel­mess said. "But there was drama in it for the 12 or 10 who had come to the old brick station to see the train machines of history.

THE BELL TOLLS

The eastbound Mainstreet from Seattle pulled into the dim Miles City station at 10:58 P.M., one hour and three minutes late. It was a long time since other trains, about five miles an hour, its bell seeming to toll more than the quiet and motionless.

"The engine pulled beside the worn platform and one passenger, a middle-aged man, got off and walked quickly away.

Two other men, a Montana editor and a companion, got on. Like hundreds of others they were taking a last ride to record, or just to feel, how it was the day the passenger trains stopped running in southern Montana and in many other places across the United States.

Miles City, a ranching center with a population of about 10,000 on the Burlington Northern line, is one of hundreds of towns and cities that are without passenger trains since the National Railroad Passenger Corporation, or Amtrak, took over all railroad passenger trains this weekend.

THE THEORY

In theory, service will improve in the towns that are left with service because of the savings from using those unprofitable places that have been cut off.

Such places as Harper's Ferry, W. Va., Barnsville, Ga., and Maysville, Ky., where the cars in the main passenger train, the Silver Meteor, and the Silver Star, are all without passengers, trains, most of them for the first time since the beginning of the railroads.

The people of Miles City are not simply saddened by the loss of passenger service. They are angered.

Many regard it as another doubtful step in the march toward a nation with the slaughter of the buffaloes and the pollution of the Yellowstone River, which runs past Miles City.

The loss of passenger trains is especially painful to those old enough to remember how good the service once was. Carter Smart, the old-time cowhand and wool buyer, said he and his family used to ride the train from Miles City to Glendive, Montana, whose father was an Amtrak agent, said he and his family used to ride the train from Miles City to their ranch 30 miles away and the train would let them off there.

"The trains stopped anywhere you wanted them to, by God, in those days," he said.

Miles City had only two daily passenger trains east and two west for several years. Many here admit that they have not used the trains much since the coming of the good highways and easy automobile travel. But they still resent having the trains taken off.

Part of the resentment is peculiar to the Western states. The Federal Government gave the railroads large tracts of land in the 19th century to induce them to extend their lines into the undeveloped areas of the West.

DEEP ANIMOSITY

The Burlington Northern still owns 1,439,137 acres in Montana, most of it valuable for ranching, oil and coal. These holdings stir deep animosity among many people. Half a dozen men sat drinking at the bar of the hotel and said it was a shame.

"Darn it," said an automobile dealer wearing a Stetson and cowboy boots, "if the railroad is not going to run passenger trains, then I want the oil and coal and the land and oil and coal we gave them.

Many who have continued to ride the trains believe it is a crime that the trains have stopped.

"Put the plane now," she said. "I don't think I could sit on a bus for 24 hours." Some will not be able to afford airplanes. From a town like Miles City, 154 miles to Billings, the train fare was $8. It costs $8.55 on the bus.

A coach seat on the train from Miles City to Minneapolis costs $18.60.

FEW MOURNERS

Despite the emotional wrench of losing the trains, not many people here went to the station last night to mourn the Mainstreet's last trip.

It was a Saturday night, much like any other here; 200 or 300 went to the Elks Club for the annual fiddler's contest, and several hundred other men and women crowded the bars and cafes on Main Street and ate, drank and danced.

But memory or sentiment edged aside the frolic here and there.

"Casey Barthel­mess left the fiddler's contest early to pay his respects to the trains. Bill Dunn, the postmaster, whose father was an engineer, came and looked at the engine's short black stack in his proud. Mrs. Patricia Birdwell and her son Brian rode double on a bicycle to come to the station.

The mourners drifted away as the rumble of the Mainstreet died in the east. All except Casey Barthel­mess. He stayed awhile, stumbled on his crutches, and talked of days past.

Barthel­mess was drama in it for the last time. Many who have continued to ride the trains are not simply saddened by the loss of passenger service. They are angered.

Many regard it as another doubtful step in the march toward a nation with the slaughter of the buffaloes and the pollution of the Yellowstone River, which runs past Miles City.

Mr. MONDALE. Mr. President, I would like to take this opportunity to comment on Amtrak and to renew my support for legislation that will postpone the implementation of this plan for 6 months. I believe that this delay is needed for several reasons.

First, I do not think that the Congress was misled regarding the original legislation that made Railpax possible. It was not my intention, when voting for this legislation, to force the abandonment of the use of half of the passenger trains that are currently operating or were operating as of April 30, 1971. My State will lose all passenger service, except for a single route traveling from Chicago to the Twin Cities, and then continuing across the State via Willmar, Breckenridge, Fargo-Moorhead, and Grand Forks.

Even though the legislation allows Amtrak to add routes in the future, I do not think that this is a very satisfactory solution. This addition of routes will be a painstakingly slow process and I know that many of these routes will be lost forever once they are abandoned by Amtrak.

When the preliminary report establishing the routes was first made available last fall by Secretary of Transportation Jack Williams, I fully supported the reduction in passenger train service for Minnesota and for the entire Nation. I followed this up with protests to Mr. George Stafford of the Interstate Commerce Commission and finally with Mr. David Kendall when he was appointed...
Chairman of the National Rail Passenger Corporation. The final report added two additional routes and made a few other minor changes but this was still not enough to make for an adequate rail passenger system.

The limited effect of Amtrak will force Minnesotans into using less dependable forms of transportation. Airlines serve only a limited number of Minnesota communities and oftentimes the fare is much more than many people can afford. Automobiles are restricted by snow and ice in the winter and often are not available to students, senior citizens, and other people who cannot afford to own an automobile or are not in a position to operate one. Amtrak will force other regions into identical situations and will cause even greater problems in the six States that are totally excluded from rail passenger service.

Labor would also benefit if we could delay the implementation of Amtrak for 8 months. Many railroad employees from Minnesota have contacted me to express concern over the job protection that will be provided by the existing legislation and by the contracts that Amtrak has negotiated with the railroads.

I share these concerns and would like additional time to study these matters.

I think that the Congress was misled by the administration, the Department of Transportation, and the Office of Management and Budget. They told us that this legislation and that the amount of money that they requested were adequate to provide a rail passenger network for this Nation. In fact, much more money would be needed to provide an adequate system and these agencies were not willing to advocate this position and would though they would have had very little trouble in obtaining approval from the Congress. I feel, therefore, if the administration and the Department of Transportation can consider spending Federal dollars in the development of the SST, then I can see no reason to exclude consideration for an increased Railpax appropriation and thus preserve necessary routes and services which would otherwise be discarded.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations on the Executive Calendar will be stated.

NATIONAL RAILROAD PASSENGER CORPORATION

The legislative clerk proceeded to read sundry nominations in the National Railroad Passenger Corporation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The legislative clerk read the nomination of 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.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

OFFICE OF ECONOMIC OPPORTUNITY

The legislative clerk read the nomination of Phillip Victor Sanchez, of California, to be an Assistant Director of the Office of Economic Opportunity.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of William T. Pecora, of New Jersey, to be Under Secretary of the Interior.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

DESIGNATION OF THE WASHAKIE WILDERNESS AND THE SHOSHONE NATIONAL FOREST IN WYOMING

The Senate resumed consideration of the bill S. 166, to designate the Stratified Primitive Area as a part of the Washakie Wilderness, and the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Wyoming (Mr. McGee).

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

STATEMENT BY SENATOR MCGEE

Mr. President, the bill before us to establish the Washakie Wilderness Area in Wyoming will serve admirably to enhance and improve upon the existing wilderness system in the State of Wyoming in the interest of the general public. The bill represents the fruits of much endeavor, including considerable dialogue between Senator Hansen and me, and the wisdom of designating these lands, but over the details involved, chiefly the boundaries. My colleague and I have worked long and hard at this job, with much assistance from the Interior Committee, U.S. Forest Service, conservationists, local residents, industry and others. We have reached agreement on substantially accepted lines which we ask the Senate to approve today, as it did last October, only to have the measure die for lack of House action in the 91st Congress.

This bill, of course, owes its genesis to the Wilderness Act of 1964, which directed that Primitive Areas be studied by the Department of Agriculture to determine their suitability for inclusion in the National Wilderness Preservation System. Such a study was made on the Shoshone Forest of Wyoming, Mr. President, culminating in this bill, which proposes to include most of the Stratified Primitive Area and some contiguous land in the Wilderness System by joining it to the existing South Absaroka Wilderness to form the newly-designated Washakie Wilderness. This is an area approximately 80 miles south-east of the city of Cheyenne, a region offering true wilderness values for the public, including opportunities for unusual adventure and challenge in a pristine setting on land free of man's interference with the works of nature.

The area being added to the Wilderness totals about 289,500 acres, while the existing South Absaroka Wilderness to which it is being added is 483,130 acres in size.

Much of the difficulty which surrounded the history of this legislation to this point, and which necessitated the lengthy consideration on the part of Senator Hansen and me, was concerned with the concern on the part of the President and his staff to have the area included in the Wilderness designation being considered today for several reasons, although it did not appear within the originally-proposed boundaries of the Washakie Primitive Area. The DuNoir Valley, which lies along the west end of the wilderness area, conservationists had wanted to see included in the area were eager to have this area included in the wilderness designation being considered today.

Senator MANSFIELD. Mr. President, I ask unanimous consent that the language be laid aside temporarily and the bill resumed.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the bill for a second time.
The proposed Washakie Wilderness results from a review of one such National Forest area by the Secretary of Agriculture. Pursuant to the Federal-Aid in Forest Restoration Act of the United States, Senator Hansen recommended that the area in northwestern Wyoming known as the Stratified Primitive Area be designated as a wilderness area.

On November 7, 1967, Senator Hansen submitted an original bill, S. 2630, which included the proposed Stratified Primitive Area, and proposed that it be designated as a wilderness area.

On February 19 and 20, 1968, hearings were held on S. 2630. At that time the Secretary of Agriculture submitted his report on behalf of the Department in support of S. 2630.

In the 91st Congress, two bills were introduced. S. 1468, introduced by Senator Hansen, included the area within the original Stratified Primitive Area. Also included within the boundaries of the Washakie Wilderness proposal were approximately 9,500 acres which met the criteria for wilderness. This area protected elk and wildlife migration routes.

Senator Moeller's bill, S. 164, would have increased the original wilderness area proposal by 45,000 acres.

S. 1468 as reported from committee was in form acceptable to both Senator Hansen and Senator Moeller. The final bill represented a compromise which satisfied both sides. The additional area included within S. 164 was included within the special management provisions forth in S. 1468.

That bill, S. 1468, passed the Senate October 14, 1970, but did not reach House consideration in the 91st Congress. This bill, S. 168, is identical to S. 1468.

MINERAL SURVEY

The U.S. Geological Survey and the Bureau of Mines, Department of the Interior, conducted a field investigation of the area during the summer of 1968. Generally, they found only minimal evidence of the presence of minerals. There has been no oil or gas leasing activity in the area, and although older rock formations indicate that there may be some oil, the prospect of the area becoming a source of oil and gas is considered minimal.

Likewise, it is believed that any coal, bentonite, or phosphate in the area is so deep in the ground that it is uneconomic to mine at the present time.

ENLARGED AREA

This bill includes approximately 2,000 additional acres of land within the wilderness classification in which some of the original area was included within the administration recommendations. The additional acreage is centered primarily around an area in the southern part of the proposed wilderness near a high, peaklike abutment known as the Ramshorn. The acreage was added mainly to act as a buffer zone to the Washakie area, as well as to provide for the inclusion of additional acreage which is of such quality that it should be given wilderness protection.

SPECIAL MANAGEMENT AREA

Special management provisions are provided for an area of approximately 35,000 acres located within the wilderness area. The proposed wilderness addition, generally referred to as the DuNoir area, the DuNoir is an unusually scenic region, but the committee decided it did not qualify as wilderness under the special management provisions which precede timber harvesting, additional roadbuilding, and other activities.

The area and its features are necessary for the administration of the unit by the Secretary of Agriculture.

COMMITTEE RECOMMENDATION

The Senate Interior and Insular Affairs Committee, by an amendment of comparable reports S. 168 and recommends its enactment.
SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON COMMERCE FOR INQUIRIES AND INVESTIGATIONS

The resolution (S. Res. 81) authorizing supplemental expenditures by the Committee on Commerce for inquiries and investigations was considered and agreed to, as follows:

Resolved, That the Committee on Commerce, or any subcommittee thereof, is authorized to expend, through February 29, 1972, from the contingent fund of the Senate not to exceed $150,000, in addition to the first amount authorized for the purposes stated in Senate Resolution 25, Ninety-second Congress, agreed to March 1, 1971, such amount having been included in that resolution because at the time at which that resolution was considered there was insufficient information for determining the total amount of expenditures the committee would incur in conducting its inquiries and investigations. Of such $150,000, not to exceed $14,000 (which shall be in addition to the amount specified in section 2(1) of such resolution) may be expended for the procurement of individual consultants or organizations thereof.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-85), explaining the purposes of the measure.

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

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

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

AUTHORIZATION FOR THE PRINTING OF ADDITIONAL COPIES OF THE "REPORT OF THE JOINT ECONOMIC COMMITTEE"

The resolution (S. Res. 97) authorizing the printing of additional copies of the "Report of the Joint Economic Committee" was considered and agreed to, as follows:

Resolved, That there shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

AUTHORIZATION FOR SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS FOR INQUIRIES AND INVESTIGATIONS

The resolution (S. Res. 107) authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations was considered and agreed to, as follows:

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cient information to determine the total amount of expenditures the committee would incur in conducting its inquiries and investigations.

PAYMENT OF GRATUITY TO FLORENCE H. LOUDERMILK

The resolution (S. Res. 117) to pay a gratuity to Florence H. Loudermilk was considered and agreed to, as follows:

S. Res. 117

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from moneys in the Contingent Fund of the Senate, to Florence H. Loudermilk, an employee of the Senate at the time of his death, a sum equal to one year’s compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AUTHORIZATION FOR THE PRINTING OF THE USE OF THE COMMITTEE ON PUBLIC WORKS OF ADDITIONAL ACTS OF HOUSE DOCUMENT 92-70, ENTITLED "CONTROL OF HAZARDOUS POLLUTING SUBSTANCES"

The resolution (S. Res. 110) authorizing the printing for the use of the Committee on Public Works of additional copies of House Document 92-70, entitled "Control of Hazardous Polluting Substances," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Public Works two thousand five hundred additional copies of the House Document 92-70, entitled "Control of Hazardous Polluting Substances," a report of the Secretary of Transportation, submitted to Congress in accordance with section 12(g) of the Federal Water Pollution Control Act, as amended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in H. R. 10, an exempt from the rule (No. 92-84), explaining the purposes of the measure.

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

The Committee on Rules and Administration is reporting this original simple resolution in lieu of Senate Concurrent Resolution 14, which as referred to the committee would provide (1) that there be printed as a Senate document the report of the Secretary of Transportation, entitled "Control of Hazardous Polluting Substances," submitted to Congress in accordance with section 12(g) of the Federal Water Pollution Control Act, as amended; and (2) that there be printed 2,500 additional copies of such document for the use of the Senate Committee on Public Works.

This action is taken by the Committee on Rules and Administration because the report in question has already been ordered printed as a House document, and since the 3,500 additional copies of the report requested by the Committee on Public Works would be contained within the $1,500 statutory limitation on printing additional copies by a simple resolution.

Printing-cost estimate, supplied by the Public Printer, is as follows:

| Printing-cost estimate | $ | 2,500 additional copies, at $420.16 per thousand | $1,050.45 |

AUTHORIZATION FOR A STUDY OF NATIONAL FUELS AND ENERGY POLICY

The Senate proceeded to consider the resolution (S. Res. 45) to authorize a study of national fuels and energy policy, which had been reported from the Committee on Interior and Insular Affairs with amendments: On page 3, in line 14, strike out the word "make", and insert the words "make, in accordance with the national policy enunciated in the Mining and Minerals Policy Act of 1970 (84 Stat. 1876)";

On page 7, at the beginning of line 3, strike out the date "January 31, 1972," and insert in lieu thereof "February 29, 1972.");

And on page 8, strike out the language of Sec. 7 reading:

The expenses of the committee under this resolution shall be paid from the Contingent Fund of the Senate, to wit: $200,000, in addition to the first amount and for the purposes stated in Senate Resolution 35, agreed to March 1, 1971, such amount having not been included in that resolution because at the time at which that resolution was considered there was need for public hearings and other information to determine the total amount of expenditures the committee would incur in performing its functions pursuant to the study authorized by this resolution.

And reported from the Committee on Rules and Administration with additional amendments:

On page 6, in the date of its agreement through January 31, 1972, shall not exceed $200,000, in addition to the first amount and for the purposes stated in Senate Resolution 35, agreed to March 1, 1971, such amount having not been included in that resolution because at the time at which that resolution was considered there was need for public hearings and other information to determine the total amount of expenditures the committee would incur in performing its functions pursuant to the study authorized by this resolution.

And reported from the Committee on Rules and Administration with additional amendments:

On page 9, in line 3, strike out through line 9 the language:

Sec. 3. The chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairman and ranking minority member shall serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate in the study authorized by the resolution and shall serve as ex officio members of the committee.

And in line 24, strike out "Such advisers shall serve without compensation.

On page 7, in line 2, after the comma, insert "or any subcommittee thereof,");

In line 24, strike out the words "in line 14 the language: "(1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies designated by such ranking minority and majority members of such committees as needed in carrying out the purpose of this resolution," and insert in lieu thereof: "in its discretion (1) to make expenditures from the Contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to consent to the assignment of personnel of other committees of the Senate to assist in carrying out the purposes of this resolution);

On page 7, at the end of line 25, strike out "by September 1, 1972."

On page 8, in line 5, strike out "The", and insert the words: "For the purposes of this resolution,

In line 10, strike out the words "and for the purposes thereof", and insert in lieu thereof the word "specified");

At the beginning of line 11, strike out "35" and insert "34";

And in line 17, after the word "resolution," insert "Of such $200,000, not to exceed $12,000 (which shall be in addition to the $200,000 specified in Sec. 3 of Senate Resolution 34) may be expended for the procurement of individual consultants or organizations thereof."

So as to make the resolution read:

Resolved, That the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified in rule XXV of the Standing Rules of the Senate, to:

(a) make a full and complete investigation and study (including the holding of hearings) of the policies of the Nation of the current and prospective fuel and energy resources and requirements of the United States and the present and probable future alternative procedures and methods for meeting anticipated requirements, consistent with achieving other national goals, including the high priority to national security and environmental protection; and
(b) make, in accordance with the national policy enunciated in the Mining and Minerals Policy Act of 1970 (84 Stat. 1876), a full and complete study of the existing and prospective governmental policies and laws affecting the fuels and energy industries with the view of determining whether or not the existing or any such governmental policies and laws are needed to assure and maintain an adequate and economical flow of energy and necessary related services, and the need for maintaining the necessary fuels and energy adequate for a balanced economy and for the security of the United States, taking into account: the Nation's environmental concerns, the involvement by and private enterprise for the maintenance of reliable, adequate, and effective sources of energy and fuel and necessary related industries, and the need for maintaining...
nance of an adequate force of skilled workers.

Sec. 2. In carrying out the provisions of sections 1 and 9 and other purposes, including such other matters as it may deem necessary, give consideration to:

(1) projected national requirements for the utilization of these resources for energy production, distribution, and/or transmission, in short range needs and to provide for future demand for the years 2000 and 2020;

(2) projected national requirements for the utilization of these resources for energy production, distribution, and/or transmission, in short range needs and to provide for future demand for the years 2000 and 2020;

(3) the proved and predicted availabilities of our national fuel and energy resources in all forms and factors pertinent thereto, as well as worldwide trends in consumption and supply;

(4) technological developments affecting energy and fuel production, distribution, and/or transmission, in progress and in prospect, including desirable areas for further exploration and technological research, development, and demonstration;

(5) the effect that energy producing, transmitting, and distributing industries, and energy and fuel has upon conservation, environmental, and ecological factors, and vice versa;

(6) the effect upon the public and private sectors of governmental programs and policies now in effect;

(7) the effect of any recommendations made pursuant to this study on economic concentrations in industry, particularly as these recommendations may affect small business enterprises engaged in the production, processing, and distribution of energy and fuel and their interaction with other governmental goals, objectives, and programs; and

(8) governmental programs and policies now in operation, including not only their effect upon segments of the fuel and energy industries, but also their impact upon related and competing sources of energy and fuel, and their interaction with other governmental goals, objectives, and programs; and

(9) the need, if any, for legislation de- signed to effectuate recommendations in accordance with the above and other relevant considerations, including such proposed amendments to existing laws as may be necessary to integrate existing laws into an effective long-term fuels and energy program.

Sec. 3. The chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairmen and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate in the study authorized by this resolution, and shall serve as ex officio members of the committee.

Sec. 4. The chairman of the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, is authorized under sections 194(a) and 195 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified in rule XXV of the Standing Rules of the Senate to:

(a) make a full and complete investigation and study of the future needs and requirements for fuel and energy in the United States and the present and probable future alternatives and methods for meeting anticipated requirements, consistent with achieving other national goals, including the high priorities—national security and environmental protection; and

(b) make such recommendations for national policy embodied in the Mining and Minerals Policy Act of 1970 (84 Stat. 1769), a full and complete study of the existing and prospective governmental policies and laws affecting the fuels and energy industry with respect to the United States and the Nation, and shall serve as ex officio members of the committee.

Sec. 5. The chairman of the Committee on Interior and Insular Affairs is authorized to appoint an advisory panel or panels of governmental experts in the fields of fuels and energy and the environment.

Sec. 6. The committee shall report its findings, including recommendations concerning the purposes of this resolution.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved, That the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, is authorized under sections 194(a) and 195 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified in rule XXV of the Standing Rules of the Senate to:

(a) make a full and complete investigation and study of the future needs and requirements for fuel and energy in the United States and the present and probable future alternatives and methods for meeting anticipated requirements, consistent with achieving other national goals, including the high priorities—national security and environmental protection; and

(b) make such recommendations for national policy embodied in the Mining and Minerals Policy Act of 1970 (84 Stat. 1769), a full and complete study of the existing and prospective governmental policies and laws affecting the fuels and energy industry with respect to the United States and the Nation, and shall serve as ex officio members of the committee.

Sec. 5. For the purposes of this resolution the committee, or any subcommittee thereof,
is authorized through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to authorize the transfer of the services of any department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of any department or agency, and (4) to consent to the assignment of personnel of other committees of the Senate to carry out the purposes of this resolution.

Sec. 6. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate.

Sec. 7. For the purposes of this resolution, the Committee on Interior and Insular Affairs, or any subcommittee thereof, is authorized to expend, through February 29, 1972, from the contingent fund of the Senate not to exceed $200,000, in addition to the first amount specified in Senate Resolution 34, against which no expenditure has been made, in connection with the study authorized by this resolution. Of such $200,000, not to exceed $12,000 (which shall be in addition to the first amount and for the purposes stated in Senate Resolution 3), may be expended for the procurement of individual consultants or organizations thereof.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-37), explaining the purposes of the measure. There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 45 as amended would authorize the expenditure of not to exceed $200,000 (not to exceed $12,000 of which could be used for the procurement of individual consultants) through February 29, 1972, by the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, to—

(a) make a full and complete investigation and study of the energy situation (including the laws, regulations, and policies of the Federal government, state regulatory agencies, the industry, the coal and petroleum industries, and the electric utility companies in the United States) and some of the alternatives that may be considered to meet the problems of the short and long run and the high priorities—national security and environmental protection; and

(b) make, in accordance with the national policy enunciated in the Mining and Minerals Policy Act of 1970 (84 Stat. 1876), a full and complete investigation and study of the existing governmental policies, laws, and regulations affecting the fuels and energy industries with a view of determining what, if any, changes, amendments, or modifications of such policies and laws may be advisable in order to simplify, coordinate, and provide effective and reasonable national policy to assure reliable and efficient sources of fuel and energy adequate for a balanced economy and for the security of the United States, taking into account the potential demand for fuels and energy; the financial and other support needed for the development and exploration of new energy sources; the investments by public and private enterprise for the maintenance of reliable, efficient, and adequate energy supplies; and the need for maintenance of an adequate force of skilled workers.

The chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairman and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate in the study authorized by this resolution and shall serve as ex officio members of the committee.

The chairman of the Committee on Interior and Insular Affairs would be authorized to appoint not more than six non-Government experts in the field of fuels and energy and the environment, in accordance with section 133(g) of the Legislative Reorganization Act of 1946, Senate Resolution 45 contains the following statement of the reason why authorization for the expenditures described therein could not have been included in that resolution because at the time at which that resolution was considered there was a need for public hearings and other information to determine the total amount of expenditures the committee would incur in conducting its inquiries and investigations pursuant to the study authorized by this resolution.

AMENDMENTS BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Amendments to Senate bill, the Committee on Interior and Insular Affairs, and the explanations therefor are as follows:

On page 3, line 14, insert a comma and the following phrase after the word "make" at the beginning of the line: "in accordance with the national policy enunciated in the Mining and Minerals Policy Act of 1970 (84 Stat. 1876)."


On page 8, beginning on line 1, delete all of section 7 and insert in lieu thereof:

"Sec. 7. The Committee on Interior and Insular Affairs, or any subcommittee thereof, is authorized to expend, through February 29, 1972, from the contingent fund of the Senate not to exceed $200,000, in addition to the first amount and for the purposes stated in Senate Resolution 34, which shall be in connection with the study authorized by this resolution in conducting its inquiries and investigations pursuant to the study authorized by this resolution."

This amendment was necessary under the legislative Reorganization Act amendments of last year to explain why the committee did not request funds for this study at the time our regular budget request was made and approved by the Senate. Because of the complexities involved and the time required for this fuels study, the committee did not have sufficient time to begin the study until now.

AMENDMENTS BY THE COMMITTEE ON COMMERCE AND PUBLIC WORKS

At the request of the Committees on Interior and Insular Affairs, the Committee on Rules and Administration is reporting Senate Resolution 45, with the following additional clarifying and technical amendments:

On page 6, beginning with line 3, strike out through line 9, and insert in lieu thereof:

"Sec. 6. The chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairman and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate in the study authorized by this resolution and shall serve as ex officio members of the committee."

On page 7, line 25, strike out ""by September 1, 1972."

On page 8, line 5, strike out ""The"" and insert in lieu thereof the following: ""For the purposes of this resolution,"

On page 8, line 10, strike out ""and for the purposes stated"" and insert in lieu thereof ""specified in Senate Resolution 34."

On page 8, line 11, strike out ""35"" and insert in lieu thereof ""34."

On page 8, line 17, alter the period, add therefor the following: ""Of such $200,000, not to exceed $12,000 (which shall be in addition to the $6,000 specified in section 2 of such Senate Resolution 34) may be expended for the procurement of individual consultants or organizations thereof."

On page 8, line 20, insert after ""therein"" the following: ""relative to the background and need for the study which would be authorized by Senate Resolution 45, excerpted from the report by the Committee on Interior and Insular Affairs thereon (S. Rept. 92-33), is as follows:

BACKGROUND

Energy is fundamental to the industrial structure and high standard of living of the United States today. Future economic growth will depend on rapidly increasing requirements for energy in all forms. Historically, the United States has had more than adequate supplies of diverse and competitive energy resources. In recent years, however, a number of examples of failure in supplying all of the energy which the country requires. Blackouts resulting from power outages and energy supply have increased sharply, some natural gas distribution companies are unable to supply all new customers, dependence upon oil imports is increasing, and natural gas reserves are declining.

These numerous developing problems in the energy system have occurred during a period when the only energy policy was a de facto one resulting from a series of narrow, short-term initiatives made by Congress and by a large number of different Federal, State and local agencies. The need for a coordinated national energy policy is needed in order to prevent future disruptions in our energy supply.

PURPOSES OF THE STUDY

Numerous energy studies have been and are being made by industry, various agencies and departments in the Executive Branch of the Government, private governmental agencies, many universities, private research foundations and by industry trade associations. Each of these studies has usually dealt with one specific and narrower problems which face these different groups. No previous attempt
has been made to make a comprehensive analysis of existing energy policies or of identifying conflicting policies, of describing systematically the numerous energy problems associated with them, and, to date, to sponsor an internally consistent set of alternative policies that lead to solutions of present problems, or to greater future ones.

Unanimous support for the need for this study was received during hearings on February 23, 1971, from such diverse interest groups as National Coal Association, the United Mine Workers, American Petroleum Institute, Independent Petroleum Association of America, American Public Power Association, Independent Natural Gas Association, National Economic Research Associates, Watterson Electric Corporation, and the Consumers Federation of America. Senators Bellmon, Randolph, Ribicoff and Tower all added their favorable comments during the hearings as to the need for this study. Written comments supporting the resolution were also received from the American Gas Association, the American Mining Congress, Edison Electric Institute, National Rural Electric Cooperative Association, Shell Oil Company, and American Public Power Association and Senator Thomas H. Kuchel and Senator Cooper.

**INCREASE OF THE LIMIT OF EXPENDITURES FOR HEARINGS BEFORE THE COMMITTEE ON ARMED SERVICES**

The Senate proceeded to consider the resolution (S. Res. 105) increasing the limit of expenditures for hearings before the Committee on Armed Services which had been reported from the Committee on Rules and Administration with an amendment making the increase effective on March 1, 1971. Senator William Proxmire moved to supplement the amendment by striking out the reference to March 1, 1971 and substituting the reference to February 20, 1971. He stated that the Committee on Rules and Administration had agreed to this change in the resolution and the change was made on the amendment.

The amendment was agreed to.

**BILL PASSED OVER**

The bill, S. R. 4246, to extend certain laws relating to the payment of interest on time and savings deposits and economic stabilization was announced as next in order.

**Mr. MANSFIELD, Over, Mr. President. The PRESIDING OFFICER (Mr. Horne). The bill will be passed over.**

**AMENDMENT OF THE SMALL BUSINESS ACT**

The bill (S. 1260) to amend the Small Business Act was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1260  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 4(c) of the Small Business Act is amended by striking out "$2,200,000,000" and inserting in lieu thereof "$3,100,000,000".

Mr. MANSFIELD, Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-68), explaining the purposes of the measure.

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

Senate Resolution 105 would authorize the Committee on Armed Services to expend from the contingent fund of the Senate, during the 92nd Congress, $20,000 in addition to the amount ($10,000), and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, as amended. The committee has had an exceptionally large number of meetings this session of Congress, and $10,000 was requested for the purpose of the original $10,000 for transcripts of the proceedings of those meetings.

The committee has been reporting from the Committee on Armed Services in the format customarily employed for such purposes. Due, however, to changes in the provisions of the Legislative Reorganization Act of 1946, a new procedure is now required. Specifically, section 133(g) of that act requires that the committee (except the Committee on Appropriations) desiring to authorize expenditure of funds in excess of the $10,000 per Congress authorized by section 134(a) of the same act shall offer one annual authorization resolution to procure such authorization. Section 133(g) also stipulates that any funds in addition to those authorized in its annual expenditure authorization may be obtained by a committee during that year only by means of a supplemental expenditure authorization resolution. Since these new provisions limit authorizations for additional expenditures to an annual basis, it is not now possible to consider or treat them as supplements to the statutory $10,000 granted committees on a biennial basis.

Section 133(g) further stipulates that the supplemental resolution shall contain an explicit statement of the reason why authorization for the additional expenditures was not included in the annual expenditure authorization resolution.

While the Committee on Rules and Administration approved the request for additional funds contained in Senate Resolution 105, it is required to report the resolution as an amendment in the nature of a substitute to an amendment to an act by the committee. As amended, the act shall permit: The new procedure is now required.

The bill would enable SBA to continue its programs only through fiscal year 1971. S. 1260 will permit these programs to continue through fiscal year 1972.

S. 1260 was introduced by Senators McInerney, Sparkman, and Tower on March 10, 1971. Hearings were held by the Committee's Subcommittee on Small Business on April 21. Among the witnesses was Hon. Thomas S. Kleppe, Administrator of the Small Business Administration, who appeared in support of S. 1260.

Mr. Kleppe informed the committee that SBA now thinks that it will be able to present the present ceiling in May of this year, somewhat earlier than anticipated. There are two reasons why the ceiling is being reached earlier than anticipated. The first is that SBA has been significantly more successful than expected with the guarantee program, primarily under section 7(a) of the Small Business Act. Under this program, the agency may guarantee up to 90 percent of an acceptable loan from a bank or other lending institution. With budgetary restrictions on SBA's direct loan program, the guarantee program has grown at a rate which was not anticipated earlier. Under the 7(a) program, guarantees were originally budgeted for fiscal year 1970 at $800 million. The actual cost estimate for this year is over $750 million and for fiscal year 1972 is over $850 million.

The second reason for the premature reaching of the ceiling is the anticipated decline in loan repayments. The following table shows how SBA's projections of loan repayments have changed over the past 1/2 years, and how those projections accord with actual experience.
RENEWAL OF AUTHORITY FOR CEILINGS ON DEPOSIT INTEREST RATES AND WAGE AND PRICE CONTROLS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 90, H.R. 4246 and that S. 699 be displaced and go back to the Calendar.

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

The legislative clerk read as follows:

H.R. 4246, to extend certain laws relating to the payment of interest on time and savings deposits and economic stabilization.

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

The Senate proceeded to consider the bill, which had been reported by the Committee on Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause, and insert:

EXTENSION OF AUTHORITY FOR THE FLEXIBLE REGULATION OF INTEREST RATES ON DEPOSITS AND SHARE ACCOUNTS IN FINANCIAL INSTITUTIONS

Section 1. Section 7 of the Act of September 21, 1966, as amended (Public Law 91-151; Public Law 92-6), is amended by striking out "1971" and inserting in lieu thereof "1973".

REMOVAL OF TIME LIMITATION ON THE AUTHORITY OF THE PRESIDENT TO APPROPRIATE CERTAIN FUNDS


PRICE AND WAGE CONTROLS

Sec. 3. (a) Section 202 of the Economic Stabilization Act of 1970 (Public Law 91-370) is amended—

(1) by inserting "(a)") before the text of such section; and

(2) by adding at the end thereof a new subsection as follows:

"(b) The authority conferred on the President by this section shall not be exercised with respect to a particular industry or segment of the economy unless the President determines, after taking into account the seasonal nature of employment, the rate of employment or underemployment, and other relevant factors, that prices or wages in that industry or segment of the economy have increased at a rate which is grossly disproportionate to the rate at which prices or wages have increased in the economy generally."

(b) Section 206 of such Act is amended by striking out "May 31, 1971" and "June 1, 1971" and inserting in lieu thereof "September 30, 1971" and "October 1, 1971", respectively.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BRYD of West Virginia. Mr. President, during the further consideration of H.R. 4246, I ask unanimous consent that the time on any amendment, motion, or appeal, with the exception of a motion to lay on the table, be limited to 30 minutes, the time to be equally divided and controlled between the mover of such amendment or such motions, the majority leader or the minority leader or their designees; and that either of these leaders may from the time under his control on the bill allot such additional time as may be desired to any Senator during the consideration of any amendment, motion, or appeal, with the exception of a motion to lay on the table.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, the right to object and I have no intention of objecting, if the distinguished Senator from West Virginia will clarify the request. I understand time on the bill can be yielded on any amendment. Mr. BRYD of West Virginia. That is correct.

Mr. PROXMIRE. Time on the bill is 1 hour.

Mr. BRYD of West Virginia. Equally divided.

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

Mr. PROXMIRE. Mr. President, will the acting majority leader yield time on the bill?

Mr. BRYD of West Virginia. Mr. President, I yield time under my control to the Senator from Wisconsin.

Mr. TOWER. Mr. President, will the distinguished Senator from West Virginia rephrase his request so that I may control the time on the minority side since the minority leader is not in the Chamber?

Mr. BRYD of West Virginia. Yes, I do so now.

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

Mr. PROXMIRE. Mr. President, I yield myself 16 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

RENEWAL OF AUTHORITY FOR CEILINGS ON DEPOSITORY INTEREST RATES AND WAGE AND PRICE CONTROLS

Mr. PROXMIRE. Mr. President, H.R. 4246, as amended by the Committee on Banking, Housing and Urban Affairs would: first, extend until June 1, 1973, the authority of the Federal bank regulatory agencies to establish flexible ceilings on the rate of interest payable on time and savings deposits by commercial banks, mutual savings banks, and savings and loan associations; second, to extend on a permanent basis the President's authority to initiate a program of voluntary credit controls, and third, extend until October 1, 1971 the President's authority to establish mandatory price and wage controls.

DEPOSIT RATE CONTROL AUTHORITY

Section 1 of the legislation extends until June 1, 1973, the authority to establish flexible ceilings on the interest rates paid by financial institutions on time and savings deposits. This authority was first enacted by the Congress in 1966 in order to avoid the financial institution's ability to make large commercial banks to divert funds from thrift institutions and smaller commercial banks. Since thrift institutions place the bulk of their funds in home mortgages, the loss of savings deposits by these institutions resulted in a sharp drop in new home construction. In renewing the flexible deposit rate control authority, it is expected that the financial institutions will continue to administer the ceilings so as to promote a reasonable flow of savings to mortgage-oriented thrift institutions.

VOLUNTARY CREDIT CONTROLS

Section 2 of H.R. 4246 removes the expiration date of the authority for voluntary credit controls similar to those President Truman put into effect during the Korean War. Under this authority, the President could establish committees of private lenders to work out voluntary programs for channeling credit from less essential to more essential uses. The authority is contained in the Defense Production Act which expires on June 30, 1972. Since a related authority for mandatory credit controls was enacted into permanent law in 1968, the Committee has no reason why this voluntary credit control authority should not also be made permanent. The Federal Reserve Board, which would administer the authority if implemented, has testified that it has no objection to making the authority permanent.

WAGE AND PRICE CONTROL AUTHORITY

Section 3 of H.R. 4246 extends until October 1, 1971, the President's standby authority for controlling prices, wages, salaries, and rents. This authority, which expires on June 1, 1971, was first enacted by the Congress on August 15, 1970—Public Law 91-378; 84 Stat. 799—in order
to give the President maximum authority for fighting inflation. Although the enactment of the authority was originally opposed by the administration on the grounds that it was not needed and that it had no intention of using such authority, the President has used the authority to stabilize wages and prices in the construction industry. During the hearings on H.R. 4246 and S. 1201, the administration supported a 2-year renewal of the authority.

The committee had serious reservations about applying the price controls to a single industry. An industry subject to price controls has no control over the price it must pay for the products of other industries. Likewise, workers subject to wage controls have no protection against a continued rise in the cost of living. For these reasons, the committee has recommended the administration adopt a voluntary system of wage-price guideposts before applying mandatory controls to any specific sector of the economy. Such a program of voluntary wage-price guideposts was also recommended by Arthur Burns, the chairman of the Federal Reserve Board, in his testimony before the committee.

As a specific restriction on using the price-wage control authority on a single industry, the committee approved an amendment requiring a specific finding by the President. Under the amendment, the President is prohibited from using the authority in a single industry unless he determines that wages or prices in that industry have increased at a rate which is grossly disproportionate to the rate for the economy as a whole, after taking into account any mitigating factors such as a change in the nature of employment or the rate of unemployment or underemployment in the particular industry.

Because of the broad grant of power given the President, the committee decided to recommend a renewal of the wage and price control authority until October 1, 1971, rather than the 2 years sought by the President.

Although the House bill would extend this authority to April 1, 1973, the House bill also provides that the entire authority expires 6 months after the date of the first order issued under the authority. The fact is that the President has issued an order.

Since the President has issued an order under the legislation on March 29, 1971, with respect to the construction industry, the authority contained in the House bill would effectively expire on September 29, 1971. Under either bill, the committee, in the majority of its members, felt that it was necessary to review the need for continuing the wage-price control authority, to examine the results achieved in the construction industry, and to assess the progress made by the administration in curbing general wage and price increases by a voluntary guidepost system or by other means.

**MNDANAL BENVIGUILE**

Mr. President, the Committee also considered a proposal which would have authorized the Federal Reserve Board to distribute the impact of tight money more evenly throughout the economy. As the author of this proposal, I believe the Federal Reserve Board has a responsibility to conduct monetary policy in such a way that socially important segments of the economy are not unduly damaged.

Unfortunately, in our recent post-war history this has not been the case. For example, in five times over the last 20 years, the construction sector of the economy has been devastated by the Federal Reserve Board's tight money policy. Moreover, the impact of tight money on housing seems to be getting worse and not better, despite the numerous actions taken to deal with the problem.

One member of the Federal Reserve Board, Gov. Sherman Maisel, who is in charge of monetary policy on that board, has estimated that the homebuilding industry accounts for 70 percent of the impact of the Board's tight money policy in 1966. When an industry suffers on an order of magnitude and 70 percent of the burden of fighting inflation, something is obviously wrong with the way monetary policy works.

Because of the inherent difficulty in applying price and wage controls to any specific industry, we are not opposed by the administration on the amendment. The President is prohibited from using the authority in a single industry unless he has made a specific finding that we will make increasing use of monetary policy as a tool for managing the economy. If this is the case, it is likely that, as we have seen, the homebuilding industry and other sectors of the economy in which the President has been most concerned will suffer during the next credit shortage. These sectors will include State and local financing, small business, and agriculture.

Section 4 of S. 1201 which I introduced would have permitted the Federal Reserve Board to deal with this problem by establishing variable reserve requirements for high-interest rate sensitive industries. During a period of tight money, the Board would establish high reserve requirements on business loans and low reserve requirements on housing loans. The effect of this change would be to shift money from business spending into housing. In this way, the Board could at least partially offset the impact of its restrictive monetary policy on the economy.

Of course, they could also do that with respect to State and local governments and other sectors, which have been crippled in tight money periods.

Under this proposal, the Board could also have facilitated the flow of credit for the following additional purposes: poverty area development; State and local financing small business; family-sized farming; and export financing. In addition, the Board was authorized to restric the flow of credit to those sectors of the economy where, in the Board's judgment, credit restraint would help stabilize the monetary system.

This proposal was strongly supported during hearings by the National Association of Homebuilders and the AFL-CIO. However, the Federal Reserve Board opposed the idea, although at least one member, Gov. Andrew Brimmer, approved the idea in principle but had reservations about the feasibility of providing for it. After hearing the testimony, the Subcommittee on Financial Institutions voted 5 to 4 to favorably report the proposal to the full committee. However, a majority of the full committee was opposed to the idea and the provision was deleted from the legislation.

Mr. President, I am naturally disappointed that the reform measure was dropped from the bill. I realize it is difficult to enact reform legislation unless there is a crisis which makes the need for action overwhelming. In our present economic circumstances, there is a ready availability of mortgage credit. Indeed, the Federal Reserve Board has been expanding the money supply at an annual rate of about 5 percent for the past few months. With consumer banks bursting with loanable funds, it is easy to forget the tight money conditions of 1969 and 1966. However, despite the favorable conditions, the basic problem will not go away. Unless the Federal Reserve Board can come up with some specific alternative recommendations for improving its monetary policy, the problem will continue for a few years.

Mr. PROXMIRE. I yield myself 2 additional minutes.

The home building sector experts who testified indicated that this could be as early as next fall or next winter.

I understand the Federal Reserve Board has been studying the impact of monetary policy on housing and that it intends to submit a report to the Congress by September 15 together with its recommendations for stabilizing the flow of credit to the homebuilding industry. According to the Board, the nation's largest housing association has opposed the idea, although at least one member of the Federal Reserve Board has always managed to supply the monetary breaks. The Nation's Largest Housing Association of Homebuilders and the AFL-CIO which I believe is so urgently needed.

Mr. TOWER. Mr. President, I yield myself 3 minutes.

I recommend the passage of the bill before us, H.R. 4246, as reported by the Committee on Banking, Housing and Urban Affairs, with a provision that the wage and price controls authority be extended from 6 months to 2 years; that is to say, to meet the provisions of the
House bill, which contains the 2-year authority.

The Senate version of the bill grants general wage and price control authority to the President, who should make findings from date of enactment, at which time it would be presumably reviewed and renewed by Congress. The House version of the bill extends the authority for 2 years, which I personally favor as a more practical housekeeping provision. Congress can always rescind the power during the 2-year period, if it is so inclined. Then, I would argue, the question of whether or not the regulation of interest rates for financial institutions is essentially the same as the House version, granting a 2-year extension to regulation Q authority.

Neither bill has any specific effect on the currently imposed restraints on the construction industry, other than that they would expire in 6 months under the Senate version and in 2 years under the House version, as the general wage and price authority extension may be determined in conference.

Mr. TOWER. Mr. President, on the bill or on the amendment?

Mr. PACKWOOD. Mr. President, I yield myself such time as I may need on the bill.

Mr. TOWER. Mr. President, on the bill or on the amendment?

Mr. PACKWOOD. On the bill first.

Mr. TOWER. Mr. President, I yield 5 minutes on the bill to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, the Senator from Wisconsin (Mr. Proxmire) has dwelt at length on the decision of the committee to strike out of the bill the delegation of the powers to the Federal Reserve Board to set variable reserve requirements. And has spoken in such a way as to indicate that the committee was not perhaps willing to undertake some of the social priorities that that delegation might entail.

In committee I voted to strike that power from the Federal Reserve Board, I think that is a power, Mr. President, that the Senate and the House should act on together, and not delegate to the Federal Reserve Board.

The argument is going to be made that the Federal Reserve Board is an agent of Congress, not an executive agency, and that is true. The Federal Reserve Board is historically, actually, and legally independent of the executive, and in theory is an arm of the legislative branch. As a matter of practice, we have given great autonomy to the Federal Reserve Board and have bent over backward not to interfere in its decisions.

The Senator from Wisconsin made reference to the fact that this is the only central bank in the world that operates 202 powers.

Mr. President, the Federal Reserve Board should be part and parcel of the political process of this country. I think that the decisions they take in regard to monetary matters should be considered in the light of the effect they will have on the national economy. But I do not think that is a decision the Federal Reserve Board should make for itself.

Look at the Federal Reserve Board: Seven members appointed by the President—not by Congress—to serve for terms of 14 years, and, once appointed, any interested party is, so to speak, bound to no one, subject to election by no one. It was suggested, if this power had not been stripped from the bill, that we give it to this board of seven members with 14-year terms the power to determine what should be the reserve requirements for banks as far as loans to industry, to small business, and to local and State governments.

Mr. PACKWOOD. Mr. President, the amendment would specifically do one thing. The bill, as presently worded, delegates generally to the President the power to institute wage and price controls and the only limitation on that power relates to the imposition by the President of wage and price controls in a specific industry or specific occupation. In the bill, we suggested that at any time, if he has to make certain findings before he does it. He is not prohibited from doing it, and, most importantly, if he wants to institute wage and price controls generally, across the board, in this bill he is empowered to do so under the bill.

Mr. President, I do not think that is a power the President should have. We have been arguing that the President and the Gulf resolution was passed about the fact that Congress has not had the authority, or the power, or been able to undertake the responsibility, or whatever it was, to make war, and that we have delegated to the President the power to send troops overseas. Without getting into a discussion, Mr. President, as to whether we have or have not done that, it is important to remember that if we pass a measure that day after day for the past 5 years, on the floor of the Senate, we have been listening to Congress talk about reasserting its powers.

Mr. President, I ask unanimous consent that I be given great autonomy to the Federal Reserve Board, a board that is not part and parcel of the economic at levels not less than those prevailing on May 25, 1970.

Whenever the Congress shall by concurrent resolution determine that the public interest requires the imposition of general controls affecting all industries and segments of the economy, the President shall make certain findings before he institutes specific wage or price controls, or whatever it was, to make war, and that we have delegated to the President the power to send troops overseas. Without getting into a discussion, Mr. President, as to whether we have or have not done that, it is important to remember that if we pass a measure that day after day for the past 5 years, on the floor of the Senate, we have been listening to Congress talk about reasserting its powers.

What I am asking in my amendment is for Congress to reassert its powers in the field of wage and price controls. My amendment would inhibit the President from instituting wage and price controls—these are general wage and price controls, Mr. President—unless Congress first, by concurrent resolution, authorized it. It would not prohibit the President from instituting specific wage and price controls, but if he wants to make the further decision to establish general wage and price controls, that will affect the entire economy—the most significant domestic act that can be done—he will be prohibited from doing it, under my amendment, unless Congress asks first.

When we had witnesses on this question, Mr. President, I asked them as to the merits and possibilities of this kind of amendment, and I would like to quote from the record of the hearings on March 1, 1971, before the Financial Institutions Subcommittee of the Senate Committee on Banking, Housing, and
Urban Development. The witness was Dr. Burns of the Federal Reserve Board. I asked this question of Dr. Burns: I have some misgivings about yielding this power to the President. Is there any reason why the legislation we have enacted cannot leave with Congress the discretion as to whether or not to trigger the policy decision to institute wage and price controls? Dr. Burns. It could be done through a triggering device. Senator Packwood. It would not be that difficult a piece of legislation to enact, would it not? Dr. Burns. I would think that a triggering device could be written into legislation, a device that would work reasonably well.

I asked the question again of Under Secretary of the Treasury, Charles Walker:

Let me ask you the same question I asked Dr. Burns. While I have misgivings about giving the power to the Executive to make the decision to impose general controls, I don’t argue with giving the Executive the authority to administer such controls.

Would it be relatively easy to draw that piece of legislation which would enable Congress to quickly trigger the policy decision as to whether or not we should institute either general or specific wage and price controls and also providing for the Administration to administer them? Dr. Walker. I think it would be.

Then when Representative Reuss from Wisconsin was on the stand, I asked him this question, in relation to the imposition of wage and price controls:

What you are saying is that Congress could do it; Congress probably should do it, but in all likelihood Congress probably will not do it.

Mr. Reuss. A fair statement.

Mr. President, there is no reason to give to the President the power to institute general wage and price controls.

I even have misgivings about giving him the power to institute specific wage and price controls, but I frankly do not think I have the votes to stop that. There is no easy reason why we in this body should give him the power to institute general wage and price controls.

Inflation is not an emergency, if by an emergency we mean some unexpected happenstance that creeps up and drops back and forth, that is not a nuclear attack on the United States. Its effect on the economy is gradual. Congress is perfectly able, if it wishes, to exercise that power.

Most of us have spent a fair portion of our adult lives campaigning across our States, asking the citizens of our States to send us to the U.S. Senate and give us the power to exercise our own independent judgment and to be to what the basic domestic and foreign policy of this country ought to be.

I hope we have not grown so weary that we are tired of wrestling with that responsibility. It is very easy to give this power away. It is easy to say, “Let us delegate it to the President. Let us let him make the decision.” Then if he makes it unwisely or unpopularly, we can criticize him. But I do not think it makes it wisest or in the popular way we can applaud him, and we will all be recited forever. But I do not think that is the obligation of Congress.

Congress is intended to be the principal policymaking body in this Nation, for-
effect very quickly the order and it could hold for a few weeks or a couple of months. But in order for the President to sustain it, he would have to come to Congress to get the funds. On the basis of everything I have seen and heard, those funds would be very substantial, because it would mean that the President would make wage and price controls effective, especially in a period such as the present, when we have a war on, when the war is unpopular, in order to discipline the construction industry. I share sympathy for those workers. That could be imposed elsewhere. On the basis of this amendment, it could be imposed against workers across the board; it could be imposed by the President on workers in any kind of industry; and there would be no requirement that Congress pass implementing legislation to make it effective as there would be if we had wage and price controls affecting prices and profits.

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

Mr. PROXMIRE. I yield.

Mr. TOWER. The Senator says that this amendment will be antilabor, because it will allow the President to control wages in specific industries. It will also allow him to control prices.

Mr. PROXMIRE. But not the general price level.

Mr. TOWER. Neither would it allow him to control general wage levels without coming to Congress first.

Mr. PROXMIRE. The Senator can see the impracticality of putting this into effect so far as prices are concerned. The construction industry, for example, is in such a position that if their prices for what that industry produces were limited, they would still have to pay higher prices for what they buy. Therefore, it is not a practical, effective kind of operation for imposing price controls. For that reason, the President has not really enforced price controls in the construction industry. He is working in that direction vaguely, but he has indicated a firm restriction on wage increases in construction. I do not say that this amendment would be perfect; it could be discriminatory against labor.

Mr. TOWER. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. I yield.

Mr. TOWER. I should like the Senator to answer a question. I should like to ask the distinguished proponent of the amendment if this would have any effect on the current restraints being imposed in the construction industry. It is my understanding that this amendment is not retroactive and therefore would have no effect on that. Is that correct?

Mr. PACKWOOD. That is the advice I had from the legislative counsel when we had it drafted.

Mr. TOWER. Would this be discriminatory toward everybody or nobody?

Mr. PACKWOOD. This is discriminatory toward everybody or nobody. As to the suggestion that it is going to be difficult to set price ceilings or depress that can be imposed on wages, rents—everything the President has the power to set. It does not discriminate against labor alone; and if there is a failure in this amendment, there is a failure in the entire bill.

Mr. PROXMIRE. The difficulty is that the Senator has not required action by Congress if a restraint is put into effect by the President against the construction industry or any other industry, but it does require an overall limitation on wages and prices.

I do not refer to this President specifically, but any President can act if he wishes to restrict a particular industry or any portion of an industry. I do not refer to any of the President's language, but he cannot act to restrain prices overall unless Congress acts. Then, as the Senator points out in his amendment, the President is not bound to put it into effect. He may do it if he wishes.

Mr. PACKWOOD. That is correct. That is, so far as I am concerned. I indicated in my principal remarks that I would be happy if he could not even have the power specifically for price controls, but I do not have the votes to do that. I see no reason there to justify that by saying that we can take half a loaf or we will not take any, but will give the President the power to institute wage and price controls over the entire economy or any portion of an industry. I do not think, in good conscience, that we can go a bit further and say that we are exercising responsibility when we give away this critical power.

Mr. PROXMIRE. Mr. President, the amendment makes the argument that we cannot move faster, that Congress is immobile. If we are, then it is our fault, not the President's.

As I look at the history of legislation, and all this argument as to whether Congress should exercise its power which stems from the problems we have had in Southeast Asia, the Gulf of Tonkin resolution which was introduced on August 5, 1964, was passed on August 7. So this Congress can move fast if it wants to. On the salary increase legislation for Congress 2 years ago, the bill took us the sum total of 6 days to pass. If we can pass an act in 6 days, we can act on wage and price controls in a substantially faster manner, because it is a much greater national emergency.

Mr. PROXMIRE. If the Senator from Oregon would yield on that, the difficulty with enacting wage and price controls is that the inflation situation is not a clearly defined problem as the situation up.

Wages creep up. They differ in the varying industries. We have all kinds of indices, including the wholesale price index, the manufacturers price index, the consumers price index, and so forth, so it is very complicated and statistical. It is hard to mobilize congressional approval. It takes hearings, studies, and there is opposition to consider. It is hard to put into effect.

That is why, in the Korean war, when we imposed wage and price controls, it was done on the basis of provision in the Defense Production Act which was then exercised by the President at a later date. This is not the efficient way and the logical way to put it into effect.

Mr. TOWER. Has not the administration already stated that if it determines it should seek controls, it will come to Congress and ask for a joint resolution authorizing it anyway?

Mr. PACKWOOD. That is what they stated.

Mr. TOWER. So the Senator's amendment is entirely consistent with what the administration proposes to do under the existing administration.

Mr. PACKWOOD. That is what the administration has indicated. I heard much of the fact that when we first passed wage and price controls a year ago, they said they would use it all, but went ahead and did it. It is not a question of whether they will or not. The question is whether Congress will put this monkey on its back as to whether it wants wage and price controls.

I find the argument of the Senator from Wisconsin fallacious. Not 12 months, 6 months, or 3 months. We have not passed a concurrent resolution giving him the power to institute wage and price controls. We are not asking for a full-dress argument on what the controls should be when they go into effect, on which industries is to be controlled. All we are asking is that some time in the future, by a concurrent resolution, we give the President the same power we give to him in this bill. If we can make that decision, it can mean that Congress will make it, not the President.

The PRESIDING OFFICER (Mr. Wickers, who yields time). Who yields time?

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time on the amendment.

Mr. PACKWOOD, Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Oregon.

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

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. Bricker), the Senator from North Dakota (Mr. Bentsen), Mr. Cannon of Nevada, the Senator from Idaho (Mr. Church), the Senator from Arkansas (Mr. Fulbright), the Senator from Illinois (Mr. Diamond), the Senator from Louisiana (Mr. Luce), the Senator from Wyoming (Mr. McGee), the Sena-
Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I call up matters that I stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 4, line 10, strike "September 30, 1971" and insert in lieu thereof "March 31, 1973" and "April 1, 1973".

Mr. TOWER. Mr. President, I yield myself as much time as may be necessary.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, this amendment would bring the bill into conformity with the House bill which provided for a time limitation of 2 years rather than 6 months. This is something imminently desired by the administration. As a matter of fact, the administration does not favor the Senate bill in its present form.

It seems to me far more practicable for planning purposes that the President be given 2 years. This does not mean that he would continue to exercise that authority, but because any point in time Congress can review the exercise of this authority and terminate it at any time it chooses.

Therefore, from a practical managerial standpoint it seems reasonable that the time be 2 years.

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

Mr. TOWER. I yield to the Senator from New York for so much time as the Senator needs.

Mr. JAVITS. I thank the Senator. Mr. President, I agree with the Senator. I voted against the previous amendment because I believe our economy is still in grave trouble; and I believe we are at war, and, therefore, we should have the machinery on the books which is compatible with war so long as we stay at war.

I think the element of unsettlement—paying out some line and then pulling it back in—which is represented by the short date, is a disadvantage in the bill. I am glad the ranking minority Member has filed the amendment and I shall support it.

Mr. SPARKMAN. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I voted against the distinguished Senator from Texas if he would consider changing the time period of his amendment from 2 years to 1 year. His proposal, I understand, is for 2 years.

Mr. TOWER. The Senator is correct. Mr. SPARKMAN. I wonder if the Senator would be willing to ask the distinguished Senator from Texas if he would change that to 1 year. As the Senator knows, we had considerable discussion on the Senate and the committee did not even go for 1 year. The House bill that has already passed calls for a 2-year extension.

Mr. TOWER. Two years.

Mr. SPARKMAN. The House passed bill provides for 2 years, but if the bill with a 1-year extension, it is my understanding that the House will accept the bill, and in that way we would avoid the necessity for a conference.

I wonder if the Senator would be willing to accept an amendment at a 1-year rather than a 2-year term.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. SPARKMAN. I yield. I further announce that the Senator from Alabama, Mr. GRIFFIN, I announce that the Senator from Nebraska, Mr. DOLE, the Senator from Colorado, Mr. DOMINICK, the Senator from Nebraska, Mr. HARKIN, the Senator from Iowa, Mr. MILLER, the Senator from Ohio, Mr. SAXE, and the Senator from South Carolina, Mr. THURMOND are necessarily absent.

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Mr. TOWER. Two years.
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The PRESIDENT pro tempore of the Senate, Mr. TOWE R. I so modify my amendment.

The amendment, as modified, is as follows:


The PRESIDENT OR F FICE R. Do Senators yield back their time? Mr. TOWER. I am prepared to yield back any time.

Mr. PROX M IRE. Mr. President, I yield my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDENT OR F FICE R. Who yields his time? Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PROX M IRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PROX M IRE of West Virginia. I announce that the Senator from Texas (Mr. BERTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. GRAMM), the Senator from California (Mr. FULBRIGHT), the Senator from Ohio (Mr. MURREN), and the Senator from South Carolina (Mr. POWELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMS BELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. SPIEGEL. I announce that the Senator from New York (Mr. BRENNER), the Senator from Kansas (Mr. DOLL), the Senator from Colorado (Mr. DOMINICK), the Senator from Nebraska (Mr. HURSKA), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. SANDERS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Oklahoma (Mr. BELL) is absent because of illness.

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

The Senator from Arizona (Mr. GOLDBET) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Iowa (Mr. MILLER), the Senator from South Dakota (Mr. MUNDY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Delaware (Mr. BOGS) would each vote "yea."

The result was announced—yeas 67, nays 4, as follows:

[No. 56 Leg. 1971 PAAS 67]

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Albott
Anderson
Baker
Bayh
Beall
Bennett
Bible
Brooke
Byrd, Va.
Byrd, W. Va.
Case
Chiles
Cook
Cooper
Coxon
Curts
Eagleton
Eastland
Eliender
Fannin
Fong
Gravel

Aiken
Albott
Anderson
Baker
Bayh
Beall
Bennett
Bible
Brooke
Byrd, Va.
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Case
Chiles
Cook
Cooper
Coxon
Curts
Eagleton
Eastland
Eliender
Fannin
Fong

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Nelson
Pastore
Pearson

Williams

So the bill (H.R. 4246) was passed.

The title was amended, so as to read:

"An act to extend certain laws relating to the payment of interest on time and savings deposits and economic stabilization, and for other purposes."

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SENSFIELD. Mr. President, once again the Senate is deeply indebted to the distinguished Senator from Wisconsin (Mr. PROXMIRE). He, together with the able chairman of the Committee on Banking, Housing and Urban Affairs, the distinguished Senator from Alabama (Mr. PROCTOR) and the overwhelming adoption by the Senate of this measure extending the President's authority over wages, prices, and credit.

No authority, may I say, may prove more critical to the President in the present state of the economy. Senator PROXMIRE and Senator SPARKMAN are to be commended. Their leadership in this matter was outstanding.

The Senate is grateful as well to the distinguished Senator from Texas (Mr. TOWE R). He joined to assure the efficient disposition of this proposal. His support was vital to its overwhelming approval.

The distinguished Senator from Oregon (Mr. Paskw ood) and other Senators deserve our commendation, as well. Their contributions to the debate were most helpful. The Senate is most grateful.

ORDER FOR ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be an additional period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

Is there further morning business?

THE MAYDAY DEMONSTRATION

Mr. TUNNEY. Mr. President, the wild antics of the Mayday demonstrators are deplorable.

Overturning vehicles, throwing rocks, disrupting traffic, clashing with police are acts of anarchy.

They are contrary to the yearnings of a majority of Americans for peace.

They damage efforts to end American involvement in the war in Indochina.

They polarize and divide Americans at a time when they should be united.

I support the peace movement. I want to see a target date for getting out of Vietnam at no date later than the end of this year. But I deplore the fact that people who supposedly support peace in Vietnam are so willing to bring violence within our own country.

I want our troops out of Vietnam, and I want them out of Washington, D.C., as soon as the current disorders abate.

I want our troops out of Vietnam, and I want them out of Washington, D.C., as soon as the current disorders abate.

Until that time, I believe our police and the military police should use whatever force, within constitutional limits may be necessary to keep our bridges and streets open.

The demonstrators tried to trample the rights of Americans peacefully to go to their jobs, and they failed.

They tried to act with plan and coordination, and they failed.

They tried to rally massive support, and they failed.

They did succeed, however, in hardening the attitudes of those in the administration who want to keep our bombers in the air over North Vietnam and our troops on the ground in South Vietnam.

The vast majority of Americans want the war to end. Just as emphatically,
they do not want lawlessness and rebellion here.

With other Senators, I supported the Administration's non-recognition of Rhodesia in Washington, D.C., and in San Francisco because they brought hundreds of thousands of Americans together in orderly and legitimate assembly.

I reject the Mayday protests. I reject them as un-American, and I reject them as harmful to getting our troops out of the quagmire of Southeast Asia.

And I reject their premise that violence overseas must be matched by violence in our Nation's Capital.

RECOGNITION OF SENATOR GURNEY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, pursuant to the rule of the Senate, the distinguished Senator from Florida (Mr. GURNEY) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the conclusion of the remarks of the distinguished Senator from Florida (Mr. GURNEY) on tomorrow, there be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the additional period for morning business be concluded.

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

SPECIAL HEALTH CARE BENEFITS FOR CERTAIN SURVIVING DEPENDENTS

Mr. BYRD of West Virginia. Mr. President, for the purpose of laying before the Senate the pending business at this time, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 93, to amend title X of the United States Code, to provide special health care benefits for surviving dependents, reported with an amendment.

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 was reported from the Committee on Armed Services with an amendment: On page 2, line 1, add the following new section:

Sec. 2. This Act becomes effective as of January 1, 1967. However, no person is entitled to any benefits because of this Act for any period before the date of enactment.

So as to make the bill read:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of title 37, United States Code, or from a disease or injury incurred while eligible for such payment, his dependents are receiving benefits under a plan covered by subsection (d) of this section shall continue to be eligible for such benefits until they pass their twenty-fifth birthday."

Sec. 2. This Act becomes effective as of January 1, 1967. However, no person is entitled to any benefits because of this Act for any period before the date of enactment.

Mr. BYRD of West Virginia. Mr. President, there will be no further action on the bill today.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Pastore Amendment be taken up for the remainder of this afternoon and that the Senator from Virginia (Mr. Byrd) now be recognized for not to exceed 15 minutes.

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

EXEMPTION FROM CHROME ORE FROM LIST OF MATERIALS SUBJECT TO RHODESIAN EMBARGO

Mr. BYRD of Virginia. Mr. President, last week, the distinguished Senator from Nevada (Mr. CANNON) spoke on the floor of the Senate in regard to the exemption of chrome ore from the list materials subject to the Rhodesian embargo.

It seems to me that that speech was significant. The distinguished Senator from Nevada is now chairman of the Subcommittee on the National Stockpile and Naval Petroleum Reserves. He expressed grave concern that under the embargo on trade with Rhodesia, because of that embargo, the United States is dependent upon the Soviet Union for 60 percent of the chrome ore it needs.

Mr. President, chrome ore is a strategic material and extremely important to the national defense of the United States.

The distinguished Senator from Nevada called attention to legislation which has been passed in the Senate, S. 1404, which legislation, if enacted, would exempt chrome ore from the list of materials subject to the Rhodesian embargo and, thus, would end our dependency upon the Soviet Union for this highly important commodity.

Now, Mr. President, when the United States, in the not too distant future, put an embargo against trade with Rhodesia 4 years ago, the senior Senator from Virginia expressed concern and spoke in opposition to the embargo. However, the embargo was put on by executive action. It did not come to the Senate. President Johnson, acting alone, put an embargo on U.S. trade with that small African nation.

Mr. President, it seems to me that what our country has done to Rhodesia is unjustified and unprincipled. I see no justification for the United States to deny its citizens the right to trade with that peaceful country of Rhodesia. What has Rhodesia done? The only thing it has done is that it has sought its independence from Great Britain, just as the United States did in 1776. As to whether Rhodesia should be independent of Great Britain or continue her dependency on that country, that is a matter, it seems to me, that should be decided by the peoples of those two countries. I do not feel that the United States has any right to inject itself into that dispute. Nevertheless, it has done so.

President Johnson, speaking on behalf of our Nation, unilaterally decreed that embargo. So, while I personally oppose the embargo in all instances, I am concerned today, and I think any embargo which I have introduced is concerned, only with strategic materials; namely, chrome.

I think it is highly significant that the able junior Senator from Nevada, the chairman of the Subcommittee on the National Stockpile and Naval Petroleum Reserves, who I am not sure shares my views in regard to total embargo with Rhodesian trade, introduced an amendment to the Senate last week his grave concern that the United States is now dependent upon the Soviet Union for this strategic and critical material.

The present administration has asked Congress through S. 773 to promote the disposal of 1,313,600 short dry tons of metallurgical grade chromium—chrome ore equivalent—from the Government stockpiles. This constitutes about 30 percent of this material that we now have on hand to assure an adequate supply in case of emergency.

The Senator from Nevada pointed out that this proposal to release chromium ore from the stockpile creates somewhat of a problem. There is no domestic production of the type of material in question, and we are looking for foreign sources to supply our requirements. Based upon the present rate of consumption, the subcommittee which the junior Senator from Nevada heads estimates that the amount to be disposed of would supply our total requirements for a period of less than 2 years.

The distinguished Senator from Nevada pointed out also that testimony before his subcommittee left it unmistakable clear that while the amount of material to be released could be readily absorbed by the consuming industry and could be considered at the disposal of the world market at prices in line, the relief would be short lived. The principal importation sources in calendar years presumably needed, were the Soviet Union, Turkey in North Africa, with the Soviet Union supplying about 60 percent of the needs of the United States.

Mr. President, the distinguished chairman of the Subcommittee on National Stockpile and Naval Petroleum Reserves, the junior Senator from Nevada, strongly urged in his speech last week that the
And it should win the approval of the Congress.

OKINAWA

Mr. BYRD of Virginia. Mr. President, the Senate will soon be called upon to consider a change in the Treaty of Peace with Japan. Negotiations have been going on for quite some time, but no agreement has been reached, so far as I know, on any changes which are proposed in the treaty of peace. I concur in that view expressed by the distinguished Senator from Arkansas.

I disagree with him, however on whether or not the United States should give up the unrestricted right to bases in Okinawa, but that is beside the point.

I am mainly concerned with today that any change in those treaties which the Senate has already ratified not be done by unilateral action, but that it be done by the Chief Executive with the advice and consent of the Senate.

The letter to the New York Times by the Senator from Arkansas is a splendid one. It sets forth the case with clarity and effect. I agree with the last paragraph of his letter, I think it sets forth the case in excellent fashion.

Mr. President, I ask unanimous consent to print the text of the letter from the chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULLERTON), dated April 22, 1971, be printed at this point in the Record. I am not going to read the letter which the Senator has ordered to be printed in the Record, as follows:

April 22, 1971.

EDITOR, New York Times, New York, N.Y.

To the Editor: Having followed with interest and admiration your many editorials urging the Congress to retrieve its constitutional authority in foreign relations, I was taken aback by your editorial of April 19, urging the return of Okinawa to Japan by executive agreement on the ground that a Senate debate that might make the Okinawa accord "hostage to the Southern textile lobby and other protectionist interests."

I find that certain what might be called liberal publications, which in the past have been urging the Senate to assume its prerogatives, have been saying that the Senate has too frequently shirked its responsibilities, and I agree. It seems to me that an administration that would shirk its responsibilities in respect to the treaty on Okinawa, we find the New York Times coming out and stating that the administration is making a mistake to have the treaty considered by the Senate, and that it should be done by unilateral action, by Executive action, because the New York Times feel the Senate may not do what it wants done.

One of those Members of the Senate who has been strong in his belief that the Senate should assert its responsibilities in connection with foreign policy is the distinguished chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULLERTON). The Senator from Arkansas has addressed letters to the editor of the New York Times in which he takes issues with the view of the New York Times. He points out that it is the constitutional responsibility of the Senate to act on treaties and that any changes in the treaties from every logical sense should be submitted to the Senate before any change becomes effective.

The chairman of the Committee on Foreign Relations states in his letter to the New York Times that he strongly favors the restoration of Okinawa to Japan and:

As chairman of Senate Foreign Relations Committee, I will tell all that I can to secure Senate approval of a treaty or restoration.

However, Mr. President, he is strong in his position that the only proper course, the only appropriate course, and the only logical course is a Senate debate, that is, any change which is proposed in the treaty of peace.

The New York Times may well be correct in its belief that compliance with constitutional procedures must be reduced to a nullity, that it causes serious embarrassment in our relations with

May 3, 1971

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Foreign Relations Committee, to which committee was referred S. 1404, the legislation introduced by the senior Senator from Virginia, is a serious problem which has been created for this Nation, a problem which we cannot continue to ignore.

It appears to me that the views expressed by the distinguished and able Senator from Nevada, I feel that this is a problem that cannot and should not be ignored. It is astonishing that our committee would permit itself to be in a position of being dependent upon the Soviet Union for a critical and strategic material such as chrome.

I hope that the Foreign Relations Committee will give this matter early consideration. I think it deserves early consideration.

I want to say frankly that I am so greatly concerned about our country being dependent on the Soviet Union for a strategic material that when the stockpile bill comes to the floor of the Senate, if the Foreign Relations Committee does not act affirmatively in this matter, I feel it appropriate to permit the Members of the Senate to cast a yes and no vote. Whether or not the United States will continue to be dependent upon the Soviet Union for a material critical to our own national defense.

Mr. President, I call the attention of the Senate to an editorial which was published in the Fort Smith, Ark., Southwest Times—Record of April 13, 1971. Among other things, the editorial had this to say:

The U.S. embargo on purchases from Rhodesia didn't seem to us to make sense from any standpoint. Any dispute any other country might have with Rhodesia certainly wasn't a U.S. dispute. And, economically, it surely didn't make sense to pay twice as much for the metal as had been paid before.

Mr. President, I ask unanimous consent that the text of the editorial to which I have referred be printed in the Record.

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

MOVE AGAINST RHODESIAN CHROME BOYCOTT

Pressure is building up in Congress to stop letting Russia gouge this country on chrome ore purchases in Rhodesia.

And the route proposed to accomplish that is by ending the boycott of chrome purchases in Rhodesia.

Back when that country declared its independence from Britain, a clique in the United Nations forced through a resolution calling for "sanctions" against it. And the route proposed to accomplish that is by ending the boycott of chrome purchases in Rhodesia.

The more important consideration is that, whatever his motive, the President acted in accordance with the Constitution. Okinawa was placed under American administration by executive agreement. In the case of Okinawa, but that is beside the point.

As the Secretary of State, the President is charged to act in accordance with the Constitution. Okinawa was placed under American administration by executive agreement. In the case of Okinawa, the President is charged to act in accordance with the Constitution.

The Treaty of Peace with Japan was ratified by the Senate in 1952; and any change in that treaty, I submit, must come to the Senate for approval or disapproval. Two years ago I introduced a resolution in the Senate declaring it to be the sense of the Senate that any change in the Treaty of Peace with Japan should be submitted to the Senate for approval or disapproval.

It is interesting to note that the Senate approved that resolution by vote of 63 to 14. I am pleased that the administration—the Department of State—will follow the recommendation of the Senate resolution. I think it is the only appropriate course that can be taken.

Contrary to the view of some of my colleagues, I am not surprised they took that course because I have known President Nixon for a long time and I had great confidence he would submit to the Senate any proposed changes in the treaty of peace.

I find that certain what might be called liberal publications, which in the past have been urging the Senate to assume its prerogatives, have been saying that the Senate has too frequently shirked its responsibilities, and I agree. It seems to me that an administration that would shirk its responsibilities in respect to the treaty on Okinawa, we find the New York Times coming out and stating that the administration is making a mistake to have the treaty considered by the Senate, and that it should be done by unilateral action, by Executive action, because the New York Times feel the Senate may not do what it wants done.

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However, Mr. President, he is strong in his position that the only proper course, the only appropriate course, and the only logical course is a Senate debate, that is, any change which is proposed in the treaty of peace.
Japan. That same risk—of difficulties in foreign policy—has been voice-activated on occasion as an excuse for circumventing the constitutional authority of Congress, especially in matters of the treaty. The question is never so redoubled. It is more important to us: speed and efficiency in the conduct of foreign policy or the constitutional prerogatives?

For my own part, I strongly favor the restoration of Okinawa to Japan and, as Chairman of the Senate Foreign Relations Committee, I will do all that I can to secure Senate approval of a treaty of restoration. I also agree that the President should accomplish the reversion of Okinawa and the remainder of the Ryukyus (which contains Okinawa) to Japan in 1952 and has ever since had unrestricted control over them. Okinawa is the largest American military base in the Far Pacific and constitutes a vital base as long as the United States continues its treaty protection of Japan and other Pacific and Asiatic nations.

At a meeting in Washington with Prime Minister Sato of Japan, in November, 1969, President Nixon agreed in principle to an early return of Okinawa, any agreement to be contingent upon “necessary assurances.” Mr. Byrd previously had submitted an amendment to the Senate giving the President authority to store nuclear weapons there and would require consultation before our military bases there could be used.

Similarly, this was written into the 1960 Mutual Security Treaty with Japan. The amendment was adopted, 63 to 14, and has ever since had unrestricted right to use its military bases on Okinawa. For four long years we have fought the Viet Nam war with one hand tied behind our back (actually six years as of this date). As a result, the war has been prolonged and the casualties increased. Let us not be so foolish as to get into a similar position by giving someone else control over our principal military bases.

I ask unanimous consent that an editorial from the Chicago Tribune of today, May 3, 1971, entitled “We Need a Free Hand in Okinawa,” be printed in the Record.

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

WE NEED A FREE HAND ON OKINAWA

Sen. Harry F. Byrd Jr. of Virginia has raised important questions concerning the proposed reversion of Okinawa and the remainder of the Ryukyus to administrative control of Japan. The United States has occupied these territories thru the peace treaty with Japan in 1952 and has ever since had unrestricted control over them. Okinawa is the largest American military installation in the Pacific and constitutes a vital base as long as the United States continues its treaty protection of Japan and other Pacific and Asiatic nations.

To HELP DECIDE

Virginia Sen. Harry F. Byrd Jr., is right in his insistence—which he has put since the subject of Okinawa’s possible reversion to the United States was last brought before the Senate—that any decision on that matter is a treaty issue, requiring two-thirds Senate approval.

In further validating that view, he mentions the fact that the Nixon Administration—in communications by both the President and Secretary of State, William P. Rogers—has consistently maintained that body ANY change in the Treaty of Peace with Japan.

It must not be forgotten, indeed, that the United States insists on reserving to Okinawa as a result of that Treaty (which so much has had to be ratified by the Senate) and any change in it must also be submitted to that level of advice-and-consent authority.

Two important principles are involved: (1) The constitutional role of the Senate in foreign policy and in ratification of treaties; and (2) whether it is wise for the United States at this time to give up the unrestricted right to use our great military base in the Far Pacific.

Senators with disfavor the contrary view of some news media—including the New York Times—now urging reversion of Okinawa to Japan by Executive agreement rather than by submitting it to the Senate. The Virginia state man does not give tacit assent to the matter of that reversion by Executive agreement rather than by submitting it to the Senate.

The Virginia state man does not give tacit assent to the matter of that reversion by Executive agreement rather than by submitting it to the Senate. He clearly believes the advisability of that to be a moot question, subject to determination by careful, competent assessment of the facts. He clearly believes the constitutional process and concern for interbranch relations and mutual consultation in dealing with nuclear weapons there and must be achieved by and with the consent of the Senate.

When that question was put to the Senate 18 months ago, in discussion of the policy viewpoint to be presented to Prime Minister Sato of Japan on the occasion of his 1969 visit to the United States, the body approved it 63 to 14.

Sen. Byrd was right then, and he is right now.

THE PENDING BUSINESS

Mr. BYRD of Virginia, Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. BYRD of West Virginia, Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and at 3 o’clock and 30 minutes p.m. the Senate adjourned until tomorrow, Tuesday, May 4, 1971 at 12 o’clock noon.

NOMINATION

Executive nomination received by the Senate May 3, 1971.
“SALUTE TO STEEL” THEME OF WEIRTONIAN BANQUET—SENA­TOR RANDOLPH STRESSES NEED FOR REALISTIC APPROACH TO IN­DUSTRIAL PROBLEMS

HON. JENNINGS RANDOLPH
Of WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES
Monday, May 3, 1971

Mr. RANDOLPH. Mr. President, Weir­ton, W. Va., is a city whose economy is largely dependent on the steel industry. As the home of the Weirton Steel Divi­sion of National Steel Corp., the indus­trial citizens there are well aware of the importance of this industry, not only to our Nation, but to a fine community such as the Northern Panhandle area.

On May 2 the Weirtonian Lodge No. 183 of the Order of Italian Sons & Daugh­ters of America gave public recognition to this vital industry with a "Salute to Steel" at its 16th annual banquet. I was privileged to speak at this event, attended by approximately 300 residents of Weirton and nearby places. The program was widely representative of the community.

The invocation was given by Col. Dur­ward Brown, of the Civil Air Patrol; Mike Sinicropi served as chairman; and Trent Ciarocchi was toastmaster.

My colleague in the House of Repre­sentatives, Representative Robert H. Mollonan, attended. Remarks were given by John Redline, president of the Weirton Steel Division, and Circuit Judges Ralph Pryor and Callie Tsapis. The benediction was by the Reverend Fr. James Altmeier.

Among the guests was James Henry Heriot of Wheeling, W. Va., who earlier that evening was presented the Civil Air Patrol's second highest citation, the Gen. Carl Spaatz Award, in a ceremony at the lodge. He is the first West Virginian to be so honored.

Mr. President, I ask unanimous con­sent that my address be printed in the Record.

There being no objection, the address was ordered printed, as follows:

A SALUTE TO STEEL

(By Senator JENNINGS RANDOLPH)

At some time in the fifth or sixth cen­tury, the Christian Greek warriors placed weapons in the temple of Ares, the god of war, located in the city of Mycenae.

Earlier this year, according to a news dispatch, archaeologists digging in the ancient ruins uncovered two highly unusual spear­heads. They were given to a metallurgist for analysis and chemical examination. He de­termined that the spearheads were of solid steel, rather than the case-hardened wrought iron common to that period.

Now the significance of this event is not lost among steel men today. It is the first solid evidence that the ancient Greeks were able to mold steel as it was first produced in Europe. It is pure academic speculation, but I'm sure that some historians will begin to argue that the fall of Troy was not so much a result of a wooden horse, but of a steel spearhead.

I recite this historic data only to illustrate that man's dependency on metals stretches farther back in time than many of us had imagined. Similarly, our "Salute to Steel" tonight emphasizes the fact that man's de­pendency on metals stretches far into the future.

In our complex and diversified industrial society today, there is no one basic industry. But all of us know that steel is one of the several basic industries, such as food, fuels and energy, transportation and textiles, which are essential to the kind of country we are today.

Steel represents 95 percent of the metals consumed by our economy. It is the single most useful industrial raw material in our country.

Steel's importance to our American econ­omy cannot be overstated. In 1969, the largest domestic steel industry—National Steel—had total revenues of $19.5 billion and total assets of $29.3 billion. With more than half a million employees, it is a mature industry. Yet, in its technology and much of its fixed plant, it is a young growing and changing in­dustry. Incidentally, National Steel's employ­ment is 30,000 and the Weirton Steel Division employs 12,500.

Steel's importance to Weirton and to the entire area is well-documented. Weirton Steel has a regular monthly payroll, in salaries and hourly earnings, of $9.8 million. I am in­formed that during the first week of April, the company distributed $7.6 million in vacation pay and $500,000 in regular vacation bonuses, as provided in the labor agreement with the Independent Steelworkers Union. This meant that in a single week, more than $14.5 million in wages alone was pumped into this area's economy.

I have said that steel is a growing and changing industry. I think this is best illustrated by the fact that during the first two months of last year, the company distributed $7.6 million in vacation pay and $500,000 in regular vacation bonuses, as provided in the labor agreement with the Independent Steelworkers Union. This meant that in a single week, more than $14.5 million in wages alone was pumped into this area's economy.

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