phasis has been placed on the necessity of unity among the free nations of Southeast Asia in their fight against aggression. Stress has been placed on the impossibility of the United States acting as a "world policeman" and that military preparedness plus the unity of free nations through regional alliances is the key to the preservation of freedom. Any progress made to date in the implementation of this strategy might well have been cancelled by our unfortunate change of policy toward Red China.

The May 8, 1971, issue of Human Events, the highly observant newsweekly on current events here in Washington, raised this all-important theme. How are our friends in Southeast Asia reacting to our new China policy? What effect upon the unity of free nations in this area will the new China posture cause? These are, of course, questions that apologists for Red China ignore in their preoccupation to gain worldwide respectability and recognition for this bandit regime.

Following is the May 8 article, "Nixon's Peking Diplomacy Imperils Southeast Asia," from Human Events which I insert at this point in the RECORD:

NIXON'S PEKING DIPLOMACY IMPERILS SOUTHEAST ASIA

We do not claim to know precisely what the Administration is up to in the current courting of Red China, but whatever the reason, it is beginning to look as if the game is not going to be worth the candle.

Perhaps, as the insiders will tell you, we are engaged in a devious plot to drive a wedge between Moscow and Peking. That, of course, is the probable explanation for what's happening, but such intrigue will hardly be time well spent if we also succeed in driving a wedge between ourselves and our Asian allies. And it is this latter possibility that appears far more likely—and ominous—at the moment.

Keeping our alliance together in Southeast Asia has to be considered far more important than initiating some desperate Machiavellian maneuver—with no assurance whatever of success—that may encourage the two Communist superpowers to leap at one another's throat.

The Sino-Soviet quarrel, we might also note, blossomed rather fully without any concerted outside interference on our part. Indeed, the argument could be made that the friction between Moscow and Peking has lessened as we have warmed up relations with Mainland China. Franz Michael of the Sino-Soviet Institute, in fact, has documented the gradual easing of tensions between the two Red powers during the Nixon Administration.

The spirit of détente between America and Peking, however, has clearly caused a deep uneasiness among some of our Asian friends. At the 16th annual ministerial conference of the Southeast Asian Treaty Organization in London last week, the six foreign ministers attending issued a communiqué that was striking for its omission: There was no mention in the 10-page document of Peking or the recent overtures made by the Red Chinese government.

"The omission," reported the New York *Times*, reflected a skepticism shared by several of the Asian members of the alliance about the true motives behind the Chinese gestures toward improved relations with the United States."

This skepticism was voiced by Lt. Gen. Jesus M. Vargas of the Philippines, secretary-general of the organization, who said that it was still too early to tell whether Mao's China had eliminated her "well-known sinister ways" in dealing with Southwest Asia. "We are still waiting for some concrete indication of change."

Australian minister Leslie Bury also sounded a note of apprehension. "To those of us who are more nearly China's neighbors," he said solemnly, "there is as yet little to inspire confidence that Peking has in fact abandoned those policies which have prevented her from being regarded as a responsible member of the family of nations."

Even more disturbing has been the almost frantic reaction in Thailand. In the wake of our diplomatic overtures to Peking, Thailand, itself, is now rushing to develop contacts with both Red China and North Viet Nam. Thailand's Foreign Minister Thanat Khoman suggested that his country is moving toward a rapprochement because it no longer trusts the United States to come to its defense. The Nationalist Chinese, of course, are also alarmed at our diplomatic games.

Not only do they fear we may let Red China into the United Nations, but they are now wondering what we plan to do with their future. Incredible as it may seem, the State Department last week even questioned the "legal status" of Taiwan, suggesting that the island might be part of Red China after all.

Especially in view of the wary reaction among our anti-Communist allies, we can see no legitimate reason for recognizing Peking or allowing her into the United Nations.

Despite all the lavish hospitality bestowed on our table tennis team, Red China has by no means reformed. She is still an outlaw in the family of nations. She was a clear aggressor during the Korean War and she is still calling for South Korea's violent overthrow. She wrested territory away from India and she flattened Tibet. Tenzing Gyatso, the 14th Dalai Lama of Tibet, wrote only two months ago from India that the Chinese "have launched a veritable reign of terror" in his country.

Mao and Chou have stirred up revolutionary activity in Africa, Asia and Latin America. They are not only a major supplier of North Viet Nam, but they are conducting insurgency schools for revolutionaries from many Southeast Asian countries, including Malaysia, Burma and Thailand. Just last month, in fact, Radio Peking called upon "the Thai peasants to actively participate in the armed struggle under the leadership of the Communist party of Thailand. . . ."

Yet the Red Chinese are also actively trying to stir up revolution in this country. FBI chief J. Edgar Hoover wrote in 1970: "During the past year . . . we have experienced a definite increase in our Chinese investigations due to the stepped-up intelligence activities on the part of the Communist Chinese aimed at procuring highly technical data, both overtly and covertly, and the efforts of Chinese Communists to introduce deep-cover intelligence agents into this country."

Mao has lent his support to the Black Panther party and other revolutionary groups, including Progessive Labor. For Red China harbored Robert Williams, an American now back into his country, who urged U.S. Negroes to rise up and revolt.

Walter Judd, chairman of the Committee of One Million Against the Admission of Red China to the United Nations, cannot understand this great drive to recognize Red China. While there is great pressure to "trade" with Peking, says Judd, her greatest exports are "communism" and "heroin." Great Britain, he points out, recognized Mao's mainland in January 1950 in order to reap supposed trade benefits. "What has she gotten in return? Imprisonments, beatings, storming of British Embassies and people and no increase in trade.

"De Gaulle showed his defiance of us by recognizing Red China. And it was the Chinese Communists who organized the great [Paris] riots in the spring of '68, a major factor in overthrowing de Gaulle. Israel made overtures way back 20 years ago toward Red China. And it was the Communists from China who organized and trained the Palestinian guerrillas which almost blew up into an all-out war against Israel last fall.

"I would think people would see what's happened when folks have followed these policies of softness toward communism and be wary."

SENATE—*Wednesday, May 5, 1971*

The Senate met at 12 o'clock noon and was called to order by Hon. MIKE GRAVEL, a Senator from the State of Alaska.

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

Our God, our help in ages past, our strength in every age, enlighten our minds by Thy spirit that we may serve Thee aright this day.

Be in our home to make them sanctuaries of love, and havens of peace. Be with those who have no home that they may find the home of their soul in Thee.

Be in our schools to make them academies of democracy and arenas where fullness of life and understanding take place.

Be in our executive and legislative chambers that all who work therein may serve with noble purpose.

Be in our churches that they may mediate Thy grace to all men.

Draw together youth and age in firm alliance that the authentic revolution of free men under God may be brought to rightful consummation and that all unholy revolutions may dissolve in emptiness and futility.

In the name of the Great Gallilean. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 5, 1971.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. MIKE GRAVEL, a Senator from the State of Alaska, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its

reading clerks, announced that the House had passed, without amendment, the bill (S. 531), to authorize the U.S. Postal Service to receive the fee of $2 for execution of an application for a passport.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 70) to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 4246) to extend until March 31, 1973, certain provisions of law relating to interest rates, mortgage credit controls, and cost-of-living stabilization.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1836. An act for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benie, and Gerald L. Thayer;

H.R. 1890. An act for the relief of Robert F. Cheatwood, Walter R. Cottom, Kenneth Greene, Kenneth L. March, Ernest Levy, and the estate of Charles J. Hiller;

H.R. 3929. An act for the relief of Gheorghe Juca and Aurelia Jucu; and

H.R. 7500. An act to provide for the placement of Lt. Gen. Keith B. McCutcheon, U.S. Marine Corps, when retired, on the retired list in the grade of general.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and they were signed by the Acting President pro tempore (Mr. GRAVEL):

S. 70. An act to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes;

S. 531. An act to authorize the U.S. Postal Service to receive the fee of $2 for execution of an application for a passport; and

H.R. 5674. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide an increase in the appropriations authorization for the Commission on Marihuana and Drug Abuse.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred, as indicated:

H.R. 1836. An act for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benele, and Gerald L. Thayer;

H.R. 1890. An act for the relief of Robert F. Cheatwood, Walter R. Cottom, Kenneth Greene, Kenneth L. March, Ernest Levy, and the estate of Charles J. Hiler; and

H.R. 3929. An act for the relief of Gheorghe Juca and Aurelia Jucu; to the Committee on the Judiciary;

H.R. 7500. An act to provide for the placement of Lt. Gen. Keith B. McCutcheon, U.S. Marine Corps, when retired, on the retired list in the grade of general.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 4, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Tennessee (Mr. BROCK) is now recognized for not to exceed 15 minutes.

MAY DAY DEMONSTRATIONS

Mr. BROCK. Mr. President, I should like to take this opportunity publicly to applaud the calm, efficient way the Justice Department, our District of Columbia police, and others teamed to squelch the May Day group's abortive attempt to stop our Federal Government from functioning. The actions of our public officials and of the general public in the face of extreme provocation have been magnificent.

We all know that it was not just happenstance when the nihilistic antics of these insurgents were snuffed out so efficiently. President Nixon set the stage for this result when he made it perfectly clear that neither he nor the Government of the United States was going to be intimidated—and we were not.

Armed with the strong backing of our President, and the support of the people, those charged with enforcing the law were able to deal with these revolutionaries with a minimum of force and a maximum of effect.

Despite their boasting, the anarchists found themselves not only outflanked, but outwitted.

Let me add one further point. It would be tragic if we were to confuse the actions of a militant few who care not for the rights of their fellow man with the efforts of those who demonstrate peacefully for a cause in which they believe and who work daily for a lasting peace. It is this distinction which tells the story.

No society can survive if a few are allowed to violate the rights of others. President Nixon, with courage and calmness, afforded the people of Washington the opportunity to make that choice. They made it, and this Government has not hesitated in its continuing effort to serve the cause of peace and justice.

Perhaps, in light of this situation, some Members of Congress might find it worthwhile to review their own actions with regard to protesters, their leaders, and this Government. In recent weeks we have seen a few Members of both House and Senate see fit to criticize the Government, its administration and, in particular, the FBI.

Fortunately, I have seen only one case in which the individual utilized the kind of paranoaic demagoguery we had hoped went out with Bilbo. Yet some others have chosen to ridicule such actions as the surveillance of Earth Day participants—even though they included the leader of the current fiasco—Rennie Davis. Not incidentally, Mr. Davis was convicted of conspiracy to incite riots in the trial of the Chicago Seven and, more recently, has again been indicted for conspiracy in the current conflict.

I wonder if those who are so quick to condemn the Justice Department would now repeat their accusations. I wonder if they have viewed the slashed tires, the hundreds hospitalized by contaminated narcotics, or the strewn garbage resulting from the presence and actions of Mr. Davis and his friends.

If a Member of this body still desires to share a speaker's platform with this anarchist, that is his right. However, he should not be too surprised if the majority of America insists that the FBI continue to monitor the activities of Rennie Davis—even in the presence of a Senator.

Mr. HANSEN. Mr. President, will the distinguished Senator from Tennessee yield?

Mr. BROCK. I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to thank the distinguished Senator from Tennessee for initiating this colloquy, calling attention, as is most proper in this Chamber, to the actions of those who have occupied the headlines of the newspapers throughout the country for the past several days.

Mr. President, Americans everywhere are calling for an end to irresponsibility.

We have had the opportunity this week to see misguided Americans at their worst, flaunting acts of violence and risk to innocent citizens in the streets of the Capital City of the United States, the greatest Nation on earth.

I am proud of the effective manner in which the Department of Justice, the military forces involved, and the local law enforcement officials of the District have responded to these attacks upon law-abiding citizens of this area, and to the oral threats that these demonstrators have made that they would disrupt the process of government and close down the Government of the United States.

We are beginning to get a reaction to this extreme civil disobedience that has taken place in this city from Americans throughout the land. Almost everyone in America detests such action, regardless of wide-ranging opinions on the conduct of U.S. policy in Indochina. This country, with its great freedoms, affords every opportunity for all voices to be heard through legal means, through the congressional hearings, through elected representatives, and through the normal processes of government in a democracy.

Yet, these accessible channels apparently are not enough for the irresponsible few, for those who throw tantrums when they are unable to achieve immediately their goals through lawful procedures At the same time that we detest their actions, we feel a sorrow for them that they are so blinded by their emotions that they cannot see that in most other

countries, they would be allowed no voice in government at all, and that if they dared even to suggest that an attempt would be made to disrupt government in those other nations, they would be sent "to the salt mines," as the expression goes.

We also feel great sorrow for these young people, that they have been encouraged by elected officials who search for any means to seek to discredit the policies of our President, Richard Nixon, or to try to give the impression that he is in trouble with the electorate. The people who have communicated with me voicing their disgust with the tactics employed by these demonstrators have not failed to point out to me that they are convinced many of these young people have been encouraged by elected officials, for what they believe could be personal political gain—a chance, for example, to become one or another party's nominee for President.

Mr. President, despite the irresponsible action of those demonstrators who said they would come to Washington to disrupt the Government of the United States, and who received from some quarters of the Halls of Congress encouragement to come to Washington for that purpose, there has been business as usual this week in government.

The forces of law and order in this historic city have handled these incidents in an exemplary manner.

I am hopeful those who participated in the lawless acts against society will realize and very much regret the dangers to life they have created by blocking fire trucks and ambulances, by removing manhole covers, by throwing objects into traffic and stretching lines across streets. I believe many now know that such acts of violence will not be tolerated by this administration, which is charged with the safety and defense of this city as well as the Nation.

Mr. President, I do not charge that every act of lawlessness and violence is the direct result of encouragement, either explicit or implied, by politicians seeking to exploit a growing weariness with the war in Southeast Asia. But I do charge that much of the brazenness, the callousness of those many, so much in evidence on Monday, was encouraged by politicians.

As the fires of dissent grew out of control, threatening, indeed, to bring our Government to a standstill if not checked, every elected official sharing any identity with this group hastily and anxiously disavowed their actions and condemned their irresponsibility.

Curiously—ironically—those who were committed to bring "government to a halt" were the first to complain of the inadequacy of the comforts and conveniences of a modern jail and lack of early, speedy processing by the judiciary.

There is an old saying: "If you play with fire, you're apt to get burned."

We have all learned something this week:

Without strong, effective law enforcement, anarchy will soon replace the protection and safeguards of duly constituted government. We all must obey all the laws.

Mr. SCOTT. Mr. President, will the distinguished Senator yield?

Mr. BROCK. Mr. President, I yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I commend the distinguished Senator from Tennessee and the distinguished Senator from Wyoming for their remarks today. I am in agreement with them.

I note, Mr. President, that last week we had those with the white hats. This week it was the ones with the black hats. What was accomplished by the peaceful, young college people last week and the veterans the week before has, unfortunately, been turned around and against the cause of peaceful demonstration. The announced intentions of the leaders of this week's group—to disrupt our Government and to harass our 318,000 Federal employees in Washington—have failed. I salute the excellent work by our police, all of the forces, the Office of the Attorney General, the District of Columbia officials, the Mayor, and the military troops that were pressed into service. Mr. President, I hope the demonstrators of the future—and I know there will be others—will recognize that government and particularly the Halls of Congress will always remain open to serve the intended function to legislate the affairs of this great Republic. The right to demonstrate for peace abroad does not give anyone the right to break the peace at home.

Mr. BROCK. Mr. President, I thank the minority leader for his normally fine contribution.

It is apparent to all of us that we cannot abandon the rights of some at the expense of others.

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

Mr. BROCK. I yield.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Tennessee for bringing this matter to the attention of the Senate. It is certainly vital that we have the matter placed before the Senate and the other Members of Congress.

Mr. President, a funny thing happened to me Monday on the way to this forum. Someone deliberately punctured a tire on my car. Normally this would not be at all funny. However, in this case the tire was supposedly cut in the name of peace, because I would not agree to stay away from my office.

This strikes me as funny only in the sense that it is ludicrous. It is absurd to suppose that somehow slashing tires and other malicious actions in Washington should help bring an end to a war half way around the world. It was not a very pleasant experience to find myself in the center lane on Constitution Avenue with a flat tire, especially with the turmoil created by cars, and trucks trying to dodge metal and plastic trash cans being thrown into the bumper-to-bumper traffic by irresponsible demonstrators.

This was only one small incident, and really unimportant in the overall picture of what is happening in our Nation's Capital.

It cost me only for a new tire; but other people suffered much more of a loss in damage to their property.

President Nixon, the administration, the Washington police, and our servicemen gained in public respect for their firm but fair handling of those who would disrupt the running of the Government.

If, indeed, these people who took part in this week's malicious activity were antiwar protesters, then they caused serious damage to their cause.

However, I would like to say that I am getting a little sick and tired of hearing about the great idealism that would lead people to carry out destructive acts such as traffic disruptions and bombings. There seems to be a concerted propaganda effort to make it appear that the so-called antiwar protesters are acting out of some superior moral inspiration.

It seems to me that their performance Monday had parallels in the early 1930's when brown-shirted youths intimidated Germans. We all know what happened as a result of that rule-or-ruin campaign.

Now the rule-or-ruin people are back with us. They have renounced the democratic process and have opted for government by force, or government by riot.

In my estimation these people are as lacking in sound moral character as they are in good judgment.

These people dress oddly and yell obscenities to get attention, then use the word "peace" to lay claim to moral superiority.

These people are bankrupt.

They leave destruction in their wake. They wreck facilities that belong to the American people; they destroy private property as well. They offer no solutions to problems abroad or at home.

The people who really have the moral courage in this country are those who are working day by day for a lasting peace, not shouting for a momentary peace that follows any surrender.

We were not wrong—and we are not wrong—in going to the aid of the people of South Vietnam. We wanted to—and want to—assure them of a democratic government.

Our objectives were and are noble in every sense of the word.

This is not intended as a defense of the Nixon administration, nor of Presidents Johnson or Kennedy. I simply say that American motives were the best in trying to help the Vietnamese people.

Now it may well be that our efforts to help have been less than effective. We should never have become involved in a land war in Vietnam. But best laid plans time and again have gone astray.

Nevertheless, I say that it was and is right to want to help maintain democracy in the world. It was and is right to live up to treaty commitments.

Why is it, I ask, that the United States should be portrayed as the "bad guy" in Southeast Asia. We are not the invaders. Our operations there have either been under treaty obligations or with the approval of the governments in the nations where our troops have been operating.

It is North Vietnam that is the invader of South Vietnam, of Laos, of Cambodia.

It is the Soviet Union and it is Red China that aids and abets these North Vietnam invasions.

If these people demonstrating in

Washington really want peace, their appeals should be addressed in that direction—toward Russia and Red China and North Vietnam.

Instead, these demonstrators seek to embarrass their own Government much to the pleasure of our enemies.

I am certain there is a hard core of dissidents that know exactly what they are doing. Their objective is much more than to simply make an antiwar protest. These people are at war with the U.S. Government. They want to tear it down for various reasons.

Then, there are thousands of others who are being duped into helping in the effort to destroy our Government and the American way of life. I feel genuinely sorry for these young people who are being lured to demonstration areas by music and drugs, then being used to tear down their own country.

Of course, those who foment revolution also are glad to have the aid and comfort of people in positions of responsibility. I hope that this brief episode—we will hope it is brief—will provide some pointed lessons in this regard.

Mr. President, a network referred to me the other day as one of the leading "hawks" in the Senate. I would rather think of myself as an American eagle, but I do not suppose the network would go for that. I certainly do not think of myself as a "hawk." What I want is for us to get American troops from Southeast Asia just as quickly as possible without sowing the seeds of a wider conflict in the future. I think that is exactly what President Nixon is doing, and that is why I support him.

It has been popular to talk about the "credibility gap" in regard to our government. I believe that President Nixon has closed that "gap" and has demonstrated he says what he means and means what he says in regard to Vietnam. We are getting out.

The credibility gap now lies with the so-called antiwar protesters. These protesters put on the biggest show of hyprocrisy in modern times Monday when they tried to rampage through Washington. Thank God they failed miserably in their avowed objective of closing down our Government.

SOME PERSPECTIVE ON THE ANTIWAR DEMONSTRATIONS

Mr. JAVITS. I wish to make a few observations upon the antiwar demonstrations going on in Washington now.

It is vital that the anti-Vietnam war demonstrations of the last several days be put in proper perspective in view of the many critical questions involving the conduct of the demonstrators and the practice of law enforcement.

Neither the frustrations in terms of ending the Vietnam war of many of those who practiced civil disobedience here in the last few days, nor my respect for their sincerity, nor my feeling that their civil disobedience was not productive to the effort to end the Vietnam war, should or do interfere with my support of the enforcement of law and my judgment as to whether it was well and fairly done.

For, I believe that there are important civil liberties questions raised by the technique of mass arrests and the failure of the law enforcement officials to observe the appropriate arrest procedures which must be followed in order for proper cases to be presented at trial. These are questions which are vital to our people especially in these times.

My office has received numerous complaints about the techniques of mass arrests of people not engaged in any unlawful activity throughout the day of May 3. Similar evidence was presented before Chief Judge Harold Greene of the District of Columbia Superior Court by the Public Defender Service in arguing for release of prisoners held at the Coliseum.

Numerous examples were cited of people who were going to work, going to school, or observing the demonstrations who were summarily arrested by the police and taken either to one of the jails or cellblocks around the city or to the practice field near Kennedy Stadium. These people were held from 12 to 24 hours with no appropriate basis for bringing a proper criminal charge. They were denied the right to see lawyers or make telephone calls. The same was true of many arrested who were breaking the law.

The reason that there was no appropriate basis for the arrests of the bystanders and indeed for those who were arrested for alleged violations of the law was that the Federal and city law enforcement authorities chose early on the morning of May 3 to abandon a procedure which was worked out after the 1968 riots to insure that there was a proper basis for arrest. This decision to abandon these procedures was not countermanded even after the rush hour had ended and the situation was fully under control. The procedure which was abandoned involved the use of field arrest forms requiring the arresting officer on the scene to fill out a short form giving the pertinent details regarding the arrestee, the nature of the offense, the place of arrest, and name of the arresting officer. It also required the photographing of arrestees on the scene.

On May 3 the policy of making wholesale arrests and of making no attempt to fill out field arrest forms or to photograph the arrestees on the scene became the subject of a habeas corpus application before Judge Greene in the Superior Court of the District of Columbia.

Evidence brought out at the hearing before Judge Greene under oath from Justice Department attorneys who volunteered to process people held at the coliseum showed that arrest forms were filled out at the coliseum, people were photographed for the first time at the coliseum, and a list of seven officers was used to fill in the name of an "arresting officer" which was changed on one of the forms to read "court officer." This information was then used for later filling out the field arrest form.

These procedures were clearly improper; they precluded the possibility of successful prosecutions. In fact, Chief Judge Greene ruled last night that all those who were still held and did not have proper field arrest forms should be released immediately. This has been affirmed by the District of Columbia Court of Appeals. However, in spite of the lack of basis for detaining a large group among those arrested on May 3, most arrestees were held a minimum of 12 hours and in most cases closer to 24 hours before the majority were released on $10 collateral. Only a small number—approximately 500—were brought before the superior court for arraignment. This amounted to "de facto preventive detention" and a suspension of the civil liberties of the arrestee, albeit for a short time.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. All time for the transaction of morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 2 minutes, and I yield my time to the Senator.

The ACTING PRESIDENT pro tempore. The Senator is advised that all time for morning business has expired.

Mr. MANSFIELD. I ask unanimous consent that the time for the transaction of routine morning business be extended by 2 minutes.

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

Mr. JAVITS. I thank the majority leader.

The notion of dragnet arrests—sweeping of the streets into police vans all people in a certain area—is, in the absence of a clear, lawfully promulgated ban, inimical to the rights of all citizens in a free society. Admittedly the situation on May 3 had great potential for violence and serious disruption. The police had a very difficult task and did nonetheless keep the city functioning at its normal level in spite of the difficulties. But, was it necessary to pay the price of bad precedent set in this situation, for mass arrests to take place indiscriminately without proper arrest forms being filled out, leaving no basis for a proper criminal charge against any arrestee? There are those who will ask whether, if people can be detained on that basis for one day, why can't people be detained in this and future demonstrations of civil disobedience for several days or several weeks? I have confidence that the District of Columbia Police Department could have adequately handled the situation using the proper procedures; I do not think there was adequate justification for abandonment of those procedures.

It is most important that Americans do not say, "We are for civil liberties, but not when it might be difficult to grant people those liberties." Let us not in our thankfulness for nonviolence relax our vigilance in the protection of such liberties. That is why I speak today—to be sure that we recognize and learn from our deficiencies, that we are not carried away by an emergency to jeopardize fundamental liberty, and that we give the people confidence that we are determined, even in times of turmoil, jealously to guard the freedom of the individual in every possible way.

I ask unanimous consent that an order

to show cause and a subsequent order by Chief Judge Harold Greene, together with an order from the District of Columbia Court of Appeals, all discussed in my remarks, be placed in the RECORD. I also ask unanimous consent that an article in the Washington Post describing an arrest be placed in the RECORD.

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

[Superior Court of the District of Columbia, SP 50–1971]

SHOW CAUSE ORDER

(John Doe and Approximately 1,700 Detainees Confined Adjacent to Robert F. Kennedy Memorial Stadium *ex rel.* Public Defender Service for the District of Columbia, Plaintiffs v. Jerry V. Wilson, Chief of Police, Metropolitan Police Department, Washington, D.C.; Thomas A. Flannery, United States Attorney for the District of Columbia, Washington, D.C.; C. Francis Murphy, Corporation Counsel for the District of Columbia, Washington, D.C.; Walter E. Washington, Commissioner of the District of Columbia; Commanding Officer, District of Columbia National Guard)

It appearing that with respect to a number of persons arrested on May 3, 1971 in connection with demonstrations no field arrest forms or the equivalent or photographs were prepared and are in existence;

And It Appearing Further That it is extremely unlikely that a successful prosecution can be brought under the circumstances without a field arrest form or the equivalent and a photograph;

And It Appearing Further That in the normal course of events a considerable period of time may elapse before all the persons arrested on May 3, 1971 will be presented to the Court;

And It Appearing Further That the interests of justice require that persons against whom charges cannot be sustained shall not be held in confinement;

Now Therefore the Respondents Wilson, Murphy, Washington, and Commanding Officer, District of Columbia National Guard are ordered to show cause why a Writ of Habeas Corpus should not be granted, and it is

Further Ordered that the said respondents shall make return of the writ before this Court at 8:00 P.M. on Tuesday, May 4, 1971 according to the command of this writ and certify the true cause, if any, for the continued detention of the persons with respect to whom the law enforcement authorities have in their possession neither a field arrest form or the equivalent nor a photograph prepared contemporaneously with the arrest, and under what color or pretense such persons are detained or restrained of their liberty and it is

Further Ordered that inasmuch as solely legal matters may be at issue, the persons described above who are still so detained need not be brought physically before the Court at 8:00 P.M. May 4, 1971, but shall be so brought before the Court during a continued session of the Show Cause hearing if the Court should then so order.

Witness the Honorable Chief Judge of the Superior Court of the District of Columbia this 3rd day of May 1971.

HAROLD H. GREENE,
Chief Judge.

MAY 3, 1971.

[Superior Court of the District of Columbia, SP 50–'71]

JOHN DOE *v.* JERRY WILSON

ORDER

This matter having come on to be heard upon the Court's Order to Show Cause Why a Writ of Habeas Corpus should not be issued and the Court having heard the arguments of counsel, it is hereby ordered:

1. Any person arrested on May 3, 1971, who is still in detention and with respect to whom a field arrest form or the equivalent or contemporaneous photograph exists shall be presented to the Superior Court for arraignment by 5 p.m. on May 5, 1971.

2. Any person arrested on May 3, 1971, who is still in detention and with respect to whom no field arrest form or the equivalent or contemporaneous photograph exists shall be released without collateral, bond, or citation immediately upon his submitting to the District of Columbia law enforcement authorities his name, fingerprint and photograph. Any person refusing to supply his name, fingerprint and photograph shall be presented to the Superior Court for arraignment between 12 noon and 5 p.m. on May 5, 1971.

3. The defendants are ordered and directed that any information secured from any person as a result of the second paragraph of this Order shall not be used to constitute an official arrest record; shall not be disseminated to the Federal Bureau of Investigation or otherwise unless and until such person shall have been convicted for an act or acts committed on May 3, 1971, and shall be submitted to the Superior Court for destruction ninety days from this date.

HAROLD H. GREENE,
Chief Judge.

MAY 4, 1971.

[Superior Court of the District of Columbia, CA 4553–'71]

RUTH ANN KOENICK *v.* JERRY WILSON

ORDER

The Court is taking the Motion for a Temporary Restraining Order under advisement. In the meantime, the collateral schedule is ordered suspended, with the exception of collateral for routine traffic offenses. Chief of Police, Jerry Wilson and his subordinates are ordered not to take any action with respect to collateral pending further order of this Court. The Court will remain open for arraignment and bond setting until further notice.

HAROLD H. GREENE,
Chief Judge.

MAY 5, 1971.

[District of Columbia Court of Appeals, January Term, 1971, No. 5827]

JERRY V. WILSON, ET AL., APPELLANTS, *v.* JOHN DOE, ET AL., APPELLEES

(SP 50–71)

Before: Fickling, Kern and Reilly, Associate Judges.

ORDER

This cause came on for consideration on appellants' motion for stay pending appeal and the court heard argument of counsel. Upon consideration thereof it is

Ordered pending review by this Court with respect to the issue of the authority of the trial court to entertain the above entitled action the order of said Court may remain in effect until final disposition of this appeal except in the following respects: (1) Paragraph 2 of said order is amended to read as follows:

"Any person arrested on May 3, 1971, who is still in detention and with respect to whom no field arrest form or the equivalent or contemporaneous photograph exists shall be released without collateral, bond, or citation immediately upon his submitting to the District of Columbia Law enforcement authorities his name, and such additional information as is required by the Metropolitan Police Department collateral receipt form and fingerprint and photograph. Any person refusing to supply the foregoing information shall be presented to the Superior Court for arraignment between 12 noon and 5 p.m on May 5, 1971."

(2) Paragraph 3 of said order is deleted.

By the Court:

AUSTIN L. FICKLING,
Associate Judge.

MAY 5, 1971.

[From the Washington Post, May 5, 1971]

BUSTED ON A "DISORDERLY" RAP

(By Henry Allen)

"Once we've arrested you we can't unarrest you," the policeman explained.

Twenty-one hours later, as dawn streamed down on the grimy, blanketed masses huddled on the concrete floor of the Washington Coliseum, John Conroy, a civil rights lawyer from the Justice Department, informed me my crime was something called "disorderly."

During those 21 hours, the processing of my part of the 7,000 prisoners matched the charge. We were held with no legal amenities, few physical ones, plenty of promises and even more rumors.

I knew only one thing for sure. The charge wasn't jaywalking. I was being careful about that on Monday morning. Even though the police bullhorn was warning us to clear the area, and the prospect of tear gas grew larger and helmeted police were marching down on us we waited on the corner for the WALK sign to flash because police were standing in front of us too. Waiting.

They waited until we got to the other side of the street and then they busted us, me and two friends I'd just eaten breakfast with in a restaurant near Washington Circle.

We explained that the gas, the other police and their bullhorn had left only this street as an exit. We said we were only following police orders to leave the area. But as they shoved us against the paddy wagon and kicked our feet out into regulation frisk posture, they explained they couldn't unarrest us.

An arrest usually entails taking the suspect's name and noting the offense, date, time and place. We didn't get the benefit of these legal niceties. One officer told Sally, one of my friends, to take off her coat, and then ran his night stick along her buttocks.

When the paddy wagon unloaded me, Sally and Mike—a former fellow corporal in the Marines in Vietnam—we were hustled into a Hertz Rent-A-Truck and we realized that if the police department had to rent its paddy wagons—a lot of people were being busted.

Inside the Rent-A-Paddy the prisoners swapped bust stories until they realized there was only one story and everybody told it the same way: They were just walking down the street and the cops arrested them.

On the way to the D.C. Jail, those who weren't arguing politics with excruciating restraint with the cops in front of the wire screen moved automatically into Phase I of immediate action of Street People in Distress: They shared.

They shared food and cigarettes and water and legal advice and bail money and everything else they had that anyone needed. They saw another truckload of prisoners and cheered.

And when the cops hustled them through the steel door of the exercise yard at D.C. Jail, they heard a thousand other prisoners-of-demonstration cheer, and sensed from the roar and the field of raised fists that no matter what any government official might say on the 6 o'clock news, some kind of victory was being won.

There was no legal aid.

There were no telephone calls. (Prison officials said the phone was "out of order.")

The only medical aid, until Monday night, was supplied by demonstration medics.

Until the middle of the afternoon, male prisoners had three holes in an exposed stone bench at the head of the exercise yard to urinate in. Prisoners inside the jail tossed

down blankets so the prisoners outside could jerry-rig an enclosure where women urinated on the grass. Later, a crane lowered portable toilets into the yard.

"It's like Vietnam," Mike said. "It's like when we used to go out and sweep the VCS (Viet Cong suspects.)"

"How did you know who was a VCS?" somebody asked.

"They were the ones with the slanted eyes," Mike said.

There was something else in the jail yard I'd never thought I'd see after I left Vietnam until I saw it a week and a half ago at the veterans' encampment on the Mall. Then, I thought I'd never see it among students and kids and non-veterans. But in the jail yard I saw the tough, almost amused cynicism of people who are no longer surprised that other Americans will sweep them off the streets on charges so ridiculous that no one even bothered to laugh at them.

"It's President Nixon's new program," said David Bernstein, 22, a cab driver from Boston. "It's called Americanization."

While prisoners stared from inside the jail at the bizarre phenomenon of detainees who almost seemed to relish their plight, the crowd debated the issues.

Would accepting food from 'the pigs" corrupt them? Some people thought so. They fasted.

Should they accept tents? One side argued that they didn't want to give the government the opportunity to say it gave them adequate shelter.

Should they refuse to be processed?

Should they refuse to leave D.C. Jail and stage a non-violent confrontation? A violent confrontation?

The politicians argued. The people listened. Or played volleyball and basketball with the two balls the guards gave us. We rapped with the guards. They said they dug us.

Some people took the tents, some didn't. Some processed, some didn't. Some stayed, some left.

Everybody wanted blankets but the supply didn't immediately match the guards' promises. Night was coming on cold. A few people panicked and fought over the blankets as they came in the door.

So when chow—beans and hot dogs—arrived and we saw we only had enough at once to feed a single line of 1,586 people, the veterans were asked to control the crowd. It wasn't hard.

Some people didn't understand they couldn't have seconds, or go to the head of the chow line for coffee.

A certain revelation lit some faces when they were told: "You're in jail."

We huddled around fires built from wood pallets the guards brought in. The people lay down in groups together under their blankets in the cold.

Around 3 a.m. we were told we could move to the Coliseum to be processed. Some went. Some stayed.

At the Coliseum some of the detainees talked with National Guardsmen and active-duty troops who said they were on their side. Mayday leaders told us bustees we could wait until 8 p.m. (last night), when all charges would probably be dropped.

I elected to be processed—fingerprinted, mug shot, name, address, date and place of birth.

At 6 a.m., I was informed of my rights by Conroy, the Justice Department lawyer. Conroy told me how much information I had to give.

I would have liked to talk a little more with Conroy. I hadn't seen him since we were classmates at Hamilton College nine years ago. But at our stage of gray-faced exhaustion there were more important things to do than swap alumni notes. I said I'd been fine and he said he'd been fine.

I let the similarly exhausted bureaucrats grind me through their legal mill.

At 7:59 a.m. the Coliseum was roaring with antiwar chants and rhythmic clapping and I was up in the lobby paying $10 for the privilege of walking outside onto a street in Washington and waiting to be tried on June 24.

Mr. TAFT. Mr. President, the Federal Government could not tolerate the shocking acts of vandalism which occurred in Washington this morning in the name of "peace."

All of us support the right to petition the Government peacefully. The freedom to assemble is in the great American tradition.

But to drop rocks and other debris on passing motorists, to attempt to block streets and bridges, to block entrances to buildings, and to hurl abusive insults at the public in general and Government officials in particular cannot be tolerated.

All of us are working for peace. Some may disagree with the President, but their right to disagree stops at that point where they interfere with other persons.

The District law enforcement officers and others have shown remarkable restraint under very trying circumstances. They are to be praised for the way they handled this week's demonstrations.

Mr. EASTLAND. Mr. President, all Americans are deeply concerned about the growing wave of attacks on law enforcement officers. In recent weeks, this offensive has reached unprecedented proportions.

The police officers of this Nation have been subjected to physical assaults which last year left 100 brave men dead in the line of duty. Thus far, in 1971, these attacks on lawmen continue at a level which threatens to surpass last year's deadly total. I have introduced legislation—both in the 91st Congress, and I plan to do so again this year—to offer the protection of the Federal Government in these incidents. It is my hope that this proposal will become law.

I am just as concerned—and perhaps even more so—about the rising tenor of verbal attacks which are now centered on law enforcement. It is my judgment that this bold abuse—directed at lawmen in general, and the Federal Bureau of Investigation in particular—can and will be more harmful in the long run to law enforcement and to the Nation.

Whatever the motives of these who would heap abuse on our dedicated professionals in law enforcement, the result is the same. These attacks are seriously undermining America's confidence in law enforcement and in the Nation itself.

It is my contention that every American owes a deep debt of gratitude to the law enforcement officer. This brave and dedicated professional has historically formed a buffer between those who abide by the law and those who would break the law. Now, the policeman is called to an even higher task—to stand between the citizen and the revolutionist, forming the last line of defense before a force which is determined to replace government with anarchy. The law enforcement personnel of this Nation stand today as a cornerstone of government.

Yet, these men are victims of the worst abuse ever applied to any segment of our society. In the last several years, a series of events have combined to make the task of law enforcement more difficult than it has ever been.

Initially, there began a breakdown in the morality of our society—a sense of permissiveness which permeated the land. Individuals and groups sought to assert the right to select the laws they would obey. Confrontations with law enforcement agencies were deliberately created, and too often the enforcement officer was cast in the light of the villain even though he was doing nothing more than carrying out his duty.

At the same time the Supreme Court greatly expanded its jurisdiction and authority. Decision after decision was handed down, piling one restriction after another on the law enforcement officer. For a time it seemed whenever a case went to trial the police were the defendants and the criminals the accusers. Individual rights were given such prominence that it seemed society had no right whatever to protect itself. The search for truth often was forgotten as the courts appeared intent only in searching for error.

Meanwhile, law enforcement faced new and even more demanding challenges. As crime grew by leaps and bounds, law enforcement found itself confronted with revolutionary activity. Riots swept the land. Demonstrations erupted into violence.

All the while, there was an undercurrent growing among many of our people. To them it was fashionable to be against the establishment—and what greater symbol of the establishment than law enforcement. A mere assertion of wrong on the part of the law officer became fact in the minds of many—no matter the total lack of evidence.

Mr. President, these are troubled times for America. We are faced with a situation unprecedented in 200 years of history.

Consider, if you will, the FBI's list of "10 most wanted fugitives." This gage of criminal activity has carried the names of the infamous of the underworld. In all its years, this lineup of criminals included murderers, kidnapers, bank robbers, and the like.

Today, however, the list of "10 most wanted" has been expanded to include 15 names—and nine of them are revolutionaries. More than half of the criminals which law enforcement officials would like most to apprehend are people wanted for sabotage, mob and riot action, theft of government property, conspiracy, and violent acts—not against the person, but against the Nation.

Let us take a look at some of those listed:

Cameron David Bishop—wanted for dynamiting the transmission towers in Colorado which supplied power to defense plants.

H. Rap Brown—inciting to riot and arson.

Karleton Lewis Armstrong, Dwight Alan Armstrong, Leo Frederick Burt, and David Sylvan Fine—bombing a University of Wisconsin building in which a research worker was killed.

Susan Edith Saxe and Katherine Ann Power—theft of Government property and the murder of a Boston police officer following a bank robbery.

Bernardine Rae Dohrn—mob action, and violation of Federal antiriot laws and conspiracy.

Mr. President, these are but a few of the many persons of similar background and offenses who are wanted by the FBI. They are not the "elite" of a group of revolutionaries who have openly advocated the use of explosives, have been known to acquire firearms and incendiary devices—and have said that the Government of this Nation must be overthrown.

Let us look at the statements made by these people.

> The correct choice will never be made by so-called representatives or bureaucrats, but only by the people fighting in the streets.

A statement by New Years Gang on March 3, 1971, a group claiming responsibility for bombing an Army ammunition plant.

The Panther 21 letter in the Berkeley Barb, March 5–11, 1971.

> Do you recall the old "Ask what you can do for your country? Destroy it—mentally, morally, psychologically, and physically—destroy it. And whatever you do—do it good.

These are the statements of avowed revolutionaries—people who have made it their sole aim in life to destroy the system of government in America today.

Mr. President, I submit further that these people are ready to back up their words with action—and they have done so with terrifying results.

Consider the activities attributed to the Weathermen, a former faction of the Students for Democratic Society who have vowed to make the 1960's "look like a Sunday school picnic" when compared to the 1970's. On March 6, 1970, a series of dynamite explosions destroyed a Greenwich Village townhouse, killing three Weathermen. On June 9, a bomb exploded at the New York City police headquarters. On October 5, the Weathermen underground took credit for bombing a police statue in Chicago.

Look at the actions of the Black Panther Party, whose leader Huey P. Newton stated:

> Our goal is to crush American capitalism and American imperialism.

By their own admission, acts of the Black Panthers resulted in the death of six police officers and wounding of 22 others in 1970 alone. Its leaders have openly traveled in Communist countries and made statements in radio broadcasts from these countries.

This action is not limited to open revolutionary groups. These disruptions have spread to college campuses, where last year alone there had been 180 demonstrations, 12 arson incidents, nine bombings, and 23 attacks on ROTC buildings. All of this amounted to $3.3 million in damage.

Revolutionary activities have erupted in every sector of this country and now have exploded in the very heart of the Nation, that symbol and shrine of freedom, the Capitol itself. The bomb which seriously damaged this building was no mere prank nor harassing tactic—it was, by any description, an act of open and violent revolution.

Only through the diligence of the FBI are we today on the brink of apprehending those responsible for this act.

Mr. President, the Federal Bureau of Investigation is charged with the responsibility under the law of investigating the activities of those who would advocate the overthrow of our Government. Espionage, sabotage, and inciting to riot—these are the activities of revolutionaries—and these are the activities that the FBI is charged to investigate.

The intent of the Congress is clear and unmistakable. The FBI has not only the jurisdiction and the authority—but the explicit responsibility—to keep these activities under close and constant surveillance.

It is my opinion that the FBI would be in serious neglect of its duty and responsibility under the law and to the American public if they did not investigate the activities and actions of these revolutionary groups.

There are cries that Congress should investigate the FBI for its actions. It is my opinion that it would be imperative for Congress to investigate the FBI if it were not performing these duties.

I would find it amusing—if it were not so deadly serious—that those who view with such horror the FBI's efforts to infiltrate the violent revolutionary groups are the same critics who applauded the FBI for its infiltration and virtual destruction of the Ku Klux Klan. I see little difference between KKK violence and SDS violence—with the possible exception that the radical activities of recent months have proven more destructive.

Much has been said of recent about electronic surveillance or "bugging" by the FBI. It is my opinion that these are wild charges—largely unsupported—made in an effort to make newspaper headlines and gain time on the national television networks.

However, I maintain that the FBI should have the same authority to fully investigate criminal activity—whether it occurs in the Halls of Congress or on Main Street, U.S.A. A Member of Congress, when he is suspected of breaking the law, should have no more immunity than the average citizen. It is imperative that the FBI be just as diligent in investigating wrongdoing by people in high places as they are in surveillance of Federal crimes in any area of our national life.

Yes, Mr. President; these are troubled times. America is under attack from every quarter. Our Nation finds itself beseiged by a force unknown in our history.

In the front ranks of these battles against anarchy stands the police officer. He is the defender of our Nation and of freedom itself.

It is indeed a tribute to law enforcement that these professionals have withstood the attacks—both physical and verbal—and met the challenge. During this period of growing abuse of police, the law enforcement officers have become more dedicated in their duty, more scientific in their approach, and more efficient in combating crime.

It is my opinion that this growing professionalism and dedication is a direct result of the influence and leadership of the Federal Bureau of Investigation and its Director, J. Edgar Hoover. No agency—no American—has been more responsible for upgrading the profession and maintaining its high level of efficiency.

This man and the agents of his Bureau have been in the forefront in America's battle against crime. Their bravery and professionalism is an important chapter in our Nation's history.

The FBI has not only advanced its own war against crime—but this agency has made its facilities, its knowledge, and its leadership available to law enforcement on every level in an effort to aid the Nation's battle against lawlessness.

Nearly 300,000 local police officers benefit annually from FBI professional training schools. Non-Federal officers who proudly carry the title "FBI Academy graduate" as they advance their careers in law enforcement number nearly 6,000. At the same time, law enforcement agencies over the entire Nation have at their disposal the facilities of the world's most modern crime laboratory, maintained by the FBI here in Washington.

Without a doubt, Mr. President, America is a greater country today because of the efforts of J. Edgar Hoover and the agents of the Federal Bureau of Investigation.

Millions of Americans share this view. Our country owes a special debt of gratitude to the dedicated professional lawman who forms the bulwark of our defense against lawlessness.

It is in the best interest of this Nation that we turn aside from the pettiness of the hour. We must raise cur eyes to the horizons of tomorrow, look with assurance toward a future without violence and anarchy—a day when we are once again free of fear, when we have thrown off the shackles of terror—a day when the lawless, the revolutionary, and those who would rob us of this great and precious freedom for which so many have paid so great a price, are gone and forgotten.

A new generation of Americans is entitled to this legacy of freedom.

I maintain that the FBI—indeed, all law enforcement officers—are dedicated to this end. Every American should pledge himself anew to this highest of all goals—a greater, stronger America.

MESSAGES FROM THE PRESIDENT

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

PROPOSED LEGAL SERVICES CORPORATION ACT—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–104)

The ACTING PRESIDENT pro tempore (Mr. GRAVEL) laid before the Senate the following message from the President of the United States, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

In the long, uphill struggle to secure equal rights in America, the Federal program of legal services for the poor is a relative newcomer to the cause. Yet it has already become a workhorse in this effort, pulling briskly and tirelessly at the task as the Nation moves ahead.

The legal services program began six years ago as a small experiment within the Office of Economic Opportunity. It grew swiftly, so rapidly that today more than 2,000 lawyers work for the poor in some 900 neighborhood law offices. No less than a million cases a year are now processed by these dedicated attorneys, with each case giving those in need new reason to believe that they too are part of "the system."

A large measure of credit is due the organized bar. Acting in accordance with the highest standards of its profession, it has given admirable and consistent support to the legal services concept. The concept has also had the support of both political parties.

The crux of the program, however, remains in the neighborhood law office. Here each day the old, the unemployed, the underprivileged, and the largely forgotten people of our Nation may seek help. Perhaps it is an eviction, a marital conflict, repossession of a car, or misunderstanding over a welfare check—each problem may have a legal solution. These are small claims in the Nation's eye, but they loom large in the hearts and lives of poor Americans.

A NEW DIRECTION

The Nation has learned many lessons in these six short years. This program has not been without travail. Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments. The program is concerned with social issues and is thus subject to unusually strong political pressures.

Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.

For 2 years, this administration has studied means of delivering improved, high quality legal services to those in need, as well as the question of what the proper role and structure of the legal services program should be. In 1969, we upgraded the status of legal services, recognizing it as a separate program within the Office of Economic Opportunity. Because of its importance, I also specifically asked the President's Advisory Council on Executive Organization (the Ash Council) to examine the question, and last November the Council recommended that the Government create a special corporation for the program. The role of legal services lawyers was also considered by the recent White House Conference on Youth, and a task force there expressed strong concern that the independence of these attorneys be maintained.

Today, after carefully considering the alternatives, I propose the creation of a separate, nonprofit Legal Services Corporation. The legislation being sent to the Congress to accomplish this has three major objectives: First, that the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice.

INDEPENDENCE FOR THE CORPORATION

True independence for a corporation created by the Government demands a governing body drawn from a wide spectrum and safeguarded against partisan interference after its appointment. I believe that we can best meet these requirements by appointing the board of directors for the Legal Services Corporation on the following bases:

—The members of the board should be appointed by the President, by and with the advice and consent of the Senate.

—The board should consist of eleven members, no more than six of whom may be of the same political party.

—A majority should be members of the bar of the highest court of a jurisdiction, and none should be a full-time employee of the United States.

—Members should be appointed for three-year terms and serve no longer than nine years consecutively.

—The board chairman should be elected by the members from among their number and serve a term of one year.

—No board member should be involuntarily removed except by a vote of at least seven members, and only for reasons of malfeasance, persistent neglect, or inability to perform. Political pressures cannot be a basis for removal.

These provisions, all painstakingly designed to insulate the board from outside pressures, find an apt precedent in the corporation created four years ago to promote freedom and initiative in noncommercial broadcasting. In establishing the Corporation for Public Broadcasting, the Congress was once again dealing with a sensitive area of our national life, and it chose much the same course that I am recommending today.

The primary mission of the Legal Services Corporation should be the review and approval of applications for funds submitted by neighborhood law offices, special units of private law firms, and other attorneys who seek to provide legal assistance to the poor. The decision in the case of each individual grant or contract should be made by the Corporation's president—an official employed by the board—based upon guidelines established by the board.

To advise the board of the Legal Services Corporation, I propose that an advisory council also be established with its membership including eligible poor clients and representatives of the organized bar.

As a further means of assuring its independence, I recommend that grants made by the Corporation to neighborhood offices and other recipients not be subject to veto by governmental officials. It is important, however, that State and local officials be given ample notice of new grants. Therefore, I propose that the Corporation be required to notify the Chief Executive Officer of the State, Commonwealth, District of Columbia or possession at least 30 days prior to approving a grant or contract for that area, so that full consideration could be given to the views of that executive. Thus the legitimate concerns of the jurisdiction involved could be taken into account before proceeding, but the Corporation would retain its independence.

As yet another guarantee of that independence, and also to assure continuity and facilitate long-range planning, I propose that funding by the Congress be appropriated on a 3-year basis.

INDEPENDENCE FOR THE LAWYER

While it is important to insulate the corporate structure so that public funds can be properly channeled into the field, it is even more important that the lawyers on the receiving end be able to use the money ethically, wisely, and without unnecessary or encumbering restrictions.

The legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process.

At the same time, it would be a waste of our resources and a dilution of the legal services program if these same lawyers were also to become involved in criminal suits, since legal representation in criminal cases is already available to the poor under many other programs. Counsel for the indigent has been held by the Supreme Court to be a constitutional requirement in felony cases. States now provide for such counsel, and the Federal Government has made substantial sums of money available for criminal representation. Thus I propose that legal services lawyers be prohibited from criminal representation.

For this same reason, legal services attorneys who are given full-time grants or contracts should devote their entire professional efforts to representation of eligible clients, and should not be permitted to engage in the outside practice of law. Certain lobbying activities, as well as partisan political action, should also be proscribed. The latter two activities would be another dilution of resources, and would have the further disadvantage of placing the Legal Services Corporation itself squarely in the political arena, where it does not belong—and thus inviting those political pressures from which its independence is designed to insulate it. On the other hand, these limitations should not impair the right of the legal services attorney to prepare model legislation or to respond to the

inquiries of legislators. Such actions are traditionally within the scope of the attorney's right to represent a client and must be preserved.

STRENGTH FOR THE FUTURE

In discussing the broad contours of this program, we must not overlook the challenges ahead. The Nation can be proud that we have come so far already. Under this administration alone, the legal services caseload has increased some 97%—from approximately 610,000 cases in fiscal year 1969 to an estimated 1,200,000 cases in fiscal year 1971—and the budget allocations have increased during this period by approximately one-third. Yet today, perhaps four out of every five legal problems of the poor still go unattended. The challenge to us is thus a significant one, and if we are to succeed in so delicate an undertaking we must devise a program which will have the full support not only of the Congress and the executive branch, but of the people as well.

The full financial support of the government is clearly needed in this endeavor. I propose that upon the date of incorporation, all of the funds then appropriated for legal services activities in the Office of Economic Opportunity, including those for research and training, be transferred to the Legal Services Corporation, so that it can undertake existing Office of Economic Opportunity obligations.

To help us broaden the attack on our unmet needs, I am also proposing two new initiatives:

—First, I propose that specific authorization be given for grants to individual lawyers. This will increase the opportunity for the private bar to participate in legal services and will enable the corporation to channel greater resources into rural areas.

—Second, I propose that the Legal Services Corporation be authorized to identify the principal legal problems of the poor involving the Federal Government and then work with appropriate governmental agencies in trying to solve them. Hopefully, this effort might in many cases eliminate the need for poor persons to seek redress in our overcrowded courts. It would also conserve the resources of the corporation without denying to any lawyer the right to bring a suit which he deems necessary.

The Federal program of providing legal services to Americans otherwise unable to pay for them is a dramatic symbol of this Nation's commitment to the concept of equal justice. It is a program both new and unparalleled by any other system of justice in the world. I urge the Congress to join with me in adopting this proposal to give it new strength for the future.

RICHARD NIXON.

THE WHITE HOUSE, *May 5, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. GRAVEL) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today appear at the end of the Senate proceedings.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Chair recognizes the Senator from Ohio for 15 minutes.

ASSET DEPRECIATION RANGE—ADR

Mr. TAFT. Mr. President, for many years American industry has been able to overcome the wage rate differential with respect to foreign competitors by virtue of greater efficiency. The efficiency and productivity of American industry have been the keys to our high standard of living and the purchasing power of the American employee.

American industry has been able to pay its employees higher wages than are received by foreign workers because American industry had an advantage in greater productivity. We had more modern plants, more modern machinery, more modern equipment, and more modern work practices. Today that competitive advantage is being lost. If we do not maintain this productivity advantage there will be a sharp reduction in the purchasing power of the American worker, a further loss of jobs through foreign competition, and a loss of export markets and large portions of domestic markets as well.

Since World War II, American industry has increased its productivity at a rate of more than 3 percent per year. During the last 4 years, however, this rate of productivity growth has declined to 1.7 percent. Compensation per manhour during the last 2 years rose at an annual rate of 7 percent. As a consequence, unit labor costs have increased at a rate of 5.3 percent. This increase in unit labor costs has had a direct effect upon the economic problems which now beset this country.

The significance of productivity is illustrated by the fact that an increase of 0.4 percent in the productivity growth rate for American industry would result in an additional $250 billion in additional gross national product during the next decade. This increase would mean not only higher profits but more purchasing power for the American worker and more job security for those who are now threatened by foreign competition.

The American worker has found himself on an inflationary treadmill. He has found that his wage increases have been eaten away by higher prices and he questions whether he has any more purchasing power today than he had several years ago. Americans do not want higher wages if those wages will not bring a better standard of living.

It is imperative that there be greater productivity which can be translated into more purchasing power, and a better standard of living.

In this context it is absolutely essential that we undertake a major national effort to modernize the tools and productive equipment of American industry. On April 22 I spoke in the Senate of the important role which the restoration of the investment tax credit would have in this endeavor.

Today I wish to commend the administration, and particularly the Treasury Department, for initiating asset depreciation ranges—ADR—which would permit accelerated depreciation. This is a vital step if American industry is to be modernized and retain its productivity advantage over foreign competitors.

According to a survey conducted by McGraw-Hill the percentage of obsolete machinery and equipment used by American industry declined from 1962 to 1968. Between 1968 and 1970, however, the percentage of outmoded manufacturing equipment increased over 7 percent.

This obsolescence has had a direct relation to the American balance of trade. From 1962 through 1967 the United States experienced an annual average trade surplus of almost $5 billion. Between 1968 and 1970, however, our balance of trade declined 70 percent to an annual rate of only $1½ billion. American goods are now becoming less competitive in both foreign and domestic markets, and this trend threatens the jobs and buying of every American wage earner.

One of the principal reasons why American industry has not retained its competitive advantage is that most other industrial nations permit their industries to recover the cost of machinery and equipment over a much shorter period of time. These shorter depreciation periods increase the cash flow of foreign competitors and give them a greater capacity to reinvest in new and modern productive equipment. In some cases, like Japan, this source of investment funds is further supplemented by government donated and guaranteed financing. By shortening recovery periods, ADR would bring the American tax structure more into line with those of other industrial nations. The following chart prepared by the President's Task Force on Business Taxation, dramatically illustrates the competitive advantage which foreign firms have over American industry as a consequence of their nation's tax policies.

Country	Representative cost recovery period (years)	Aggregate cost recovery allowance (percentage of cost of assets)		
		First taxable year	First 3 taxable years	First 7 taxable years
Belgium	10	20.0	48.8	89.0
Canada	10	20.0	48.8	79.0
France	8	31.3	67.5	94.9
Italy	6	20.0	65.0	100.0
Japan	11	34.5	56.9	81.4
Luxembourg	10	28.0	60.4	101.9
Netherlands	5	10.0	42.4	77.1
Sweden	5	30.0	65.7	100.0
Switzerland	6⅔	15.0	58.4	90.0
United Kingdom	12	57.8	78.1	102.1
Western Germany	9	16.7	49.6	83.8
United States	13	7.7	33.9	66.1

At the present time the United States reinvests a smaller portion of its gross national product in productive equip-

ment than any other major industrial nation.

	GNP (1967–68)	
County	Percent reinvested in fixed assets	Percent reinvested in machinery and equipment
United States	16.6	6.9
United Kingdom	18.2	
Italy	19.4	
Germany	23.1	10.8
France	24.9	8.9
Japan	34.0	25.1

Source: OECD Observer, February 1970.

In this context it is astounding that certain Democratic presidential hopefuls, and high labor officials would sacrifice the jobs and buying power of American workers by attacking ADR. Do they really believe that they can gain favor with the American worker by placing him at a competitive disadvantage so that his job may be taken by a foreign worker?

Is the scent of the White House rose garden so alluring that these candidates would keep the American worker in front of outmoded and obsolete equipment?

Have political sunspots blinded them to the job opportunities, job protection, and purchasing power needed by every American?

By their rhetoric these spokesmen have shown themselves to be either grossly misinformed, or the perpetrators of a shameless deception upon the American worker and his family.

These tactics could sacrifice the American worker and his family upon the altar of political expediency.

Let us look at the record, far-reaching changes under our tax depreciation policies were effected in 1962 under President John F. Kennedy. At that time, the Treasury Department reduced depreciable lives 30 to 40 percent on the average, and permitted taxpayers to use them as a matter of right for 3 years and substantially longer depending on facts and circumstances other than just the taxpayer's experience. This furnishes not only the most important precedent for the ADR but constitutes the basis for the ADR itself. These changes in 1962 involved a reduction of billions of dollars in tax revenue and were effected administratively.

Some of the Democratic presidential hopefuls would have us believe that their real objection to ADR lies not with accelerated depreciation, but rather with the fact that the ADR was instituted administratively. One prominent Democrat has even gone so far as to say that these Treasury proposals "will constitute a mockery of the constitutional power of Congress to levy taxes."

Where were these same critics back in 1962? At that time they tiptoed around like smiling little elves whose leader had just given out candy.

Where was their sense of outrage that President Kennedy had not sent his proposal over to the Congress to be subjected to the political exigencies of those times.

Where was the "mockery of the constitutional power" in 1962?

The loudly critical voices were strangely silent when it was John F. Kennedy rather than Richard M. Nixon who was helping to make American industry competitive.

One Democratic hopeful has said that the proposed ADR system is, "nothing more than a shallow attempt to permit businessmen to avoid paying tax." Accelerated depreciation is not a tax avoidance device at all. It simply defers the time when taxes are paid. By taking the depreciation now, instead of in later years, the businessman simply generates cash flow which can be used to modernize his plant and equipment. By taking depreciation now there will be less depreciation to take later and taxes will be accelerated in later years when capital equipment has been modernized and the plant is more efficient and productive. Increased production on a more efficient basis will in turn generate new tax revenues in addition.

In 1969 we enacted provisions for accelerated depreciation with respect to pollution control equipment. But this is limited and confusing. If a manufacturer installs pollution control equipment on an obsolete furnace he gets an accelerated writeoff. But if he builds an entirely new furnace with pollution control devices built in he is denied the accelerated writeoff even as to that portion of his total investment related to pollution control equipment. The result is that there is a strong incentive to clean up obsolete equipment rather than to construct new pollution-free facilities which will be modern enough to protect the competitive posture of America's workingmen.

In 1962 President Kennedy made the following statement when he announced new depreciation guidelines:

> By encouraging American business to replace its machinery more rapidly we hope to make America's products more competitive, to step up our rate of recovery and growth, and to provide expanded job opportunities for all Americans.

Where were the Democratic critics in 1962 to tell him that he was wrong? At that time a Senator from Minnesota said on July 12, 1962:

> This particular announcement, to my mind, is of great significance to the well-being and the prosperity of the American economy. It is my view that the action which has been taken will have a more immediate effect upon the economy than even a tax cut, even though it should not be regarded as a substitute for that worthy endeavor. The Revisions will offer a huge incentive for new capital investment.

But today, with a Republican President in the White House that same Senator is heard to say:

> This is the wrong move at the wrong time for the wrong reason. Accelerated depreciation in light of the present state of the economy, consumer demand, and utilization of industrial plant capacity is like giving a pair of track shoes to a cripple.

The reserve ratio test was inaugurated entirely administratively. There was no legislation whatever. The President at this time is simply removing it administratively. He is using the same procedure that was used by President Kennedy. President Kennedy accelerated depreciation administratively. There was no new enabling legislation whatever. President Nixon is also changing depreciation schedules by administrative action. For Democratic hopefuls to attack this procedure now as a mockery of constitutional power when they were acquiescent in 1962 is transparently hypocritical.

To the extent that their criticism goes beyond procedure and strikes at the substance of the President's action I suggest that it undercuts the hope for a more productive national economy. Without more modern facilities the American worker will not be able to compete with his foreign counterpart. He will not have job security, and he will not receive increased purchasing power.

To lay aside any doubts which may exist as to the propriety of the procedures used in implementing ADR I ask unanimous consent to insert at this point in the RECORD a statement prepared by Attorney Frederic H. Hickman and comments prepared by Attorneys Joel Barlow, John Ellicott and Jeffery H. Howard.

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

STATEMENT OF FREDERIC W. HICKMAN

Re: Authority of the Treasury to promulgate proposed regulations § 1.167(a)–11

It is the purpose of this paper to consider whether the Treasury has authority to promulgate proposed Regulations § 1.167(a)–11, commonly referred to as the "ADR Regulations." It is the conclusion of this paper that the Treasury possesses that authority.

It is *not* the purpose of this paper to discuss the political question of whether it would be wiser tax administration to seek legislative change. In this connection the classic paper on Treasury regulations notes that even assuming the Treasury has authority to change existing practices by regulation, ". . . it should not be overlooked by the Treasury that some contemplated changes will be of such importance that it will be wise tax administration to present the situation to Congress and seek the change there. The existence of power does not require its exercise, and there will be situations where legislative rather than administrative power should be invoked." (Griswold, "A Summary of the Regulations Problem," 54 Harv. L. Rev. 398, 417 (1941))

It is important to note the distinction between legal authority, on the one hand, and political desirability, on the other, as some of the "legal" criticisms opposing the regulations are in truth directed primarily to the second point. Tax practitioners and other students of the legal process may bring important experience and wise counsel to the political decision, but that decision is one which the Treasury has the ultimate authority to make based on all of the facts, political and otherwise, known to it.

What Is a "Reasonable Allowance"?

The statutory language on which the regulations expand is that in Section 167(a) which gives to taxpayers "a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence) . . ." of property used in the trade or business or held for the production of income. That same language, virtually unchanged, has existed since 1913.

The regulations are dealing then with the question of what kinds of allowances may be "reasonable." Regulations under such a provision are necessarily more nearly legislative in character than interpretive and, indeed, Section 167(b) of the Code, added in 1954, expressly gives the Secretary power to promulgate detailed rules.

Over nearly six decades a vast array of computational procedures have been accepted as producing a "reasonable" allowance. In practice, depending on the computational methods employed, widely different dollar allowances might be produced for a given year and all would qualify as a "reasonable allowance." Under such circumstances, the regulations are in effect promulgating entire systems and it is unrealistic to deal with them as if they involved ordinary "statutory construction." But it is not necessary to fit these regulations neatly into a pigeonhole, for the Secretary has wide latitude in either case. In the case of truly legislative regulations the Griswold paper states:

"[I]t would seem that the Treasury should have the same power to amend the regulation prospectively that Congress would have if it had enacted the legislation directly. One exercise of legislative power should not exhaust it. But, as a matter of wise tax administration, the Treasury should be held to have no power to amend a legislative reglation retroactively." (p. 411)

With respect to interpretive regulations, the paper states:

"Where the statutory provision is very general and indefinite, such as the definition of gross income, perspective changes in the regulations under it should be allowed as a means of working out the complex concept outlined in the statute. But where the statute is narrower, and the regulation very specific, then it becomes an element in the law and not a brush stroke in limning out a concept. Such a regulation may be beyond administrative change even for the future." (pp. 416–17)

Under either of the foregoing principles, the ADR regulations would be valid even if, as argued by some, they represent a change in the prior regulations.

But the ADR regulations do *not*, as will be seen, overrule the prior provisions of the statute or regulations. They only expand the area within which allowances will be deemed to be "reasonable." Surely the question of "reasonableness" in a matter so complex need not stay fixed and static for six decades. One need only consider the radical changes in the science of financial accounting since 1913 to see that the concept of what is "reasonable" in this context is dynamic and changing. The existence of decisions (either administrative or judicial) as to the reasonableness or unreasonableness of the allowances claimed by particular taxpayers in the past should not prevent a fresh look at what may be reasonable for taxpayers generally at some later date and after additional experience. If General Motors or the Army Corps of Engineers were to take the position that what is "reasonable in respect of safety or pollution matters is no longer subject to examination on the merits because of scattered court decisions 10 or 20 years ago, one can imagine the indignation of the "public interest groups" which now argue that the Treasury can no longer broaden its views on what is "reasonable" because of Supreme Court decisions directed, as we shall see, to much narrower points. It is indeed a frightening intellectual position that argues that our administrative processes needs not and cannot constantly examine what is and what is not "reasonable" in light of prevailing conditions.

THE "RE-ENACTMENT DOCTRINE"

Some argue, in effect, that it is no longer the phrase "reasonable allowance" which is the proper subject for regulations, but that the statute must now be read as if it also contained language (unspecified) implementing certain concepts of "useful life." These concepts are written into the statute, it is urged, by virtue of the repeated reenacment of the basic statutory provision for a "reasonable allowance" against the background of long-standing Treasury regulations and practices with respect to "useful life" and by court decisions interpreting that phrase.

The proposition that statutory re-enactment in effect turns regulations into statutes has turned up from time to time in judicial language since the turn of the century. It is, however, discredited by the commentators and by the Supreme Court alike. Thus, Griswold says, in summarizing his conclusions:

"The reenactment of a statute as such should be regarded as wholly without significance in determining the weight to be given an administrative construction of the statute." (Op. cit. p. 423)

And the Supreme Court in *Helvering* v. *Reynolds*, 313 U.S. 428 (1941), states:

"That rule is no more than an aid in statutory construction. While it is useful at times in resolving statutory ambiguities, it does not mean that the prior construction has become so embedded in the law that only Congress can effect a change." (p. 432)

Thus, it is still the phrase "reasonable allowance" with which the regulations are properly concerned. Prior administrative practices and interpretations are relevant, of course, but are subject to modification under the principles above set forth.

ADR REGULATIONS DO NOT CHANGE EXISTING REGULATIONS AND SUPREME COURT HOLDINGS

Relevant portions of the regulations dealing with "reasonable allowances" and "useful lives" read as follows:

"§ 1.167(a)–1. Depreciation in general.

(a) *Reasonable allowance.* . . . The allowance is that amount which should be set aside for the taxable year in accordance with a reasonably consistent plan (not necessarily at a uniform rate), so that the aggregate of the amounts set aside, plus the salvage value, will, at the end of the estimated useful life of the depreciable property, equal the cost or other basis of the property as provided in section 167(g) and § 1.167 (g)–1. . . .

(b) *Useful life.* For the purpose of section 167 the estimated useful life of an asset is not necessarily the useful life inherent in the asset but is the period over which the asset may reasonably be expected to be useful to the taxpayer in his trade or business or in the production of his income. . . ."

The substance of paragraph (a) has been in the regulations since 1919. The words "useful life" first appeared in the statute in 1954 and paragraph (b) was added to the regulations in 1956.

The Supreme Court decisions in *Massey Motors, Inc.* v. *U.S.*, 364 U.S. 92 (1960) and *Hertz Corporation* v. *U.S.*, 364 U.S. 122 (1960), hold that the provisions of the regulations above quoted were valid and controlling. Specifically, both cases involved the question of salvage. Paragraph (a) of the regulations states that the aggregate amount of deductions may not exceed the excess of cost over salvage and the court held that salvage was to be computed as of the end of the "useful life" as defined in paragraph (b). The court further held that the regulatory language to that effect, inserted in the regulations in 1956, reflected the law in effect prior to the 1954 Code.

The proposed ADR regulations do not in any way change these regulatory rules nor do they provide a result different from that in the Supreme Court decisions in *Massey* and *Hertz*. Indeed, they are very careful to preserve those results. (See, *e.g.*, Proposed Regs. § 1.167(a)–11(c)(1)(i) and –11(d)(1)(i).)

ADR REGULATIONS DEAL WITH MATTERS NOT SPECIFICALLY COVERED PREVIOUSLY: ACCEPTABLE METHODS OF DETERMINING USEFUL LIFE TO TAXPAYER

The proposed ADR regulations accept the definition of "useful life" which appears in the regulations and was approved in *Massey* and *Hertz*, and go on to deal with the question, not previously answered, of methods of determining the collective "useful lives" of the major groups of assets used by the taxpayer.

At the very heart of the problem of determining "useful lives" is this unavoidable fact: *there is no reliable way* to arrive at an accurate determination of remaining "useful life" except in isolated instances of short lived assets. Predicting the extent to which depreciable assets will be used four or five years hence is no more reliable than predicting next month's weather, or next year's corporate earnings, or the status of United States troops in Viet Nam in 1973. It is not possible to overemphasize this point. Any reasonable depreciation procedure must proceed from this fundamental fact.

Thus, Messrs. Surrey and Warren writing in 1950 state:

"The determination of the proper depreciation deduction thus remains an area of controversy between taxpayer and Bureau. In fact it ranks as one of the three issues most frequently in dispute, the other two being partnership matters and ordinary and necessary business expenses.

But since the proper amount turns essentially on probabilities, disputes over depreciation are necessarily settled by negotiation with the revenue agents and the Technical Staff and are rarely litigated." (*Federal Income Taxation*, pp. 258–59)

A 1960 edition of the same text states:

"In the case of the usual classes of depreciable property—buildings, machinery, equipment, automobiles, etc.—this determination is necessarily an estimate which may vary from a reasonable prediction to a vague guess depending on the experience and other data available." (p. 378)

In the face of the inexorable fact that no correct answer is possible, the determination of useful lives of depreciable properties necessarily is, and has for many years been, an essentially irrational process. The word "irrational" is used advisedly and in full awareness that much "rationalizing" accompanies the process. But the trappings of rationality do not change a "vague guess" into a rational result. It is characteristic of the human mind that where rationality does not exist, it is invented or pretended. Thus the parties to the determination—the taxpayer and the Government—typically approach the project with an array of data and statistics. But the question to be resolved is what will happen during periods up to fifty years in the future, and the only data available is data relating to the past. The determinations from that data involve a combination of conjecture, extrapolation and wishful thinking indulged in by both parties. Arcane mathematical theories and arguments are bandied about by negotiants whose technical proficiences rise slightly, if at all, above accounting matters. "The very mystery that surrounds mathematical arguments—the relative obscurity that makes them at once impenetrable by the layman and impressive to him"—results in giving such arguments "a credence they do not deserve and a weight they cannot logically claim." *

In short, whatever the superstructure of scientific phraseology and mathematical theory employed, there is at the bottom the inescapable fact that the future—which is what must be measured—is essentially unknowable.

The best that can be said is that for *taxpayers generally*, and assuming that the past provides some guidance to the future, there may be some "range" within which it is "probable" that the "useful life" will fall. But even that goal depends on variables can-

* Cf. Tribe, "Trial by Mathematics," 84 Harv. L. Rev. 1329, 1334 (1971).

celing each other out in a large volume of data and become unrealistic for individual or small groups of taxpayers.

In assessing the ADR system it is necessary to keep in mind that it—like the Guideline Procedure on which it is based—is dealing with "'group" or "composite" accounts, and thus with average useful lives of a number of different assets. Thus, for example, a manufacturer of motor vehicles does not under the guidelines distinguish between different kinds of machinery for tax purposes but aggregates in a single composite account all of its machinery and equipment, whether production, power plant or special purpose and all special purpose structures. The company may be reasonably confident that such an investment aggregating several hundred million dollars will not be used up in two or three years, but there is no conceivable way that it can know with any accuracy what the actual average useful life will turn out to be, given the millions of variables and such total imponderables as technical innovation and obsolescence.

THE ADR REGULATIONS ARE A REFINEMENT OF THE 1962 GUIDELINE PROCEDURES, WHICH RECOGNIZED THE ESSENTIAL UNKNOWABILITY OF USEFUL LIVES

The Guideline Procedures prescribed by Rev. Proc. 62–21, by establishing uniform "useful lives" on which taxpayers generally might rely, recognized that traditional methods of "proving" useful lives for individual taxpayers were illusory and were producing wrong results. Indeed, it was acknowledged that the guideline lives prescribed were very substantially lower than what taxpayers had "proved" at the time. The guideline lives prescribed represented only the roughest estimates and it was not intended that they be immune from all future adjustment. The Guideline Procedure also recognized the possible validity of the proposition, contended for by many students of the subject, that the assumption of shorter useful lives for tax purposes tends ultimately to bring about shorter actual lives than would otherwise occur through increased cash flow with which to fund replacement and innovation.

Thus it was Rev. Proc. 62–21 which made the conceptual breakthrough and recognized the unrealism in traditional methods of "proving up" useful lives. The ADR regulations are simply further refinements and improvements upon that basic breakthrough. The proposed regulations make three major changes:

(1) *Range of lives.* In lieu of prescribing the period to be used as a single number, the ADR regulations prescribe a "range of numbers" within which the taxpayer can choose. One can argue with the numbers selected, but the concept of a "range," as distinguished from a single number, is surely more reasonable.

(2) *Repair-Capitalization Conventions.* The ADR regulations prescribe new procedures with respect to repair-capitalization problems. This was most desirable because the guideline procedures had so changed traditional approaches as to greatly aggravate the confusion which already existed in this area. The distinction between repairs and capital expenditures has also turned on concepts of "useful life" and extensions of "useful life." The guideline procedure was designed to render (and did so) determinations of "useful life" for individual assets unimportant, which in turn led to fresh difficulties in distinguishing between repairs and capital improvements.

(3) *Reserve ratio abolished.* The reserve ratio test is abolished under the ADR regulations. The reserve ratio test specified by the guideline procedures was an attempt to tie group life ultimately to the taxpayer's own past experience. But it has the same fundamental defect that all statistical tests used for this purpose have, namely, that it reflects only what has happened in the past and gives guidance for the present and the future only to the extent that one is willing to make the assumption that the past will repeat itself. That is a most doubtful assumption in any case and totally unrealistic with long-lived assets. It may be reasonable to make informed guesses about the near future on the basis of the recent past, but it is quite another thing to predict what will happen 20 or 25 years from now on the basis of what happened 20 or 25 years ago.

In addition to this fundamental defect, the reserve ratio test had the further vice of being relatively unsophisticated. Notwithstanding the formidable mathematical equations which accompanied the explantion of the reserve ratio test, the test was fundamentally just plain arithmetic based on some rather simplistic assumptions. The arithmetical principles of the test were not a new invention but had been used off and on over a period of years as a rule of thumb test.

These vices of the test were compounded by the irony that while it was too simplistic adequately to interpret even the past (let alone the future), it was too complicated to be readily understood by most of the practitioners, revenue agents and courts that would be called upon to deal with it. Its only virtue was that for those who found it necessary to pretend that an accurate estimate of remaining useful lives was possible, it offered a false sense of mathematical justification.

In fact, the test as refined and applied by the Treasury and the Internal Revenue Service over the near decade since the Guideline Procedure was promulgated has been such that very few taxpayers have been subjected to adjustments in useful lives, and such adjustments as there were have been minimal in amount.

Thus, as a practical matter, the entire country has for nine years been permitted to operate on standard lives without being required to attempt to prove the unprovable fact of "useful life" to each individual taxpayer. The revolution occurred nine years ago, not today!

The proposed ADR regulations meet the problem of essential unprovability in a straightforward and honest fashion. They recognized that there is not and cannot be a single, accurate "useful life." The best that can reasonably be done is to select a "range" of probability for taxpayers generally, within which the taxpayer will be allowed to select the period over which it will write off its properties. In a commendable effort to avoid past confusions and semantic squabbles the regulations have avoided use of the term "useful life" in this connection.

There have been complaints about the ranges selected. Professor Bittker complains, for example, that:

"The 1962 guidelines cannot be simultaneously too long and too short."

But that assumes that there is some one correct number. There is not. We have lived with the guideline lives for 9 years already and with the benefit of hindsight it begins to appear that for some taxpayers the guideline lives were perhaps shorter than actual lives of assets in service in 1962 and for other taxpayers they were perhaps longer. But it is too soon to know even for assets in service in 1962. Whether the guideline lives are longer or shorter than actual for individual taxpayers claiming allowances in 1971 will be proved only by the passage of time. Perhaps, as the original Guideline Procedures assumed possible, it will be true that setting shorter lives will cause faster retirement and replacement than now exists. Under all the circumstances, if a range is to be used a 20% variation from the lives which have been in use and under observation for nearly a decade seems not unreasonable. The Treasury does not claim infallibility and the proposed regulations expressly reserve the right to make future changes if that should be deemed advisable.

STANDARD USEFUL LIVES NOT PRECLUDED BY PRIOR REGULATIONS AND COURT DECISIONS

The critics complain that the statute, the regulations and the decisions of the Supreme Court require that the "special circumstances" of the taxpayer's own use of the assets must be taken into account and that the Treasury cannot administratively forego examining those circumstances in every case. But this is not the case.

It is true that the regulations are express in holding that it is the life in the taxpayer's business, rather than the physical life of an asset, which must be taken into account for depreciation purposes. The *Massey* and *Hertz* cases approved those regulations. (Note that even that approval does not render the regulations immune from prospective changes under the principles discussed earlier.)

But, neither the statute, the regulations nor the Supreme Court decisions have ever settled the difficult question of exactly what must be done to establish the useful lives to be used, although some general guidelines were inserted in the regulations in 1956. The proposed ADR regulations do not revoke the statutory interpretations set forth in the regulations nor overrule the *Massey* and *Hertz* decisions. In *Massey* and *Hertz* only a limited class of short lived assets were involved and the actual number of years during which the assets were usable in the taxpayer's business appears not to have been in issue. The cases simply did not involve the problems of determining average lives of long lived assets or of group accounts containing such assets.

The actual holding of the *Massey* and *Hertz* cases is expressly preserved in the ADR regulations: The taxpayer may not depreciate below salvage and may not compute salvage on a scrap basis unless he would normally expect to keep the asset until such time as it would only produce scrap value on disposition. If the taxpayer has short lived assets, like the taxpayers in *Massey* and *Hertz*, on which the lives are reliably provable, he is free to prove them and use them (but he cannot then have his cake and eat it too by using the average lives prescribed for accounts assumed to contain both long and short lived assets). "Special circumstances," where they permit reliably provable estimates, may be taken into account by the taxpayer to this extent. The Treasury quite rightly agrees not to contend for the lengthening of "useful lives" on longer lived assets on the basis of "special circumstances" which are invariably speculative in such cases.

Thus, the proposed regulations deal with an aspect of "useful life" not previously covered in the regulations or in the Supreme Court decisions, namely, the manner in which taxpayers may go about selecting the useful lives for composite accounts where no factual proof is reliable or satisfactory. This kind of refinement surely lies within the Treasury's authority to determine what is or is not a "reasonable" allowance. This would be true even where the proposed regulation represented a rejection of existing regulations or traditional holdings based on those regulations and is, *a fortiori*, true where, as here, no such rejection of prior law is required.

RECOMMENDATIONS OF THE AMERICAN BAR ASSOCIATION AND THE PRESIDENT'S TASK FORCE

The American Bar Association and the President's Task Force on Business Taxation have recommended legislative reforms of depreciation which are basically similar to each other and also similar to certain features of the proposed ADR regulations.

It is being argued that these proposals constitute a recognition that the reforms

proposed by regulations are permissible only by legislation. Such an inference is wholly improper.

So far as the American Bar Association is concerned, the committee which drafted the proposals never addressed itself to whether or to what extent the proposals might be implemented by regulation as distinguished from legislation. Furthermore, the American Bar Association proposals were far more radical than the ADR regulations. They were intended to eliminate the concept of useful life entirely and to substitute for it the concept of "cost recovery periods." The cost recovery periods were to be frankly "shorter than the period which the Secretary or his delegate shall determine to be the shortest useful life with respect to property in that class." Taxpayers would have the option to eliminate salvage entirely in determining the aggregate amount of depreciation deductions, an option which would overrule *Massey* and *Hertz*. The proposals of the President's Task Force were essentially similar to the American Bar Association proposals in these substantive respects and thus they, too, go far beyond the proposed ADR regulations. Whether or not the ADR regulations could, by prospective application, overrule these specific and fundamental aspects of existing depreciation procedure, the fact is that they did not do so.

REPAIR AND CAPITALIZATION PROCEDURES

The problem of determining what is a repair and what is a capital improvement sounds simple in principle and often appears so in the numerous cases dealing with an occasional new roof, new furnace, etc. As applied, however, to large and sophisticated industrial installations, particularly in conjunction with group accounts, it is in actual practice one of the most complex and bewildering aspects of depreciation.

The basic test which has been employed to distinguish current expense from capital expenditure is whether or not the expenditure extends the useful life of the asset. But that depends upon first determining what that useful life is, with all of the uncertainties discussed earlier. Furthermore, it is necessary to determine whether certain repairs were assumed in setting the useful life in the first place. For example, it might be assumed that a particular asset would last 6 years without major overhaul and 10 years if substantially rebuilt at the end of the fifth year. If the taxpayer uses a 6 year life, then the rebuilding extends that life and should arguably be capitalized. But if it is using a 10 year life the rebuilding does not extend the life used and should not be capitalized. All of which is complicated by the fact that the taxpayer must make many decisions at a time when no one has any idea whether either the 6 year or the 10 year life is accurate.

The result has been that a variety of rules of thumb have been used, many of which have little relation to logic or reality. In many cases items are capitalized or not capitalized depending upon limitations expressed in terms of dollars or of percentages of investment or years of assumed useful life. An almost unbelievable controversy has been raging in the railroad industry, for example, over the assertions of revenue agents that such picayune items as restenciling numbers on freight cars must be capitalized on any cars over 14 years old (the guideline life), or, in some cases, 10 years (70% of the guideline life).

In a large physical plant the simple problem of identifying individual repairs and improvements and the assets to which they relate would be a full-time (and relatively unproductive) job for an army of revenue agents. The Internal Revenue Service long ago gave up trying to audit on such a basis. Some methods of dealing with such problems reasonably and in bulk is essential and reasonableness and uniformity are long overdue.

Under the proposed regulations such items will be expenses if they fall below a certain percentage of the original account to which they relate and if they exceed that percentage they will be added back to the vintage account to which they relate and the account redepreciated. In certain circumstances where the accounts are fully depreciated or nearly fully depreciated (and the assets, accordingly, are relatively old), such an add-back can, in effect, result in the immediate deduction of some items. In the case of newer vintage accounts, however, the "add back" can mean that taxpayers would get only over future years expenditures which they now get currently. The basic concept is that repairs and improvements will be written off in a manner consistent with the underlying properties to which they relate. The repair convention provided by the regulations is actually a codification of a basic approach long used in many Internal Revenue Service audits, standardized as to percentages and adapted to mesh with the depreciation provisions proposed. There are technical complexities in the proposed repair conventions which need simplification and improvement, the most pressing need being for the development of averaging or other appropriate conventions to apply where identification of repairs with assets cannot be achieved without enormous record-keeping burdens. However, the overall concept is in line with practices used in the past, seems not unreasonable and is, in any event, far more satisfactory than pot-luck procedures to which taxpayers are now subjected

CONCLUSION

Putting aside the question of whether it *should* do so, the Treasury *has authority* to issue the proposed ADR regulations. The proposed regulations are addressed to the problem of determining a "reasonable allowance." There is more than one way to be "reasonable," and the Treasury lacks authority only if its proposals fall outside that broad concept. In prescribing optional "standard lives" the proposed regulations continue what has in effect been the practice for nearly a decade. The procedure which the proposed regulations prescribes for determining the "allowance" is realistic, for the reasons described above, and more realistic than that previously in effect. Under these circumstances promulgation of the regulations lies within the Treasury's authority.

[36 Federal Register 4885 (March 13, 1971)]

COMMENTS OF JOEL BARLOW, JOHN ELLICOTT, AND JEFFREY H. HOWARD

IN THE MATTER OF: PROPOSED AMENDMENTS TO THE INCOME TAX REGULATIONS (26 CFR PART 1): ADDITION OF SECTION 1.167(A)-11 PROVIDING FOR DEPRECIATION BASED ON ASSET DEPRECIATION RANGES

The purpose of these Comments is to put to rest assertions that the Treasury Department lacks authority to prescribe the regulations proposed in the Federal Register of March 13, 1971, providing asset depreciation ranges for various classes of assets first placed in service after December 31, 1970.

Proposed Section 1.167(a)-11 of the Income Tax Regulations provides an elective modified calculation of annual depreciation allowances for certain assets first placed in service after December 31, 1970. This alternative depreciation arrangement, described as the Asset Depreciation Range or ADR System, permits the taxpayer to elect to base depreciation of an asset on any number of years within the designated range of years for that particular class.

The ADR ranges are generally from 20 percent shorter to 20 percent longer than the present "Guideline" lives specified in Revenue Procedure 62-21, 1962-2 Cumulative Bulletin 418. In no case may an asset be depreciated below its estimated salvage value but a 10 percent tolerance in salvage estimation is included in the ADR rules. There are also special provisions dealing with retirements and repairs which are designed to simplify administration.

Strong criticism has been mounted against these proposed regulations, including attacks by distinguished members of law school faculties.[1] This criticism is unjustified. The facts are:

(1) That the statutory provisions from which the Treasury Department derives its power to prescribe depreciation regulations are sufficiently broad to encompass the instant proposed regulations.

(2) That there are at least three precedents in the history of our income tax laws where the Treasury has taken similar administrative actions in the field of depreciation, in each case with no greater statutory power than is now available to it and without Congressional or judicial challenge.

(3) That these proposed regulations are the inevitable, realistic and practical end-product of new depreciation policies instituted by administrative action, beginning in 1962, with express Congressional approval.

A. Statutory authority for the ADR system

Section 7805 of the Internal Revenue Code of 1954, as amended,[2] grants the Treasury the broad authority to promulgate all "needful rules and regulations for the enforcement of this title." Given the complexity of the Internal Revenue Code, it is not surprising to find that the Courts consistently and repeatedly uphold Treasury regulations under this Section. In ruling upon the validity of such a Section 7805 regulation in *Commissioner* v. *South Texas Lumber Co.*, 333 U.S. 496, 501 (1948), the Supreme Court observed that:

"This Court has many times declared that Treasury regulations must be sustained unless unreasonable and plainly inconsistent with the revenue statutes . . ."

In the light of this attitude, the courts have struck down Section 7805 regulations only where there is an attempt to amend by regulation a clear, specific and unambiguous statute. *See, e.g., Koshland* v. *Helvering*, 298 U.S. 441 (1936); *O'Neill* v. *United States*, 410 F.2d 888 (6th Cir. 1969); *F. H. E. Oil Co.* v. *Commissioner*, 147 F.2d 1002 (5th Cir. 1945), *modified*, 149 F.2d 238;[3] *Edmund P. Coady*,

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[1] See, e.g., Comments of Professor Boris I. Bittker, Yale Law School, sponsored by Taxation with Representation, and Comments of Robert J. Domrese, Harvard Law School, submitted to Senator Sam J. Ervin, Jr., Chairman of the Senate Judiciary Subcommittee on Separation of Powers by Ralph Nader.

[2] Hereinafter referred to as the "Code."

[3] Professor Bittker places considerable reliance upon the 1945 opinion of the Fifth Circuit in the F. H. E. Oil Co. case which invalidated a regulation permitting current deductions for intangible drilling expenses. As Professor Bittker points out in a footnote the opinion was later modified when the court determined that the taxpayer did not come within the scope of the regulation in any event.

Putting that aside, Professor Bittker correctly notes the conclusion of the Court of Appeals that expensing intangibles would be inconsistent with Section 23(a) of the Internal Revenue Code of 1939 prohibiting deductions for capital improvements. He does not note, however, that the court was equally motivated by its conclusion that statutory percentage depletion was inconsistent with the regulation and distinguished an earlier case upholding the regulation prior to the enactment of percentage depletion.

Thus, the F. H. E. Oil Co. case is not even a

33 T.C. 771 (1960), *aff'd*, 289 F.2d 490 (6th Cir. 1961).

The substantive statutory provisions governing the recovery of the cost of capital assets through depreciation deductions have always been expressed by Congress in broad language. Thus, Section 167(a) of the Code provides that:

"There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) of property used in the trade or business, or

(2) of property held for the production of income."

This language clearly compels interpretation. Although essentially this same provision has been in our income tax statutes since 1913, there has not been a settled and consistent interpretation of its meaning. The Treasury Regulations have employed the phrase "useful life" as the measuring standard of depreciation but that phrase itself has been the subject of varying meanings. Less than 11 years ago the Supreme Court was moved to say that:

"It is true, as taxpayers contend and as we have indicated, that the language of the statute and the regulations as we have heretofore traced them [to 1956] may not be precise and unambiguous as to the term 'useful life.' It may be that the administrative practice with regard thereto may not be pointed to as an example of clarity, and that in some cases the Commissioner has acquiesced in inconsistent holdings. . . ." *Massey Motors, Inc.* v. *United States*, 364 U.S. 92, 100 (1960).

When one contrasts this with the language of the Court in *Cammarano* v. *United States*, 358 U.S. 498 (1959), and in *Fribourg Navigation Co., Inc.* v. *Commissioner*, 383 U.S. 272 (1966), which Professors Domrese and Bittker cite respectively in support of the proposition that the "useful life" concept of the early regulations acquired the force of law by Congressional re-enactment in the face of long-standing consistent interpretation, it is apparent that the suit will not fit.

This is the Court's description of the *Cammarano* regulation:

"Here we have unambiguous regulatory language, adopted by the Commissioner in the early days of federal income tax legislation, in continuous existence since that time, and consistently construed and applied by the courts on many occasions to deny deduction. . . . In these circumstances . . . [re-enactment] 'was taken with knowledge of the construction placed upon the section by the official charged with its administration. If the legislative body had considered the Treasury interpretation erroneous it would have amended the section. Its failure so to do requires the conclusion that the regulation was not inconsistent with the intent of the statute [citations] unless, perhaps, the language of the Act is unambiguous and the regulation clearly inconsistent with it.' " 358 U.S. at 511.

And Professor Bittker's quotation from *Fribourg Navigation* is as follows:

"Over the same extended period of years during which the foregoing administrative and judicial precedent was accumulating, Congress repeatedly re-enacted the depreciation provision without significant change. Thus, beyond the generally understood scope of the depreciation provision itself, the Commissioner's prior long-standing and consistent administrative practice must be deemed to have received congressional approval." 383 U.S. at 283.

In contrast to the regulations and practices before the Court in *Cammarano* and *Fribourg Navigation* the concept of "useful life" for depreciation purposes passed through several revolutionary phases both before and since the last statutory enactment in 1954, responding to changing times and to complementary provisions in our tax laws.

The situation prevailing prior to the depression has been described as follows:

"Prior to 1934, the taxpayer had wide leeway as to the amount which he could write off each year against his current income as allowance for the cost of machinery, equipment and buildings. So long as his policy was consistent and in accordance with sound accounting practice, the tax authorities raised little question, realizing that the cost could be written off only once." Address by Under Secretary of the Treasury Marion B. Folsom, National Press Club Luncheon Meeting, March 24, 1954.

With the publication of the first "Bulletin F" in 1931 and its rigorous enforcement beginning in 1934, T.D. 4422, XIII–1 Cumulative Bulletin 58, standardized lives tied to the inherent physical endurance of the asset became the rule. In these depression years the Bureau of Internal Revenue was motivated to extend depreciable lives and thereby reduce depreciation allowances to protect the revenues.

Since salvage was the estimated value of the asset at the end of its useful life, a consequence of the physical life approach was to permit taxpayers disposing of assets before the expiration of their physical lives to depreciate below the anticipated actual recovery value of those assets. This was of no great concern prior to the Revenue Act of 1942 since in that period the excess of the disposition proceeds over the asset's adjusted basis was taxed as ordinary income, offsetting the earlier "excess" depreciation.

The Revenue Act of 1942 changed the asset disposition profits into capital gains. With this change and the 1954 accelerated depreciation provisions of the Code very much in mind, the Treasury Department redefined useful life in the 1956 regulations, rejecting the physical life approach in favor of the useful life of the asset in the business. The Commissioner was then successful in persuading a majority of the Supreme Court in the *Massey* case to apply the same interpretation to earlier years, for purposes of determining salvage values, in the absence of any prior inconsistent regulatory provision.

Since the critics of the ADR System rely heavily on the *Massey* case, it is appropriate to state here what that case holds and what it does not hold. Massey Motors, a franchised Chrysler dealer, set aside a number of new cars for company officials and employees to use in the business. It also rented cars to a finance company. These cars were sold after being driven from 8000 to 40,000 miles, well before they were physically exhausted. The issue before the court was whether Massey Motors could calculate depreciation by estimating the theoretical salvage at the end of the physical lives of the cars or was required to use higher salvage estimates based on the shorter lives actually experienced in the business. The Court's holding is most succinctly stated in the following paragraph from its opinion:

"Some assests, however, are not acquired with intent to be employed in the business for their full economic life. It is this type of asset, where the experience of the taxpayers clearly indicates a utilization of the asset for a subtsantially shorter period than its full economic life, that we are concerned with in these cases. Admittedly, the automobiles are not retained by the taxpayers for their full economic life and, concededly, they do have substantial salvage, resale or second-hand value. Moreover, the application of the full-economic-life formula to taxpayers' businesses here results in the receipt of substantial 'profits' from the resale or 'salvage' of the automobiles, which contradicts the usual application of the full-economic-life concept. There, the salvage value, if anything, is ordinarily nominal. Furthermore, the 'profits' of the taxpayers here are capital gains and incur no more than a 25% tax rate. The depreciation, however, is deducted from ordinary income. By so translating the statute and the regulations, the taxpayers are able, through the deduction of this depreciation from ordinary income, to convert the inflated amounts from income taxable at ordinary rates to that taxable at the substantially lower capital gains rates. This, we believe, was not in the design of Congress." 364 U.S. at 96–97.

What the Supreme Court did in the *Massey* case was to interpret the relevant provisions of the 1939 Internal Revenue Code, in the absence of any contrary interpretative regulation, to reach a result in the absence of which, because of the 1942 Revenue Act, taxpayers in somewhat unusual circumstances would have been able to trade capital gains for ordinary income.[4]

The 1956 regulations, defining useful life and salvage in accordance with the taxpayer's experience, interpreted, or re-interpreted, Section 167(a), a provision which was not new in the 1954 Code. They reflected the revenue concern which arose by reason of the capital gains disposition provisions of the Revenue Act of 1942. Their application to 1954 Code years was accepted by the Court in the companion case to *Massey, Hertz Corporation v. United States*, 364 U.S. 122 (1960).

The question before the Court in *Hertz* was whether the 1956 regulations were "valid" under the statute (364 U.S. at 126) not whether those regulations were unchangeable. By giving effect to the 1956 regulations in the face of a conflicting administrative practice prevailing at the time of adoption of the 1954 Code, under which the 1956 regulations were issued, the Supreme Court confirmed the broad power of the Treasury Department to interpret and reinterpret the broad statutory depreciation provisions of the Code.

"Useful life" underwent another profound change in 1962 with the adoption of the Depreciation Guidelines of Revenue Procedure 62–21. The guideline lives were new standardized asset lives grouped in broad

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clear holding on the narrower ground for which Professor Bittker advances it—that deductions for repairs under the ADR System are inconsistent with Section 263 of the 1954 Code, successor to Section 23(a) of the 1939 Code. More important, Professor Bittker overlooks the nature and purpose of the ADR System repair deduction allowance which is very different from the deduction regulation at issue in the F. H. E. Oil Co. case. The repaid allowance is not a 100 percent deduction as under the regulation at issue in the F. H. E. Oil Co. case, but is limited to one year's depreciation on the vintage account. Moreover, the allowance is a two-edged sword. If the repair rule is elected, otherwise deductible as well as otherwise capitalized expenditures must be subjected to the repair allowance with its ceiling on current deductions and requirement that expenditures exceeding the ceiling be capitalized. The evident and stated objective of the rule is to reduce needless administrative costs and controversy. Such provisions bear no resemblance to the regulation struck down in the F. H. E. Oil case. The prohibitions of Section 263 are not so absolute as to preclude a flexible and reasonable application. *Cf.* Cincinnati, New Orleans and Texas Pacific Railway Co. v. United States, 70–1 CCH USTC ¶ 9344 (Ct. Claims, 1970).

[4] The proposed ADR System carefully avoids overturning the Massey holding. Salvage under the ADR System is "the amount which is estimated will be realized upon a sale or other disposition of the property in the vintage account when it is no longer useful in the taxpayer's trade or business or in the production of his income and is to be retired from service." Proposed Regulations § 1.167(a)–11(d)(1)(i).

categories. They were available as a matter of right to any taxpayer no matter how far they might depart from his own particular useful life experience. Furthermore, while they were promulgated after extensive industry studies, the Guideline lives were shorter than those which were actually justified by the experience of most taxpayers: "The new reform provides guideline lives, based on analyses of statistical data and engineering studies *and assessments of current and prospective technological advances,* for each industry in the United States."[5]

The words "useful life" remained, but their meaning had been substantially changed. True, the reserve ratio test was included as a technique for later adjustment to reconcile the new lives with experience, but subject to many qualifications. Broad asset groupings still would permit substantial deviations between actual and guideline lives for particular assets. Moreover, the test was subject to an initial moratorium and various transitional rules which modified and delayed its impact. There can be no dispute that useful life did not mean the same thing in practical application in 1962 that it did in 1961.

The enactment of Section 1245 in 1962, reversing the capital gains disposition result of the Revenue Act of 1942, was an important statutory development facilitating the adoption of the Guidelines with their new useful life concept. Section 1245 takes on special significance in the light of the background of the *Massey* case described previously. The need for restrictive interpretations of "useful life" was greatly diminished by the adoption of Section 1245 and this was fully known to Congress. Section 1245 opened the door for the major shift in administrative depreciation policies embodied in the Guidelines, precursor of the ADR System. See S. Rep. No. 1881, 87th Cong., 2d Sess. 95 (1962).

Two significant and new depreciation provisions, Sections 167(b) and (d), were added as part of the 1954 Code and deserve attention here, since both enlarged the foundation upon which depreciation regulations may be premised. Section 167(b) provides that:

"(b) For taxable years ending after December 31, 1953, the term 'reasonable allowance' as used in subsection (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Secretary or his delegate, under any of the following methods . . ."

Section 167(d) provides that:

"(d) Where, under regulations prescribed by the Secretary or his delegate, the taxpayer and the Secretary or his delegate have, after the date of enactment of this title, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the Secretary in the absence of facts or circumstances not taken into consideration in the adoption of such agreement . . . ."

It is well recognized that statutory provisions such as these expressly delegating authority to make regulations, confer the broadest discretion. "Where the regulation is really legislative—that is, where it has been made pursuant to an actual and proper delegation of legislative power by Congress to the Treasury—then it would seem that the Treasury should have the same power to amend the regulation prospectively that Congress would have if it had enacted the legislation directly." Griswold, "A Summary of the Regulations Problem," 54 *Harv. L. Rev.* 398, 411 (1941); *see also* Surrey, "The Scope and Effect of Treasury Regulations Under the Income, Estate and Gift Taxes," 88 *U. Pa. L. Rev.* 556, 557–558 (1940); Eisenstein, "Some Iconoclastic Reflections on Tax Administration," 58 *Harv. L. Rev.* 477, 505, 527 (1945). Courts are bound to accept such legislative regulations if reasonable and within the delegated authority irrespective of their own views.

The Depreciation Guidelines and their successor, the ADR System, each with their shorter, standardized lives and simplified administration, are fully consistent with the objectives Congress had in mind in adopting Section 167(b). Noting the difficulties inherent in interpreting Section 167(a)'s "reasonable allowance," the House Ways and Means Committee stated:

"Interpretation of the word 'reasonable' has given rise to considerable controversy between taxpayers and the Internal Revenue Service. The determination of useful life for a particular asset, or the average useful life for a group of similar assets, is a matter of judgment involving, in addition to physical wear and tear, technological and economic considerations. The method of allocating depreciation allowances to the years of use is also a matter of judgment. In many cases present allowances for depreciation are not in accord with economic reality, particularly when it is considered that adequate depreciation must take account of the factor of obsolescence. The average machine or automotive unit actually depreciates considerably more and contributes more to income in its early years of use than it does in the years immediately preceding its retirement.

"There is evidence that the present system of depreciation acts as a barrier to investment, particularly with respect to risky commitments in fixed assets.

Comparatively slow rates of write-off tend to discourage replacement of obsolete equipment and the installation of modern, up-to-date machinery. Under long-run peacetime conditions, in the absence of the inflationary pressures existing in the forced-draft economy of the postwar period, present tax depreciation methods might depress business capital expenditures below the level needed to keep the economy operating at high levels of output and employment." H.R. Rep. No. 1337, 83d Cong. 2d Sess. 22 (1954).

The additional source of legislative authority for the ADR System derived from Section 167(b) seems to have been largely overlooked by the ADR's critics, although Professor Bittker seems to recognize the possibility of a Section 167(b) foundation in his comments. He seeks to overcome the consequences of this recognition by noting the presence of the phrase "useful life" in Section 167(b)(4) from which he concludes that Section 167(b) is as limited in terms of supporting the adoption of the ADR System as Section 167(a). But his construction of Section 167(b) is not supportable. Section 167(b) contains an explicit grant of authority to prescribe legislative regulations qualified only by the language of its concluding sentence that "Nothing in this subsection shall be construed to *limit or reduce* an allowance otherwise allowable under subsection (a)." (Emphasis added.) The phrase "useful life" is used only in Section 167(b)(4) which refers to depreciation methods other than straight line, declining balance and sum-of-the-years-digits. This phrase does not appear in Section 167(b)(1), (2) or (3). More important, the term "useful life" is not defined in Section 167(b) and, as we have seen, the meaning of that term had not been tied to the taxpayer's asset holding period experience by consistent administrative practice under Section 167(a) when Section 167(b) was enacted. Clearly the legislative regulation delegation of Section 167(b) is not so narrow as Professor Bittker contends.

Professor Bittker wholly overlooks Section 167(d) which authorizes agreements between the Revenue Service and a particular taxpayer on useful lives and depreciation rates. This provision was enacted to remove "sources of irritation and fruitless controversy in administering depreciation policy." H.R. Rep. No. 1337, 83d Cong., 2d Sess. 24–25 (1954); S. Rep. No. 1622, 83d Cong., 2d Sess. 11 (1954). The same objective of reducing needless controversy and simplifying administration is one of the purposes of the new ADR System. See Treasury Department News Release, March 12, 1971, announcing publication of the proposed ADR regulations. Moreover, the proposed regulations expressly provide that "an election to apply this section [Section 1.167(a)–11 of the Regulations] to eligible property constitutes an agreement under section 167(d). . . . Thus, Section 167(d) furnishes additional explicit statutory authority for the ADR System.

B. Administrative precedents

On at least three prior occasions the Treasury Department has effected important changes in depreciation allowances by administrative action without enabling legislation other than the broad and general statutory provisions previously described in these Comments.

As the depression deepened business depreciation deductions, theretofore largely determined at the discretion of the particular taxpayer, became a political target. Legislation was introduced in 1934 which would have arbitrarily reduced depreciation allowances by 25 percent for a three-year period. Secretary of the Treasury Henry Morgenthau, Jr., advised the Ways and Means Committee that this legislation was not required since the Treasury Department could achieve the same end by administrative action under Section 23(b) of the Revenue Act of 1932, the substantially-identical predecessor of Section 167(a). Secretary of the Treasury Morgenthau stated:

"It is intended that this end shall be accomplished, first, by requiring taxpayers to furnish the detailed schedules of depreciation (heretofore prepared by the Bureau), containing all the facts necessary to a proper determination of depreciation; second, by specifically requiring that all deductions for depreciation shall be limited to such amounts as may reasonably be considered necessary to recover during the remaining useful life of any depreciable asset the unrecovered basis of the asset; and, third, by amending the Treasury regulations to place the burden of sustaining the deductions squarely upon the taxpayers, so that it will no longer be necessary for the Bureau to show by clear and convincing evidence that the taxpayers' deductions are unreasonable. These changes will increase the revenue substantially, and, although difficult to estimate, records indicate that the amount of the increase in revenue will equal that which would result from the proposal of the Ways and Means Committee." Letter from the Secretary of the Treasury to the Chairman of the Ways and Means Committee, House of Representatives, January 26, 1934, in H.R. Rep. No. 704, 73d Cong., 2d Sess. 8–9 (1934)

Congress acquiesced in this administrative action and did not alter the depreciation statute. The Ways and Means Committee gave this explanation in its report on the Revenue Bill of 1934:

"Your committee believes that the plan of the Secretary will be the best course to pursue. It will give greater equity and increase the revenue by as great an amount as the subcommittee plan. Consequently, no changes in the existing law are recommended. It should be observed that it is proposed not only to reduce the rates where they may be excessive, but also to reduce the allowance by spreading the unrecovered basis of any asset over the remaining useful life. This method of applying the depreciation rate to the cost of the asset reduced by depreciation previously allowed has long been used in Great Britain. In the opinion of your committee, it will automatically effect large reductions in these allowances. H.R. Rep. No. 704, 73d Cong., 2d Sess. 9 (1934).

[5] Revenue Procedure 62–21, 1962–2 Cum. Bull. 418, 463–64 (Answer to Question 3, emphasis added).

See also S. Rep. No. 558, 73d Cong., 2d Sess. 11 (1934).

This 1934 action is of particular significance since it took place at a time when the recognition of administrative powers had not developed to its present state and long before the enactment of the legislative regulation provisions of Section 167(b) and (d). Congress expressly acquiesced in this administrative action despite the fact that it was equivalent to a 25 percent statutory reduction in depreciation allowances.

In 1953 the Treasury Department, moving away from the stringent burdens placed upon taxpayers by T. D. 4422, XIII–1 Cumulative Bulletin 58, which was the product of Secretary Morgenthau's 1934 letter, had issued Revenue Rulings 90 and 91, 1953–1 Cumulative Bulletin 43 and 44, in which it was stated that a taxpayer's depreciation would not be disturbed in the absence of a clear and convincing basis for a change. Congress was also concerned with the inadequacies of depreciation allowances under T.D. 4422. The 1954 Internal Revenue Code as originally passed by the House included a provision which would have become Section 167(e) providing that the Internal Revenue Service could not disturb a depreciation rate used by a taxpayer so long as the useful life determined by the Internal Revenue Service to be correct did not differ by more than 10 percent from the useful life used by the taxpayer.

Commenting upon this provision and the Treasury's new administrative depreciation policy embodied in the 1953 rulings, the Ways and Means Committee Report on the 1954 Code said:

"The bill also provides that the Internal Revenue Service may not disturb a depreciation rate used by a taxpayer so long as the useful life determined by the Internal Revenue Service to be correct does not differ by more than 10 percent from the useful life used by the taxpayer.

"At the present time, the Internal Revenue Service has announced that, as a matter of administrative policy, internal revenue employees will not disturb depreciation deductions unless there is a clear and convincing basis for a change. The committee's bill is not intended to affect that particular administrative policy in any way nor is it intended to be a statutory substitute for that policy. However, if the Commissioner finds by clear evidence that the useful life of property as estimated by the taxpayer is too short, but the difference between the Commissioner's estimate and that of the taxpayer is 10 percent or less, the bill provides that no change can be made by the Commissioner. Moreover, should the Commissioner decide to withdraw present administrative policy, the bill provides statutory assurances to taxpayers that in no event will Internal Revenue Service employees disturb the taxpayer's estimate of useful life where judgment as to its duration differs by less than 10 percent.

"It is hoped that by providing a minimum statutory leeway for the taxpayer in making his estimates of useful life, most of the needless friction in this area will be eliminated." H.R. Rep. No. 1337, 83d Cong., 2d Sess. 24–25 (1954).

The Senate Finance Committee deleted the 10 percent statutory leeway since it concluded that the objective could and would be achieved by administrative action already taken. It said:

"Your committee has eliminated the '10-percent leeway' rule provided by the House bill, designed to assure a specific zone of administrative tolerance in the determination of service life. Under this provision, the Internal Revenue Service would not be permitted to disturb a depreciation rate unless the corrected rate differed by more than 10 percent from the useful life uses by the taxpayer. It appears that this provision would be considered inadequate and unsatisfactory by some taxpayers, and might be a substantial source of misunderstanding and distortion. The practical effect of eliminating this provision in assuring flexibility in administrative policy should not be great since policies already announced by the Internal Revenue Service under recent rulings should afford taxpayers freedom from annoying minor changes which would disturb the original estimate of service life." S. Rept. No. 1622, 83d Cong., 2d Sess. 28 (1954).

This Congressional recognition that a measure of tolerance in applying depreciation rules can be and should be achieved by administrative action rather than by statute has particular relevance to certain provisions of the ADR System, notably the 10 percent repair allowance deduction and the 10 percent salvage value minimal adjustment provision designed, in each case, to avoid irritation and fruitless controversy.

As previously noted, probably the most far-reaching changes in our tax depreciation were effected in the Depreciation Guidelines of Revenue Procedure 62–21, 1962–2 Cumulative Bulletin 418. No special statutory authority was sought or given in connection with these major changes, save the enactment of the depreciation recapture provisions of Section 1245. These major administrative changes were under consideration when the House Ways and Means Committee reported the Revenue Act of 1962. The Committee's Report stated:

"The Secretary of the Treasury has indicated that further depreciation revisions will be announced this spring. He has specified that the basic objective of these revisions is to provide realistic tax lives in the light of past actual practices and present and foreseeable technological innovations and other factors affecting obsolescence. The Secretary has stated that another facet of this objective is to achieve a more simple and flexible system of depreciation moving toward guideline lives for broad classes of assets used by each of the industries in our economy." H.R. Rep. No. 1447, 87th Con., 2d Sess. 8 (1962).

By the time the Revenue Act of 1962 emerged from the Senate Finance Committee the Depreciation Guidelines had been promulgated. The Committee Report described the Guidelines in the context of the investment credit provisions of the 1962 Act. It deemed these to be complementary provisions:

"The Secretary [of the Treasury] pointed out that American industry today must compete in a world of diminishing trade barriers in which the advantages of a vast market, so long enjoyed here in the United States, are now being, or are about to be, realized by many of our foreign competitors. An increase in efficiency and productivity at a rate at least equal to that of other leading industrial nations is in the long run necessary, therefore, both from the standpoint of the U.S. balance-of-payments position and to continue to improve our standard of living. The investment credit as a form of investment stimulation already is in use by the United Kingdom, Belgium, and the Netherlands, and is in the process of being enacted by the Australian Parliament.

"To achieve an increased rate of capital formation, a two-pronged course of action is being followed in the area of capital formation. First, the Treasury Department has recently announced a series of depreciation revisions. The objective of these revisions is to provide realistic tax lives in light of past actual practices and present and foreseeable technological innovations and other factors affecting obsolescence. The new guideline lives are expected initially to result in an annual revenue reduction of $1.5 billion of corporations surveyed by 21 percent. Another facet of this objective is to achieve a more simple and flexible system of depreciation through the use of guideline lives for broad classes of assets used by each of the industries in our economy." S. Rep. No. 1881, 87th Cong., 2d Sess. 11 (1962).

The pattern of history is apparent from this experience. There can be no doubt as to the power of the Treasury Department to issue the proposed regulations embodying the ADR System. History suggests only that the wise and prudent course is for the Treasury Department to consult with the appropriate Congressional committees in advance of an important administrative change of this character. We understand that such consultations have been made.

C. Administrative necessity

Prior to Revenue Procedure 62–21 depreciable lives were determined on an asset-by-asset basis according to the taxpayer's particular asset-life experience following the precepts of "Bulletin F," an outgrowth of the depreciation, and Revenue Rulings 90 and 91, 1958–1 Cumulative Bulletin 43 and 44. Recognizing that "the determination of the useful economic life of an asset" on which depreciation deductions are premised under Section 167 of the Internal Revenue Code of 1954 "is a matter of judgment and estimate," Revenue Procedure 62–21 permitted taxpayers to adopt, at their option, new and generally substantially shorter lives for broad classes of assets. In announcing the new Depreciation Guidelines in July, 1962, the Treasury Department said:

"Revenue Procedures 62–21 provides basic reforms in the guideline lives for depreciation and in the administration of depreciation for tax purposes. It sets forth simpler standards and more objective rules which will facilitate adoption of rapid equipment replacement practices in keeping with current and prospective economic conditions."

* * * * *

"New guideline lives for machinery and equipment are set forth which, on the whole, average 30 to 40 percent shorter than those previously suggested for use by taxpayers. The new guidelines will automatically permit more rapid depreciation deductions than those presently taken on 70 to 80 percent of the machinery and equipment used by American business. They will not disturb the depreciation taken on the remaining 20 to 30 percent of business assets on which depreciation is now as fast as, or faster than, that provided in the new guidelines."

* * * * *

"The emphasis in this broad class approach is on achieving a reasonable overall result in measuring depreciation rather than a needless and labored item-by-item accuracy."

* * * * *

"The administrative revision of depreciation guidelines and practices contained in this Procedure is based on a recognition that depreciation reform is not something which can be accomplished once and for all time. It reflects an administrative policy dedicated to a continuing review and up-dating of depreciation standards and procedures to keep abreast of changing conditions and circumstances."[6]

The attractiveness of these new broad and shorter standard depreciation lives was lessened by the inclusion in the Guidelines rules of a reserve ratio test. By the application of this test depreciable lives could be increased if future experience demonstrated that the taxpayer's replacement practices were not measuring up to the standards set by the Guidelines. Though intellectually appealing, the reserve ratio test has proved to be administratively impractical and has not in fact been put into widespread application.

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[6] *Depreciation Guidelines and Rules*, U.S. Treasury Department, Internal Revenue Service, Publication No. 456 (7–62), July, 1962, 1, 4.

The Treasury Department knew, in 1962, that if the reserve ratio test were applied with the Guidelines business would not elect to follow Revenue Procedure 62–21. So a three-year moratorium on the application of the test was embodied in Revenue Procedure 62–21 itself. Moreover, the test itself incorporated a substantial tolerance:

"An important feature of the reserve ratio test is the latitude it allows taxpayers in the determination of their depreciable lives, provided they meet reasonable standards. The margin of tolerance contained in the Reserve Ratio Table encompasses rates of replacement as much as 20 percent slower than the tax life used but only 10 percent faster. Thus the reserve ratio test will more quickly indicate the taxpayer's right to faster depreciation writeoffs than the possibility that longer tax lives should be used."

In addition to the moratorium and the tolerance built into the reserve ratio test itself, depreciation allowances were not to be subject to adjustment under Revenue Procedure 62–21 if the taxpayer was "moving toward" satisfying the test within the initial guidelines life cycle. Finally, the taxpayer could justify his asset lives on the basis of "facts and circumstances" despite his inability to satisfy the test.

These ameliorations of the reserve ratio test proved inadequate. When the three-year moratorium expired in 1965 the Treasury Department was compelled to adopt two additional transition rules, the "transitional allowance rule" and the "minimal adjustment rule" of Revenue Procedure 65–13, 1965–1 Cumulative Bulletin 759. The combined effect of these rules was to preclude substantial adjustments by application of the reserve ratio test for approximately six more years or through 1970.[7]

The Treasury Department now finds itself in a very difficult dilemma. If it applies the reserve ratio test strictly in 1971 and future years, there will be widespread controversy with taxpayers, disparity of treatment, high administrative costs, painful adjustments and very unfortunate economic consequences. It may be contended at this juncture that this is the price which taxpayers (and the Treasury Department) must pay for having embarked upon the ambitious guideline program knowing they would eventually have to measure up to the reserve ratio test.

There is more to the present predicament than this. In particular, the inability of many taxpayers to satisfy the reserve ratio test may be attributable in large measure to circumstances largely beyond their control. Among these circumstances are:

(1) The suspension and subsequent repeal of the investment tax credit which was instituted with the guidelines and was expressly designed to stimulate the purchase of new machinery and equipment which, in turn, would help the taxpayer to meet the reserve ratio test.

(2) The credit squeezes of 1966 and 1968–9 which reduced the availability of capital to purchase assets.

(3) The tax surcharge of 1968–1970 which likewise reduced the availability of capital.

(4) The inflation and profit squeeze of 1968–1970 which depressed capital asset formation.

(5) The stock market decline of 1969–1970 which drastically reduced the supply of new equity funds.

(6) The business recession of 1970–1971 which was most severely felt by the capital goods industries.

(7) Shifting national priorities which have reduced the anticipated expansion of some segments of industry.

The ADR System is a measured and sensible answer to the depreciation dilemma of 1970. It is not the revolutionary give-away some of its critics would have us believe.[8] In contrast to the 30 percent to 40 percent shortening of depreciable lives of the Guidelines, it establishes a tolerance of 20 percent from the Guideline lives. This is a modest and reasonable advance considering the vast technological changes of the 1960's which tend to create ever-increasing obsolescence. Moreover, the United States is increasingly affected by economic developments outside its borders. It is no longer realistic or possible for business here to stay competitive without capital recovery allowances comparable to those of our major competitors in Europe and Japan. Even with the ADR System the United States will be last in rank in this respect and significantly lower than with the combined investment credit and Guidelines of 1962.[9]

Critics of the ADR System place great stress upon the elimination of the reserve ratio test, claiming that this is tantamount to the adoption of a capital recovery allowance free of the "useful life" concept which has acquired the force of a statute. We have already demonstrated that the "useful life" phrase itself has no immutable meaning. The ADR System does not do away with "useful life." It simply re-interprets that phrase in today's world, just as the Depreciation Guidelines did in the world of 1962.

The period within which an asset is in use does not necessarily mean that it is useful, in a productive sense, for a like period. Congress recognized this when it granted statutory recognition to the obsolescence in the depreciation statute and when it provided for accelerated methods of depreciation and conferred broad authority to prescribe regulations in 1954 by enacting Section 167(b). In a shrinking, competitive world there is every reason to believe that useful lives will become more uniform, hence the shift to uniform lives for broad asset categories in the Guidelines and now in the ADR System.

The reserve ratio test was devised as a theoretically ideal instrument for reconciling standardized lives to actual experience in every instance. It proved, however, to be administratively unworkable. Its complexity and ever-present threat deterred many from adopting the Guidelines. It could not adjust to changing economic conditions and governmental and private-sector developments. It was, in any case, still a backward-looking device and far from perfect as a measure of what useful lives will be for assets currently in service.

The fact is that there is no simple means for perfectly measuring a taxpayers' useful life. The ADR System is an effort to achieve simplicity and to approach as nearly as practicable the equitable solution. There must be a measure of liberality for taxpayers for any such system to be effective. Otherwise it will not achieve widespread adoption which is one of the most important objectives.

Professors Bittker and Domrese assert that the revenue effect of the adoption of the ADR System would be unprecedented. In so asserting they cite the revenue estimates of the Treasury but neglect to mention the Treasury Department's statement that: "It is anticipated, however, that the increase in employment and business activity will provide substantial additional feedback revenues to offset these reductions." Treasury Department News Release, January 11, 1971, page 4.

Moreover, the overall revenue figures are misleading. A very substantial portion of th revenue reduction is attributable to the modified half-year convention for calculating depreciation allowances in the year assets are first placed in service by the taxpayer. Yet neither Professor Bittker nor Professor Domrese has objected to this feature of the ADR System the authority for which apparently is beyond legal challenge. Putting aside the convention, the revenue effects of the ADR System do not stand out as unprecedented in contrast to the $1.5 billion revenue loss estimated in 1962 from adoption of the Guidelines,[10] taking into account the very substantial economic expansion and inflation of the past eight years.

In any case, this estimable concern with revenues does not rise to the level of legal argument. The "instructive parallel" Professor Bittker finds in the unanticipated revenue loss following upon the enactment of Sections 452 and 462 of the 1954 Code is not instructive since, in contrast to this earlier experience, the Treasury has calculated and evaluated the revenue effects of the ADR System and is not rushing to Congress for corrective action.

Mr. JAVITS. Mr. President, I, too, have submitted testimony to the Internal Revenue Service which is considering the question of depreciation allowances. With respect to this matter, I agree with the Senator from Ohio. I think that the implementation of revised depreciation schedules as proposed by the U.S. Treasury is very much in the interest of the American worker and the Nation.

I ask unanimous consent that my testimony before the Internal Revenue Service may be made a part of my remarks.

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

STATEMENT OF SENATOR JAVITS

I favor the revised depreciation schedules expected to be issued by the Treasury as being in the interest of American workers and of the American economy. The American economy is just beginning to emerge from its fifth postwar recession. This recession—while mild by historical standards—was aggravated by persistent inflationary pressures and by the conversion of part of our nation's industries from war to peacetime production.

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[7] These rules were effective for a "transitional period" beginning, in most cases, with the year 1965, and equal to the guideline life. The guideline life for most machinery is twelve years. The transitional allowance rule provides substantial insulation from the reserve ratio test for the first half of the transitional period or through 1970 for such machinery. Thereafter the allowance diminishes rapidly.

[8] The ADR System incorporates some features which may not be attractive to the electing taxpayer. A taxpayer making an ADR election must do so on his tax return for the year; he may not do so retroactively when confronted with possible depreciation adjustments as in the case of the Guidelines. Moreover, in making the election the taxpayer must do so with respect to all eligible assets, including used property unless it exceeds 10 percent of the total, not merely with respect to assets falling into a particular guideline category. The taxpayer electing ADR must establish reasonable salvage values and can suffer adjustments if he fails to do so, a requirement not imposed by the Depreciation Guidelines. See T.I.R. 399, September 28, 1962, Question and Answer 46. The taxpayer electing ADR may not exceed the tolerances of the depreciation ranges regardless of his facts and circumstances, while he may adopt the Guidelines with lives longer or shorter than those prescribed under appropriate circumstances.

[9] See table accompanying statement of Paul W. McCracken, Chairman, Council of Economic Advisors, on President's Announcements of Changes in Depreciation Allowances, released January 11, 1971.

[10] See S. Rep. No. 1881 87th Cong., 2d Sess. 11 (1962)

As our nation moves to re-establish the health of our domestic economy, monetary and fiscal stimuli are required. This stimulative activity must be made to walk a delicate tightrope and insure that the stimuli are adequate in terms of getting our economy moving again—without refueling the inflationary fires that are now in the process of being banked.

The desire to get our economy moving again while containing inflation is a non-partisan issue. In the debate over the state of our nation's economy, there is full bipartisan agreement that a six percent rate of unemployment is unacceptable. Unfortunately, there is less unanimity of opinion about the need to take concrete measures to restore the health of our nation's business economy.

In terms of the overall health of our economic system, the bankruptcy of major corporations such as Penn Central approaches in economic—though, of course, not in human terms—the seriousness of a six percent unemployment rate. But, liquidity and cash flow problems and the deteriorating profit situation of our nation's corporations, in turn, can be translated directly and quickly into loss of jobs.

Reversing the coin, measures that will assist our nation's corporations and that will help restore the confidence of our nation's businesses will be job creating and will have the effect of helping to get our economy moving again.

In my opinion, the Administration's proposal to revise the depreciation schedules to permit a 20 percent faster write-off on the assets involved and to ease first year treatment for such assets is an essential measure toward the ends of promoting a healthy economy, reducing unemployment and increasing job opportunities and the likelihood of economic recovery continuing without setbacks.

In my view, there is a long-run direct correlation between the tax treatment accorded our nation's businesses, the levels of business investment, the productivity of our economy and the social and national goals upon which Americans can agree.

I agree fully with President Nixon that "steadily rising productivity is one of the secrets of the success of the American system. There is nothing more important for labor and management to do for themselves and for their country than to keep raising productivity." I would also add that the Congress has a special responsibility to develop and support policies and legislation which will contribute to raising productivity thus insuring the continuing competitiveness of the American economy both at home and abroad. In my view, the Administration's proposal to revise depreciation schedules is one such policy.

It may be useful to briefly outline some of the background on the Administration's proposal—for this background cannot be divorced from the action taken in the Tax Reform Bill of 1969 to repeal the investment tax credit. It also cannot be divorced from the fact that our present regulations on depreciation are the most repressive in the industrialized world and that they are 20–30 years out of date. In addition, the worldwide competitive position of American business which is already severely burdened by badly outdated depreciation schedules, was severely aggravated by the Tax Reform Act of 1969 which repealed the investment tax credit.

During the debate on the Tax Reform Act of 1969 and when it became clear that this law would cut consumer taxes while increasing taxes on our nation's corporations through the repeal of the investment tax credit, I asked for and received a written commitment from the Department of the Treasury to make available "a study of the various alternative proposals for depreciation reform and the estimated revenue effects thereof." I asked for this study in the realization that most industrial nations have some form of investment preference, in the form of tax reductions geared to the level of investment spending or in the form of accelerated depreciation schedules, and because I believed that Congressional repeal of the investment tax credit would leave the United States without any significant investment preferences in its tax system for producers. When the Treasury study was forwarded to me, I placed the alternatives that Treasury had developed in the Congressional Record, volume 116, part 19, pages 25683–25695, for the information and the review of the Congress.

The Congress thus has had the necessary information available to it for review and comment for some nine months. It was my further understanding that this was an area of considerable discretion as to whether the Treasury could change depreciation schedules administratively or whether legislation would be required. I stated on the Senate floor on July 23, 1970 that "This mistake [repeal of the investment tax credit] could be rectified by legislation or by the Administrative determination to revise tax depreciation policy." This statement was not challenged either on the Senate floor or after the publication of the Congressional Record.

When I placed this material in the Congressional Record, it was clear that American business was facing an increasingly serious profit squeeze as well as a serious liquidity crisis. The deterioration of the profits picture of American corporations continued throughout 1970 and profits after taxes dipped to the seasonally adjusted rate of $30.9 billion in the fourth quarter of 1970 as compared to $34.3 billion in the first quarter of 1970 and $37.0 billion in the fourth quarter of 1969. Its reflection in increasingly unacceptable unemployment is now clearly seen.

Turning to 1971, the latest available information makes it clear that business investment continues to lag and that this will directly contribute to the unacceptably slow rate of recovery of our economy—nor do I wish to fail to emphasize that we are not out of the woods by any means—and could have a serious reaction and a reverse of the recovery.

The March issue of the U.S. Department of Commerce publication, *Survey of Current Business,* indicates that: "Investment expectations for 1971 by industry groups show more of a mixed pattern than they did a year ago when most industries were scheduling increases. Many industries are now programming declines in expenditures for new plant and equipment in 1971 and only about a half dozen major industry groups are expecting a larger year to year expansion or are scheduling smaller cutbacks than those achieved from 1969 to 1970."

This information reconfirms my view that a permanent, modern equipment investment incentive such as a revised depreciation schedule is important not only for the short-term recovery of our economy, but for the long-term economic health of our economic system.

The permanence of this incentive is essential if business confidence is to be regained and maintained and if adequate future levels of investment in plant and equipment are to be forthcoming. Certainty is something that all business planners need and permanently revised and updated depreciation schedules will contribute substantially to the stimulation of investment flows over the long term.

In turn, the present political debate over the implementation of revised and updated depreciation schedules only contributes to the maintenance of a climate of business uncertainty. The debate, by contributing to this uncertainty, serves to prolong the recession and in turn the high rate of unemployment which opponents of the revised depreciation schedules deplore.

Revision of our nation's outmoded depreciation schedules is needed in spite of one's opinion on the possible reinstatement of the investment tax credit. I realize that many leading economists, including high Administration officials, support the reinstatement of the investment tax credit. However, many of these same advocates view this reinstatement as an anti-cyclical device to stimulate the economy at this time. I urge that the history of the investment tax credit be carefully reviewed. Such a review seems to indicate that an on-again—off-again investment tax credit has indeed proved to be an inadequate short-term economic device that often did more harm than good. Because of the time lag between Administration requests and Congressional action, the net result has been that the investment tax credit was reinstated at the wrong time and thus contributed to the galloping rate of inflation in the late 1960's and was repealed at the wrong time in 1969, thus contributing to the economic recession of 1969–70. I would suggest that again, tinkering with the investment tax credit at this time may have an equally adverse result in terms of our long-term economic goals.

Let us not play politics with our economic system either by criticizing steps being proposed to give our nation's businesses similar investment incentives enjoyed by our competitors in the other developed countries of the world; or by again attempting to use the investment tax credit as an anti-cyclical device looking toward political ends. Rather let us correct the present inequities built into our tax system which were aggravated by the ill-advised Tax Reform Act of 1969; and the permanent revision of our depreciation schedules is an equitable means toward this end. If these measures then prove to be insufficient, additional steps again of a permanent nature could be taken. But I do not believe that it is now the course of wisdom to move precipitously into one area, when the results of revision of the depreciation schedules remain in the future.

What is at stake in the debate over the Administration's proposals to revise the Treasury regulation as they regard depreciation is the efficiency, competitiveness and productivity of our nation's industrial plant. The health of this industrial plant, in turn, will help determine the number of jobs and income available to Americans in the months and years ahead and the confidence with which Americans will view their economic system and their nation. The rebuilding of this confidence and support of measures taken toward this end—such as the Administration proposals to revise our badly outmoded depreciation schedules—are of the highest national interest and should take place now.

The table below shows the comparative costs to the user of machinery and equipment for manufacturing between the United States (which is the base country with an index of 100) and the other leading industrial nations prior to January 11, 1971 (announcement of the advanced depreciation rates in the U.S.), and after institution of the proposed ADR system.

	Before ADR	After ADR
Belgium	85	91
Canada	97	104
France	81	87
West Germany	83	89
Italy	82	88
Japan	81	87
Netherlands	94	101
Sweden	83	89
United Kingdom	74	80
United States	100	93

This is a comparison of the weight of income tax on investments for machinery and equipment in manufacturing, taking into account both the tax rates of the individual countries and the investment incentives, including depreciation deductions, which they offer. It shows that prior to the advanced depreciation schedule in the U.S., the cost of getting the use of capital equipment in this country exceeded that of any other industrialized nation except Canada. It also shows that the ADR system would rectify this situation considerably.

For example, the annual rental cost of this type of equipment in the UK was 22 percent below the cost of the same goods in the U.S. This was true even though the UK's depreciation allowance was much less accelerated than that of the U.S. In the UK, 44 percent of the cost of equipment could be depreciated in the first 5 years. In the U.S., 53 percent of these same costs were subject to depreciation within the same period of time. However, because the British tax rate was only 42 percent, and the UK had an investment grant of 20 percent (similar to the former U.S. investment tax credit, but not limited to the amount of tax liability), the total incidence of the taxes on machinery and equipment for manufacturing was much lighter in Britain than it was in the U.S.

Mr. TAFT. I thank the Senator from New York for his contribution.

Mr. SCOTT. Mr. President, I support the proposal for accelerated depreciation schedules as suggested by the Treasury Department.

Compared with other nations, U.S. tax policy to encourage capital outlay has been restrained; indeed it might be termed "unsophisticated." There seems to be some sort of fear that recognition of the problem of capital equipment obsolescence through more realistic depreciation schedules is bad per se.

In the literature of national accounting, all elements in the destruction of capital—including wear, obsolescence, and accident—are subsumed under the term, "capital consumption." As production proceeds over time, a certain amount of fixed capital—plant, equipment, and commercial buildings—is used up. Part may be physically worn out and part may become obsolescent because of the invention of superior types of capital. But in both classic and contemporary economics, these depreciation charges appear as a cost or, in other words, as a deduction from the concern's gross proceeds or gross income.

I recall one of the early moves by President John Kennedy to get the economy moving was the installation of more rational depreciation schedules. Those schedules, incidentally, were based on proposals prepared in the last year of the Eisenhower administration.

The opposition voiced today to the proposals set forth by Treasury Secretary Connally seems rather petulant and querulous.

I would hope it is not simply part of the "Presidential syndrome" dominating the mental processes and oral responses of so many of my colleagues.

America has played a remarkable part in re-equipping the industrial machines of war ravaged nations all over the free world.

In the meantime, the problem of industrial obsolescence has become an acute one in our own country.

Accelerated depreciation schedules can improve our domestic economy and enable us to compete in world markets as well. I would hope these proposals will be supported by a majority of my colleagues, regardless of party.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the order of yesterday, the Chair recognizes the Senator from Virginia (Mr. BYRD) for 15 minutes.

EFFECTS OF DEFICIT FINANCING ON THE FINANCIAL SITUATION OF THE UNITED STATES

Mr. BYRD of Virginia. Mr. President, now that the Nixon administration has embarked on a course of deficit financing, I think that it is important that the Senate take a close look at the possible effects of this policy on the financial situation of the United States.

Deficit financing has boosted the national debt from $288 billion at the beginning of 1960 to $389 billion at the beginning of the current year. This increase in the debt, along with continuing Government deficits, has resulted in serious depletion of the gold holdings of the United States.

In January 1960, the Government's gold holdings totaled $19.5 billion. At the beginning of 1971 that total was $10.7 billion, a reduction of almost 50 percent.

This steady decline has jeopardized the financial status of the United States in the international community. As our debt has gone up, our gold holdings have gone down, strongly indicating a lack of confidence in the American dollar.

This becomes increasingly clear each day. An Associated Press story, sent Tuesday from London, dramatically illustrates the falling confidence in the dollar, stating that "currencies speculators sent the dollar reeling on European markets today."

The story also said that a flood of U.S. money was exchanged for West German marks, Dutch gilders, and Swiss francs.

The latest edition of the afternoon newspaper has this to say, and I quote from the Associated Press dispatch from Frankfurt, Germany:

> The U.S. dollar took a pounding in European foreign exchanges yesterday and begins to look like the money nobody wants.

The New York Times this morning, in a dispatch datelined Paris, begins its report in this way:

> Europe's financial centers were buffeted today by the greatest wave of currency speculation in two years. Corporations, banks and others who control large sums of money exchanged unwanted dollars—

I repeat, Mr. President, unwanted dollars—

> for West German marks, Swiss francs, Dutch guilders and other "strong" European currencies.

The Journal of Commerce, published in New York, began its report on page 1 today in this way, and I quote from that newspaper:

> Dollars continued to swamp currency markets throughout the Continent of Europe yesterday. Everywhere central banks had to come to the rescue as dollars persistently pressed against the minimum exchange rates that had been set by international agreement years ago.

Mr. President, this country, in my judgment, faces a very serious situation because it has refused—I repeat, it has refused—to put its financial house in order.

I note that some of the officials of our Government are not concerned about this. Well, I am not an expert on high finance. I do not pretend to be. But this Senator from Virginia is concerned about it.

The facts are that the monetary reserves of the United States—gold stock, special drawing rights, foreign currencies and automatic drawing rights under the International Monetary Fund—totaled $14.3 billion at the end of March.

For the first time since World War II, our monetary reserves are not the largest in the world. West Germany now has $16 billion in reserves, as compared with our $14.3 billion.

It seems to me that what is happening in Europe today points up dramatically the need for the Government of the United States to put its financial house in order.

Yet what do we find? We find, Mr. President, that during the 12-year period beginning with fiscal year 1961 through fiscal year 1972, the Government will have run a cumulative deficit of $145.9 billion—a deficit every single year for those 12 years.

But, more important than that, Mr. President, and the basic reason, in my judgment, for what is happening to the dollar in Europe today, is that for the 6-year period—namely, the last 3 years of President Johnson's administration and the first 3 years of President Nixon's administration; I am carrying this to fiscal 1972, because the fiscal 1972 budget is the budget the Congress presently is considering—the deficit for those 6 years alone will be $111 billion.

Yes; $111 billion. Is it any wonder, Mr. President, that the Associated Press report coming out of Frankfurt, Germany, today would say, "The United States dollar took a pounding in European foreign exchanges yesterday, and begins to look like the money nobody wants"?

Through the decades, the American dollar has been the bulwark of currencies throughout the world. I was in Europe just a few weeks ago. I was there during the Easter recess. I could see this thing coming.

The people of Europe, the businessmen of Europe, the financiers of Europe are beginning to lose confidence in the dollar, just as they did in 1968 when the Senate was called upon to remove the ceiling on the amount of gold which the United States would keep.

Mr. President, as I have stated, I am not an expert on high finance. I do not pretend to be.

But I think logic and sound commonsense suggest that somebody has to pay for all of the spending programs.

If this country could indefinitely just go ahead spending more and more mon-

ey, running up more and more deficits, without anyone having to pay for them, we would have accomplished a formula which would bring untold prosperity to every country in the world. But, Mr. President, that simply is not the case.

It may well be that the Europeans may force this Nation—this Congress, this administration—to do what it appears will not be done otherwise, and that is to put the Government's financial house in order.

This is not a very popular cause to plead. Everyone wants something, and so many people think they can get something for nothing. I submit that that cannot be done.

I submit that the deliberate deficit-spending program which began with the President's state of the Union address this past January envisions a 2-year deficit in Federal funds of $48 billion.

But already, today, the morning press carries a report from the Director of the Budget, Mr. Shultz, in which he says the deficit will be even greater than had been anticipated a few months ago.

I think it is just tragic, Mr. President—just tragic—that the trend which the Government, up to last January, had followed in trying to get inflation under control and trying to get its spending under control, now has been completely reversed. While in the last 3 years of the Johnson administration the accumulated Federal funds deficit totaled $49 billion, the accumulated deficit for the first 3 years of Mr. Nixon's administration will be $62 billion.

It seems to me that this Republican administration is throwing away a very important asset that it has had over the years. In the public mind, it was the party of fiscal responsibility.

I do not speak as a Republican. I have no right to suggest what the Republican Party should do. I speak as an Independent Democrat. But I have supported the Republican cause in the past when I believed it to be right. I have supported their financial policies when I believed them to be right. I shall continue to support their financial policies when I believe them to be right.

But I cannot refrain from speaking out against a deficit-spending program which is undermining the value of the American dollar.

Our unsound financial policies is the reason that the European money markets are downgrading the American dollar and the reason the central banks are changing their American dollars into other currencies—the Swiss franc, the Belgian franc, the German mark, and maybe even the Spanish peseta. I noticed when I was in Spain last month that the peseta has improved tremendously in relation to the American dollar.

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

Mr. BYRD of Virginia. I am happy to yield to my distinguished colleague from Georgia.

Mr. TALMADGE. I am sure that my distinguished friend, who serves with me on the Committee on Finance, is aware of the fact that Germany alone now possesses more dollars than we have gold at the present time.

Mr. BYRD of Virginia. The Senator is indeed correct. For the first time in recent history, the United States is no longer the No. 1 country in monetary soundness. West Germany is now No. 1.

Mr. TALMADGE. I am sure also that my friend from Virginia is aware of the fact that we have had only two favorable balance-of-payments years in the last 21 years, if my memory serves me correctly. Is that not correct?

Mr. BYRD of Virginia. The Senator is correct.

Mr. TALMADGE. Does the Senator think we can continue to scatter dollars all over the world year after year, more than we receive, and maintain our economic viability?

Mr. BYRD of Virginia. I do not. I think unless we give greater attention to our financial difficulties, and unless we are willing to face some difficulties, face some hardships, possibly, and put our financial house in order, everyone is going to be worse off. The American dollar is devaluing itself. The rest of the world knows that we are on an unsound course.

Somebody has got to pay for this. The American people have got to pay for it either through increased taxes or through more and more inflation in the form of a cheapened dollar which buys less and less. That is what we are headed for—more and more inflation.

Mr. TALMADGE. I compliment my distinguished colleague for bringing this matter to the attention of the Senate.

Mr. BYRD of Virginia. I thank the Senator very much.

Mr. President, in conclusion, I ask unanimous consent that tables showing the national debt and gold holdings of the United States for selected dates from 1960 to 1971; Federal taxes and spending from 1968 through 1972; and deficits in Federal funds and interest on the national debt from 1961 through 1972, be included in the RECORD

I also ask unanimous consent to have printed in the RECORD several interesting and informative articles and comments which have recently appeared in the press on the subject of gold and the dollar. These items include a column by Hobart Rowen in the February 21 edition of the Washington Post; an article concerning German acquisition of U.S. gold, by Clyde N. Farnsworth, in the March 26 edition of the New York Times; an article on the same general subject in the April 11 edition of the London Sunday Telegraph; an article on the decline in our gold stock in the April 24 edition of the New York Times; and an editorial entitled "Faith in the Dollar" in the April 17 edition of the Charlottesville, Va., Daily Progress.

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

National debt

	Billion
January 1971	$389
January 1970	369
January 1965	318
January 1960	288

Gold holdings

January 1971	10.7
January 1970	11.4
January 1965	15.4
January 1960	19.5

Source: Treasury Department.

FEDERAL TAXES AND SPENDING
(All years are fiscal years, July 1–June 30)

Fiscal year	1968	1969	1970	1971 (est.)	1972 (est.)
Federal fund receipts in billions:					
Individual income taxes	$69	$87	$90	$88	$94
Corporate income taxes	29	37	33	30	37
Subtotal (income taxes)	98	124	123	118	131
Excise taxes (excluding highway)	10	11	11	11	11
Estate and gift	3	4	4	4	5
Customs	2	2	2	2	2
Miscellaneous	3	3	3	4	4
Total Federal fund receipts	116	144	143	139	153
Federal fund expenditures in billions:					
Total outlays	143	149	156	164	176
Federal fund deficits (−):					
Total deficits	−27	−5	−13	−25	−23

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1961–72 (ALL YEARS ARE FISCAL YEARS, JULY 1–JUNE 30)

[In billions of dollars]

	Receipts	Outlays	Deficit (−)	Interest
1961	75.2	79.3	−4.1	9.0
1962	79.7	86.6	−6.9	9.2
1963	83.6	90.1	−6.5	10.0
1964	87.2	95.8	−8.6	10.7
1965	90.0	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.1
1967	111.8	126.8	−15.0	13.5
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971 [1]	139.1	164.7	−25.6	20.8
1972 [1]	153.7	176.9	−23.2	21.1
12-year total	1,323.8	1,469.7	145.9	168.4

[1] Estimated figures.

Source: Office of Management and Budget.

[From the Washington Post]

NIXON'S ECONOMIC PUSH AT HOME AWAKENS DOLLAR WORRIES ABROAD

(By Hobart Rowen)

President Nixon's new activism, symbolized by a willingness to run substantial budget deficits, has not only alarmed some of the more conservative members of his party, but has reawakened fears in Europe about the U.S. dollar. The gnomes are still alive and well in Zurich, thank you.

It has come through loud and clear to Treasury and Central Bank officials in Europe that domestic expansion has been allocated the No. 1 priority here, well ahead of the balance of payments problem despite an extraordinary pileup of dollars abroad.

European officials did not quite believe it when they heard it first from Economic Advisers Paul W. McCracken and Herbert Stein last October that American policy would aim at a high growth rate in 1971.

In November, a Common Market official in a widely discussed comment at a press dinner in Washington was skeptical of the 8 per cent real growth rate suggested by Stein. He said then that continued inflation and an excessive balance of payments deficit would result, possibly precipitating a demand for devaluation of the dollar.

But Stein was merely giving a good advance look at the administration's plans: the new Budget and Economic Report call for 7½ per cent real growth from the fourth quarter of 1970 (depressed by the auto strike) to the fourth quarter of 1971.

Said a European yesterday: "I think it (Nixon's economic plan) is incredible, dangerous and provocative."

The President's Economic Report not only scoffed at the inability of any particular balance of payments tally to measure the "strength or weakness" of the U.S. international position; but pointedly said that there

was no domestic policy this country could follow that would eliminate B.O.P. deficits if major European countries pursue policies that build up balance of payments surpluses.

"I'd rather have a healthy economy (at home)," said a high White House official, "and take my chances (on the BOP deficit)."

Behind this new, tougher, U.S. attitude is the reasoning that the dollar has in reality become nonconvertible into gold. For better or worse, it is felt here, the world is on a dollar standard.

This was never put more bluntly than in a recent report made for a conservative research group, the American Enterprise Institute, whose advisory board is headed by Economic Council chairman McCracken. (McCracken, of course, severed active ties with the Institute when he joined the Nixon administration.)

The report by Professors Gottfried Haberler and Thomas D. Willett, said: . . . "it is now fairly generally realized that . . . foreign central banks cannot convert large sums of dollars into gold for the purpose of changing the composition of their reserves, as France did under de Gaulle in the 1960s."

Ironically, it is the growing disproportion between the size of the U.S. gold stock and U.S. liabilities to foreign official institutions that makes the dollar nonconvertible now. As Haberler and Willett say, "there simply is not enough gold to permit large-scale withdrawals. . . . The point of no return has definitely been passed."

Not all American officials take this more relaxed attitude toward the balance of payments deficit. Treasury and Federal Reserve officials have been increasingly concerned about the rapid drop in interest rates, far below comparable levels on the Continent—which simply accelerates the flow of short-term capital out of the United States.

But the White House concentration on domestic recovery has caused a great deal of discomfort abroad. For example, Mr. Nixon's commitment to a goal of 4½ per cent unemployment by next year has posed a problem for politicians in Canada. Can they shoot for any lesser improvement than their powerful neighbors to the south? They would prefer to, but may feel bound to follow the U.S. example.

In Europe, monetary authorities that earlier were skeptical about a large issue of Special Drawing Rights—paper gold—will now probably be able to knock out a second installment of SDRs that would come anywhere near the $9.5 billion budgeted for 1970, 1971 and 1972.

This shows that the French Minister of Economy and Finance had a prophetic view of the situation at the Copenhagen meeting of the International Monetary Fund last September.

In an interview then with this correspondent, M. Giscard d'Estaing said that the three-year allocation of SDRs had been a mistake, and that "the next agreement" would have to take into account actual increases in dollar reserves held by foreign authorities.

Last week's report on the U.S. balance of payments for 1970 showed an increase of $7,615,000,000 in official foreign dollar holdings, compared with about $1.5 billion that most Europeans consider tolerable. On that basis, Giscard d'Estaing would argue that allocations of SDRs for 1973 ought to be zero.

The way it turns out, the United States would have been wiser to have gone along with a small initial allotment of SDRs—and hope that it would build up; the risk now is that the system will be suspended after 1972.

So far, the failure of the United States to achieve a better payments equilibrium—which was a condition for the activation of the SDRs—has not led to an open confrontation between the United States and the European powers. No one wants to be first in line, starting what might be a run on the dollar. For one thing, that might upset currency relationships in Europe, just at the time that the Common Market is striving toward monetary unity.

[From the New York Times, Apr. 24, 1971]

U.S. Gold Stock Off $76 Million

WASHINGTON, April 23.—United States international monetary reserve assets declined by $192-million to $14,342,000,000 in March, the Treasury reported today.

The decline included a drop of $76-million in the gold stock, to $10,963,000,000. This was almost entirely accounted for by a previously reported sale of $75-million of gold to Switzerland.

The gold stock at the end of March was the lowest in two years.

Among other reserve assets, special drawing rights, or "paper gold," fell $25-million to $1,443,000,000; holdings of foreign currencies fell a further $71-million to $256-million; and automatic drawing rights in the International Monetary Fund fell $20-million to $1,680,000,000.

[From the New York Times, Mar. 26, 1971]

West Germany Trades Dollars for $500 Million of U.S. Gold

PARIS, March 25.—The West German central bank, its coffers bulging with surplus dollars, has acquired $500-million worth of gold from the United States.

The transaction was described by Bundesbank officials as a "friendly repurchase." They stressed that it did not alter the German policy of refraining from converting dollars into gold.

It was nevertheless seen by observers as a sign of unease by the biggest foreign holder of dollars over the tremendous dollar influx in recent months.

The acquisition relates to gold the Bundesbank sold to the United States after the 1969 upward revaluation of the mark.

Funds at that time were leaving Germany, and the central bank was short of working balances in dollars.

CLAUSE ATTACHED

There was a repurchase clause attached to the earlier agreement that the Germans have now exercised. Observers said that Washington had not expected this clause to be exercised so soon.

The Germans formally pledged in 1968 that they would not demand American gold for their dollars.

The United States has ways of discouraging conversions by the Germans. For instance, the Bonn administration wants American forces—the present contingent is 280,000 troops—to remain on German soil.

President Nixon has said there will be no withdrawal at least through 1972.

In the last three months, according to authoritative Paris sources, some $6-billion has left the United States. Since March 1, the figure is $1.5-billion. These funds have been attracted by higher European interest rates.

So much flowed into Germany that the Bundesbank now has the highest currency reserves in the world—more than $16-billion.

CONVERTIBILITY IN THEORY

Theoretically, surplus dollars held by foreign institutions can be cashed in for gold at the American Treasury.

But foreign official dollar holdings are now about twice as high as American gold stocks of $11-billion.

Massive demands for gold would probably be met by a formal suspension of gold convertibility. This could lead to a series of events that would bring chaos to the monetary system.

There have been small conversions in recent months by Belgium, the Netherlands and Switzerland.

The big question is how much longer the surplus countries of Western Europe and Japan will continue to swallow dollars.

No government wants to trigger a dollar crisis, but many are nervous over the size of their dollar holdings and are bringing increasing pressure on the United States to do something about the fundamental cause of the dollar flight—a 20-year string of deficits in the American balance of payments.

[From the Sunday Telegraph, Apr. 11, 1971]

U.S. Lead Taken by Germany

For the first time since the war the United States has fallen from its position as holder of the largest gold and exchange reserves in the world.

Figures released last week show that the West German reserves, including about $10,000 million (£4,000 million) for dollars have exceeded those of the United States, which stand at $14,600 million.

The change is a reflection of a growing dollar balance-of-payments crisis which is causing uneasiness in Western financial circles.

Its root problem is American expenditure on the Vietnam war and the military overseas. Last year the balance of payments deficit was $10,700 million and it is expected to be extremely large again this year.

EUROPEAN SUPPLIES

European anxieties over the large supplies of dollars held by their banks are believed to have been voiced by Signor Franco Malfatti, President of the Commission of the European Communities, when he visited Washington last week.

Making the situation slightly worse is that as the United States recovers from its mild recession it is drawing in more imports.

Mr. David Kennedy, former secretary of the Treasury and now ambassador-at-large, set off last week on a world tour during which he will discuss trading problems in a number of Western capitals.

[From the Daily Progress, Apr. 17, 1971]

Faith in the Dollar

Some bad news, no matter how underreported for a time, simply will not go away.

What with My Lai trials, Laotian campaigns, Mideast alarms, SST votes, ecological crusades and such, not much has been heard recently of the dollar's chronic problems abroad.

The problems have not, however, gone away. That old balance of payments devil is still with us and, if anything, is showing signs of again becoming a headline issue.

Last year the U.S. foreign deficit was the largest in history—$10 billion. We paid out that much more for goods and services, in military expenditures, investments and other financial transactions than we took in.

This year's deficit, while expected to be somewhat smaller, will still be uncomfortably huge at a current estimated $6 billion.

Traditionally, the United States has traded at a considerable profit which has gone far to offset losses in other areas. But last year's trade surplus, originally targeted for $1.5 billion, had shriveled to $650 million by the time the actual accounts were in and the showing is expected to be no better this or next year.

Dollars flowing to strong economies, particularly West Germany, are pressuring inflation and thoughts of again revaluing upward some currencies and converting some of the surplus dollars into gold from the U.S. reserve. Switzerland, perhaps as a polite warning, recently cashed in $75 million for gold.

U.S. gold reserves have been declining in recent months, to approximately $11 billion, almost a billion under a year ago. With addition of the Treasury's holdings in foreign currencies and of Special Drawing Rights, the international "paper gold" created two years ago by the free world's leading economic pow-

ers, plus automatic loan rights from the International Monetary Fund, total U.S. reserves are close to $15 billion. But this is still far short of the dollars in foreign hands.

Foreign bankers have been making unhappy noises, particularly as to the absence of any significant corrective measures. On a recent U.S. visit, Sir Frederic Seebohm, chairman of Britain's Barclay's Bank, largest banking group in the world outside the United States, suggested a run on American gold would not be out of the question.

It would not, however, be likely. The effect, widely recognized, on economies other than American could be disastrous. But if unpleasantness and even pain in our dealings abroad are to be avoided, some steps to put our accounts in better shape are essential. Bringing our own inflation under control would be an excellent beginning and diminishing the drain of the Vietnamese war would be a great help.

Some sign of a policy in Washington on the deficits other than "just throwing them over the shoulder," as Sir Frederic complained, might also help.

Despite its problems, the dollar is the medium exchange of the world's still indisputably largest and strongest economy. That and the faith that in the long run it is as good as gold are its great strengths as the world's basic reserve currency, which status up to now has permitted us to pump out dollars as if the world's capacity and tolerance were infinite.

Faith is a wonderful thing. When strong, it can move mountains and power a world economy. But sustaining it occasionally requires tossing something a little more tangible than good intentions into the pot.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. GRAVEL). Under the previous order, the Chair recognizes the Senator from South Dakota (Mr. MCGOVERN) for a period not to exceed 15 minutes.

(The remarks of Mr. MCGOVERN when he introduced S. 1773 appear in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE LINCOLN COMMUNITY HIGH SCHOOL WIND ENSEMBLE AND COLLEGIATE LINCOLNAIRES, OF LINCOLN, ILL.

Mr. PERCY. Mr. President, I should like to pay tribute to the Music Department of the Lincoln Community High School, to the 150 members of the Wind Ensemble and the Collegiate Lincolnaires, to Superintendent Robert W. Jones of the Lincoln Community High School, to Directors Alan Tidaback and William Smock, and to the 12 chaperones, who have today, through the arrangements made by Joy Webb, secretary, made it possible to give a perfectly wonderful concert in the Senate rotunda in the Old Senate Office Building.

People standing there listening to it along with members of the staff and some Members of the Senate, commented that it was the finest high school band and choir they had ever heard since they came to Washington.

I must say, it is not only the finest concert I have ever heard since I came to Washington, but also the finest I have heard in Illinois—which means that it could be looked on parochially by those of us in Illinois as the best in the country.

These young people have come to Washington to study and learn more about their Government, to understand better the democratic process and to see how it works. They will take back that knowledge with them, but while here they have contributed to a wonderful and inspiring example of what can happen when 150 young people get together and dedicate themselves to bringing about harmony through the use of their voices and the playing of musical instruments.

May they be an inspiration to us to find ways to bring about harmony among all the American people as well as the people in the rest of the world.

POLISH CONSTITUTION DAY—MAY 3

Mr. PERCY. Mr. President, at the beginning of this year, when Cardinal Wyszynski made his brilliant and courageous appeal for social justice in Poland, he was acting in the progressive tradition of the Polish Constitution of 1791 which established a modern constitutional monarchy and parliamentary system.

As we celebrate Polish Constitution Day, I would like to recall Cardinal Wyszynski's appeal for freedom of religious life, the right to social justice, the right to truthful information, freedom of speech, the right to good living conditions, and the right to live without fear of official persecution.

These freedoms, these rights are safeguarded in any modern, democratic constitutional system. The dedication of Cardinal Wyszynski and the people of Poland to these freedoms and rights, after decades of denial, testifies to their faith that one day Poland will be truly free. Their independent spirit continues to survive the restrictions and repressions imposed by Communist rule.

I congratulate the people of Poland for their perseverance in the face of adversity. I congratulate, as well, Americans of Polish heritage who maintain their devotion to freedom and to Polish traditions.

Mr. President, on May 3, 1971, on the occasion of Polish Constitution Day, Col. Casimir I. Lenard, executive director of the Polish American Congress, addressed a luncheon of the National Press Club in Washington, D.C. This was an honor for Colonel Lenard and for the Polish American Congress of which my distinguished friend Aloysius A. Mazewski is president. Even more, it was an honor and tribute for all Polish Americans, since Colonel Lenard was invited to speak as a representative of more than 12 million Americans of Polish descent.

It is my pleasure to share with my colleagues in the U.S. Senate the views expressed by Colonel Lenard at the National Press Club. I ask unanimous consent to have Colonel Lenard's speech printed in the RECORD.

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

ADDRESS BY CASIMIR I. LENARD, EXECUTIVE DIRECTOR, POLISH AMERICAN CONGRESS, BEFORE THE NATIONAL PRESS CLUB, MAY 3, 1971

Thank you, Mr. President. Distinguished guests, members of the National Press Club, ladies and gentlemen—it is indeed an honor to be with you today as a representative of over twelve million Americans of Polish descent.

At the outset, I believe it behooves me to impress upon you that the time allotted me, generous as it is, does not allow a truly in-depth explanation of the complexities which exist in my subject, which is: The Role of Polish Americans in the East European Crisis. I will, however, attempt to cover the most important facts of the situation . . . the "situation" being the relationship between the country of Poland and the American Polonia.

Polonia encompasses those of Polish descent living in areas other than Poland. These are the people who have either fled Poland to escape oppression or sought other countries more conducive to being a better home for their families and themselves. The American Polonia has one great and consuming goal . . . and that is to be better *Americans*. In being good Americans, Polonia also feels a strong bond between itself and the mother country. At this point, I would like to briefly outline how the Polonia, as it exists, came about and what it really is.

Some historians of Polish-American relations begin their history with the name of John of Kolno—(a town in Mazovia, Poland) who allegedly discovered America in 1476, while piloting an expedition commissioned by King Christian of Denmark. The noted Polish scholar, Professor Boleslaw Olszewicz, suggests that this tale be relegated to the limbo of legends for lack of documentary evidence.

The immigration of Poles to America is generally divided into the following periods: that of the eighteenth and early nineteenth centuries, the "economic" immigration of the latter half of the nineteenth century and the "political" immigration of the twentieth century. As early as October of 1608, twelve years prior to the landing of the Mayflower at Plymouth Rock, several Poles arrived at Jamestown, having been engaged by the Virginia Company for the express purpose of manufacturing glass, pitch and tar for export to England. These pioneers of American industry also pioneered American civil liberties—and here I might say that perhaps Poles were an early forerunner of the great labor movement in the United States which exists today. The small band of Poles in Jamestown refused to work when they were denied representation in the first legislative assembly on the American continent, the Virginia House of Burgesses, held in July, 1619, at Jamestown.

Until recently, it was not fully realized by the Americans, not even by some in the American-Polish element itself, that Poles also had played a significant part among the earlier immigration of liberty-loving spirits from among Europe's soldiers, politicians, intellectuals, and artists—and they were not behind other nationalities in contributing their quota of creative effort to the colorful pattern of modern America.

The names of a few personalities such as General Casimir Pulaski, General Thaddeus Kosciuszko, both of whom fought in the American Revolutionary War, Madame Helena Modrzejewska (Modjeska) or Ignace Jan Paderewski are popular all over the world.

But the names of hundreds and thousands of others are usually forgotten: Dr. Alexander Curtius, the founder of the first high school in New York in 1659; the oldest and largest Polish family on the American continent, Zaborowski (Zabriskie), settled in the Dutch colony of New Amsterdam first mentioned in 1662; the family of John Anthony Sadowski—pioneers of Virginia, Pennsylvania, Kentucky and Ohio, known today as the Sandusky family, first noted in 1735; P. Sobolewski, journalist, editor of the first Polish-American magazine printed in the United States, in 1841; J. Tyssawski, statesman; Dr. Felix P. Wierzbicki, pioneer of California; A. Debinski, civic leader; Conrad Norwid, poet; Count Adam Gurowski, author; Sir C. S. Gzowski and C. Bielawski, engineers, are among those not usually remembered.

At this point of my historical review I must pause and reiterate the significance of today's date. It was on May 3rd in 1791, barely two years after the adoption of its Constitution by the United States, that Poland without a bloody revolution or even without a disorder succeeded in reforming her public life and in eradicating her internal decline. But this great rebirth and assertion of democracy came to the Poles too late and did not forestall the third partition of Poland in 1795 by Russia, Prussia and Austria. With special observances in both Chambers, the Congress demonstrates today America's friendship toward the Polish nation, whose millennial heritage of Christianity and participation in the growth of Western culture is now being ruthlessly suppressed by communist tyranny.

More than one hundred Polish families arrived in the United States and settled in Texas and established the first Polish settlement at Panna Maria near San Antonio, in 1854.

The Polish exiles were not immune to the great crisis of the 19th Century which culminated in the Civil War. The number of Poles living in the United States at that time is established at 30,000. General Wlodzimierz Krzyzanowski was one of the first to respond to President Lincoln's appeal for volunteers by organizing a militia company in Washington. Another exile from Poland, Joseph Karge, from Poznan, became Commander of the New Jersey Cavalry. As a General, Karge accepted in 1870, the chair of foreign languages and literature at Princeton University. Among those prominent in the Confederate Army are General Brigadier Zebulon York and Colonel K. Tochman, who originated the "Polish Brigade of New Orleans."

Another famous Polish name is Ignace Jan Paderewski, composer, pianist, and statesman. His efforts influenced President Woodrow Wilson to mention the cause of Poland in the Fourteen Points that he submitted to the Peace Conference at Versailles in 1918. In 1919, after the restoration of a Polish State, Paderewski was appointed Prime Minister of Poland. In World War II about 900,000 Americans of Polish descent served in the American forces, which is an extremely high percentage in comparison with other national groups.

The Poles in America formed their community life around the Church and their fraternal organizations—many of these organizations have been in existence for over 90 years and have helped to sustain the Poles as a homogeneous group. Successive waves of immigrants served to maintain a link between the mother country and Poland. However, changes in the political arena in Poland and Europe after World War II had their effect on the Polonia, and it became apparent that a central organization which would adjust its program to the needs and purposes of the American Polonia was required. Such an organization came into existence in 1944 when 5,000 delegates representing all Polish American fraternal, civic, educational, business and professional organizations, together with eminent prelates from the Roman Catholic and the Polish National Catholic churches, agreed on a unified action in behalf of a free and independent Poland and for the betterment of Americans of Polish ancestry. And thus was born the Polish American Congress—the organization I represent here today—and whose President, Mr. Aloysius A. Mazewski, is here with us. It was the first large body of Americans that strenuously opposed many of the unjustified concessions that the Western Alliance granted the Soviet Union in particular and communism in general during World War II and its aftermath.

Subsequent developments on the international scene that culminated in the outbreak of the Cold War in 1948, proved the PAC position and forewarning to be correct. This opposition, however, to the unwarranted coddling of the Kremlin tyrants and their design for world domination, has been only one aspect of the mutli-faceted activities that were planned for the PAC twenty-seven years ago.

In parallel pursuits, the Polish American Congress strove to serve Americans of Polish ancestry, known collectively as American Polonia, in many and diverse ways—in politics on local, state, and federal levels; in education; in civic undertakings; in the study of sociological problems and a search for their solution; in supporting cultural institutions and subsidizing studies in Polish American history; in supporting the Polish American press; and others too numerous to mention here.

In the first phase of its history, the PAC devoted the major part of its resources and energy in acquainting American public opinion with the right of the Polish nation to full freedom and independence with a fully recognized and accepted western boundary along the Odra-Nysa (Oder-Neiss) rivers.

Toward this end, PAC representatives conferred with the wartime President Franklin Delano Roosevelt and with every Chief Executive of the nation in a post-war era—Truman, Eisenhower, Kennedy, Johnson and now President Nixon. Comprehensive memoranda have been presented to the Secretaries of State—Byrnes, Stettinius, Acheson, Dulles, Rusk and Rogers.

The case for a free and independent Poland within the framework of America's enlightened self-interest, has been presented to the United States Senate and the House of Representatives, as well as to mass communications media in numerous papers and publications.

The PAC had articulate delegations at the constituent assembly of the United Nations in San Francisco in 1945 and at the conference in Paris in 1948. The PAC supported United States economic assistance to Poland and strongly favors cultural exchanges between the American and Polish people.

And this brings us to the current situation and the December 1970 events in Poland.

I do not believe there is any need to repeat the chronology of the tragic events which took place in the Polish Baltic ports. We are all too well acquainted with the actions, the deaths and the injuries. I do believe, however, it is important to consider their reasons.

The prevailing opinion in the West is that the main reason for the riots was the exorbitant raise in the price of the basic commodities. In my opinion, this approach is not entirely correct. The raise in prices was only the proverbial "straw that broke the camel's back." Under the calm surface of the national life in Poland, there was and is a very strong undercurrent of revolt—a deep dissatisfaction with the communist rule and with the economic conditions created by the communist regime. The basic element we are looking for in this picture is the impatience of the Polish people and their hatred of the communist system.

Proof of these assertions can be found in the political measures taken by the new regime. Mr. Gierek, in his first statement, said that the line of communications between the party and the ruling personalities and the people was broken. He promised to restore it. His predecessor, Gomulka, he said, had lost touch with realities. Gierek also stated that the party recognized its mistakes. This was a strong condemnation.

Secondly, the new Premier Piotr Jaroszewicz, in his inaugural address to the Sejm called for full normalization of relations between the communist government and the Catholic Church. Shortly after this, in one of his sermons, Stefan Cardinal Wyszynski enumerated demands which were tantamount to a political program—these, in fact, were aimed at the restoration of true democracy.

Next, they promised to increase the role of the Parliament—they would give it the power to implement party policies, allocate monies, control housing, etc. The new regime also promised and already started to reorganize the trade unions—to give them more freedom of action, to move from the role of a policeman for the party to its proper role as a defender of workers' interest. At this point I wish to acknowledge the strong position the AFL–CIO Executive Council took on February 19, 1971, in supporting the Polish workers struggle for food and freedom. Another significant move was the liberalization of the policy viz-a-viz writers. As you can see, these were not economic steps.

Now, let us review some of the economic considerations. Prices were lowered. Wages were increased. And the party made some moves to alleviate the economic difficulties, including increase in the production of housing. Gierek obtained some help from Russia—the amount is unknown and no figures have been published. One thing, however, is clear. Poland did not get any more grain from Russia than Mr. Gomulka announced in his last speech to the workers on December 3, 1970, namely 2 million tons. There was additional Russian help but this came in the form of either supplies or currency to buy supplies abroad. Poland needs four million tons of grain and in order to survive the current ordeal it may become necessary to kill much of its cattle and live on a very poor diet until harvest time.

It is not clear what additional economic improvements will be made—they speak in generalities. They speak of giving more incentives, they want to introduce the people to the decisionmaking process, and they speak of reducing the power of arbitrary party men, the shop managers who had their own way until now, and they also speak of utilizing funds from the enterprises to alleviate most glaring hardships. However, no shift has been made to decentralize the economy. All of this amounts to an easy political and economical way to gain the people's confidence and to give the people some incentive to work.

The last Plenum in mid-April made some important changes in Polish agriculture—there will be higher taxes on land but there will be less compulsory purchase of agricultural products from the peasants—they won't have to surrender the food at a lower price and therefore have an incentive to produce more thus helping to create a free market.

Let us now consider the effect of the December events in Poland on Eastern Europe.

In East Germany, the January reforms lowered prices and were aimed at improving the lot of the consumer.

In the USSR during the 24th Communist Party Congress, both Brezhnev and Kosygin devoted much time explaining that the consumer will be able to obtain more goods since there will be a shift from heavy industry to consumer products.

The same occurred in Bulgaria and Romania where Mr. Ceausescu promised to raise wages by 20% and to reintroduce freedom of action to the trade unions.

Our next question naturally is what will the future bring? What can we expect to happen in Poland?

This is difficult to judge—we know that Gierek is a devoted communist, a technocrat, one who used a strong but efficient hand in Silesia. I don't believe we should expect any substantial changes in the existing political system in Poland. We could only hope for some improvements in the economic picture combined with some increased efficiency in administration. Even if Gierek wanted to make some basic changes, he is fully aware there is a certain line which he can't cross because if he does, he will be toppled by the Kremlin itself—he is expected to work within the framework of the Communist system. We note here that Gierek's statements about the principle of rotation and about the Party being at fault were not published in the Russian press although they were carried in the other block countries. Now, since there is a certain margin of freedom left to the rulers of the satellite countries—and this was not fully exploited by Mr. Gomulka—one can only hope that this margin of freedom will be utilized by Mr. Gierek and here is where we could hope for certain improvements. Of course, Russia still plays the dominant role concerning Poland's future. The prevailing atmosphere in Poland now is limited but moderate hope for betterment. At the same time, the people are of the opinion that if Mr. Gierek does not improve the situation in a matter of months, they are going to riot again—there is a constant threat of a general strike.

At this point in my discussion I must digress and bring the American Polonia into the picture again—I reiterate that the members of the Polonia consider themselves as American citizens who have the right and consider it their duty to make recommendations on Polish matters to their government and fellow Americans, which they believe to be in conformity with U.S. interests. We cooperate with the Polish political emigration and its organs for the achievement of our common purposes. We endeavor to strengthen our contacts with responsible representatives of other East European nationality groups within the American community.

In this political activity we clearly distinguish between the Polish nation and the alien government imposed on it by force. I should note here that a segment of U.S. public opinion still does not fully appreciate this distinction. The Polonia exercises its right and recognizes its duty to deny moral recognition to that government and its claim to express the will of the Polish Nation. The Polish communities' denial of moral recognition to the Warsaw government is a powerful obstacle to the cynicism and hypocrisy of those Western statesmen who seek to treat the situation in Poland as normal and to build a bridge of understanding with the Russians on that basis. It is, however, understood that working contacts with the authorities in Poland are sometimes necessary. Those of us who make such contacts take care, in performing these delicate tasks, to give as little handle as possible to regime propaganda.

As the ultimate goals for Poland we consider the recovery of external political independence and internal freedom together with the country's western frontier being the Oder and Neisse. It is in the true interest of the United States that Poland should be free and independent. Poland is the axis of the East European system. As long as Europe is deprived of its Eastern half it cannot be united and strong, or possess the necessary balance. And only a strong, united and properly balanced Europe can give lasting security to the United States. Consequently, the withdrawal of Soviet influence to the Eastern borders of Poland must be an objective of long-term American policy. In this context it is important to consider the crucial European Security Conference, which, if convened, very well may be our last chance to break the Soviet grip on Europe and bring freedom to its oppressed nations.

Keeping the above in mind we recognize the need for continuing aid and cultural exchanges with Poland. United States policy assumes that the process of restoring Poland's external independence and enabling her to adopt democratic forms of national life will be a long one. In the hope of shortening it, the U.S. is taking practical steps to facilitate trade between Poland and the West, and to promote cultural exchanges. From the practical point of view, this is the correct policy. The more Poland's economic situation improves and the closer its culture links with the West, the stronger will be the morale of the Polish population and its ability to go on resisting the communist invader. This policy should be subject to certain conditions. Trade and cultural exchanges with Poland must not be an end in themselves, but be subordinated to the overriding political aim of helping the Polish people to free themselves from foreign tyranny. The criterion of progress will not be simply the increase in the economic turnover measured in figures, or the number of exhibitions arranged on either side, but how far these developments contribute to the material and spiritual strength of the Polish nation.

From this point of view, the planning of American economic help to Poland should lead to bold initiatives over and above the current mark. In this connection any number of projects could be mentioned: Assistance in the form of grain and other foodstuffs; modernization of Polish industry through training; the adoption of American patents and exchange of professional people; expansion of Polish tourism—the improvement of existing facilities and development of new hunting, skiing and health spas; and also the creation of student exchange and information centers.

At this point, it should be obvious that the Polonia is deeply sensitive to what is going on in Poland and Europe—that is why we welcome and support the movement in the United States and Europe in demanding that the hideous war crimes committed by the Russians against 4200 Polish officers during World War II be brought to world attention. We support our Congress in its Sense of Congress Resolution calling on the President of the United States to instruct the United States Delegate at the United Nations to join international demands for a United Nations investigation of the Katyn war crimes. I recall, that in its final report, dated December 1952, the Select Committee investigating the Katyn Forest massacre requested the President of the United States to instruct the United States delegation to seek the establishment of an international commission which would investigate other mass murders and crimes against humanity. I firmly believe that had the recommendations of the Committee been carried out then the occurrence of such crimes and incidents that followed might have been prevented.

I briefly touch upon Polonia's interest and need to participate in the Bicentennial celebrations across the nation—showing America the Polish contribution to the rich mosaic of American life. I mention here the preparations, on a world-wide scale, to honor in 1973 the 500th Anniversary of the birth of the famous Polish scholar Mikolaj Kopernik.

I am not able to give justice to the subject of ethnicity here today—although I note in the room a large group of people deeply involved and dedicated to this subject from the point of the Catholic Church. I hasten to add that the Polonia has lived ethnicity since its arrival in the United States—so the subject is not foreign to us. We wish to state publicly that we are very proud of our Polish heritage and the manner in which it supports the democratic principles of this glorious country of ours—which, contrary to some visionaries of doom, is not going to fall apart. We see its future in the nourishing of the ethnic spirit, using the best of ethnicity as a transfusion to save an ailing America.

Our involvement in U.S. politics would require a great deal of discussion; suffice it to say, we are very proud of our legislators of Polish descent and others that represent us and we wish to express our deep appreciation for what they have done for us up to date. At this juncture however I would be remiss if I did not state, that Polonia has matured politically and no longer belongs to one party. We welcome discussion and representation on both sides of the political spectrum and state that our approach to politics has become very pragmatic—don't take us for granted.

Since my topic deals with Polonia's relationship to the situation in Eastern Europe, I close with this thought:

Polonia is willing and able to assist the people of Poland and Eastern Europe in its difficult period—and obviously has used a great deal of restraint and mature judgment in its actions and public pronouncements. We could only hope, that the new leaders of Poland will recognize this and act accordingly.

MAY DAY IN WASHINGTON

Mr. PERCY. Mr. President, I think it very symbolic that the same day, May 3, was May Day so far as the demonstrations here in Washington were concerned. I should like to commend the law enforcement officials, whether they be from the District of Columbia or the military, for the manner in which they preserved freedom—the freedom to go to work, the freedom to move down the avenues, the freedom of tourists to come to Washington—many young people having come here for the first time in their lives to see their Capital—and the freedom of people to continue with their normal plans.

I am deeply sympathetic with all of those who have tried to evidence their concern through peaceful demonstrations and the exercise of the right of free speech, to emphasize their desire and the desire of all Americans to see this tragic war in Indochina ended at the earliest possible moment.

However, Mr. President, there is a right and a wrong way to do things. It is wrong to have the intent and purpose of stopping democratic institutions, the very institutions that would be able to bring this war to a halt under the provisions of the Constitution, and to try to stop the Government.

I would say, as President Lincoln so eloquently expressed it, in Springfield, when he was addressing the young men in the Lyceum—and I paraphrase his thought—that there is no grievance that is justification or rectification for mob rule.

We could not accede, no matter how many of us are devoted to finding ways of ending this war, to mob rule in Washington, D.C.

Mr. President, it was very symbolic that this was done on May 3, 1971.

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

Mr. PERCY. I yield.

Mr. CURTIS. Mr. President, I commend the Senator for his remarks.

I desire to state that I have prepared a resolution expressing the sense of gratitude of the Senate for the fine work done by the police during this time of disturbances here in Washington. I shall introduce the resolution tomorrow. It is my hope that a great many Senators from both sides of the aisle can become cosponsors.

I appreciate the Senator's yielding to me so that I could make my announcement. I shall welcome his cosponsorship.

Mr. PERCY. Mr. President, I thank the Senator from Nebraska very much indeed. I feel certain that we all recognize that in actions of this type mistakes are made on both sides. There was excess on the side of some demonstrators and there was moderation on the part of some, too. There was probably some excess on the side of those who were carrying out the law through the process of government. I am sure that some mistakes will be revealed as having been committed that day. However, I feel that these mistakes were made through their motivation to be diligent in carrying out their duty.

I trust that such mistakes will be rectified in the future, and that we will learn by our errors and not have a repeat of this kind of experience on either side.

RESCISSION OF ORDER RECOGNIZING SENATOR HART

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the recognition of the senior Senator from Michigan (Mr. HART) at this time be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed, under the order of yesterday, to the consideration of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will proceed to the consideration of morning business for a period of 30 minutes, with statements made therein limited to 3 minutes.

THE SO-CALLED PEACE DEMONSTRATIONS

Mr. ALLEN. Mr. President, the so-called peace demonstrations that have been taking place in the Nation's Capital for the last few days are a national disgrace and actually constitute open rebellion. If these people are so dissatisfied with our country, I wish they would leave it. In fact, I would contribute to a fund to send them on a one-way trip to Hanoi, which they like so well, or to China or Russia.

I believe Americans are fed up with radical and disloyal efforts to direct our Government from the streets and gutters of the Nation. And, in my judgment, never again should any mass demonstrating groups be allowed to come into the Mall and park areas and establish their camps, depriving tourists and other law-abiding Americans legitimate access to our national shrines and museums. These are areas which are paid for by all the people, and they must be kept open for all the people.

I am happy to say that normal Government activities have gone on without interruption despite the best efforts of the radicals to bring the Government of the United States to a halt and to its knees. Much credit goes to the various police elements and other law enforcement officers and to the troops who, despite every effort to harass them, maintained a purposeful calm and kept traffic moving and Government in operation. They deserve the thanks and commendation of the Nation.

Mr. President, I commend the distinguished Senator from Nebraska for his announced intention of offering a resolution on tomorrow commending the law enforcement officers. I hope that he also has in mind including our thanks to the troops on duty for their services in this emergency situation.

We are going to have to adopt a firmer and harder policy against these illegal and disloyal protests and demonstrations. As a Government, we must not and will not give in to this type of coercion.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the orders for recognition of Senators previously granted there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE CURRENT DOLLAR CRISIS AND THE BASIC INJUSTICE OF OUR EUROPEAN OCCUPATION

Mr. SYMINGTON. Mr. President, last month in West Germany, on a trip with the distinguished chairman of the Joint Atomic Energy Committee, the senior Senator from Rhode Island, we were told that there was no unemployment in that great country; in fact, their prosperity had reached the point where they were importing 2,700,000 workers into the country from other lands, including citizens of nations behind the Iron Curtain.

At a U.S. Pershing missile base in southern Germany a young GI from my State of Missouri asked me why his wife could not work on the base. He said:

> There are many women working on the base, I was drafted to come over here to defend this country, my wife came with me, we have no money, and she would be glad to take the same salary that is being paid the civilians who are working on the base.

When I thereupon asked the commanding general of said base to reply to this GI, he stated, "The answer is simple—the Germans won't allow it. They prefer to fill the civilian jobs with their own people." As is the general custom, the rates we pay are higher than the prevailing rates.

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

Mr. SYMINGTON. I am glad to yield to the able majority leader.

Mr. MANSFIELD. Mr. President, I asked the distinguished Senator from Missouri to yield at this point because I wish to make a comment and perhaps ask a question before he gets into the main part of his address.

The Germans are not allowing dependents of American servicemen to work on U.S. bases; is that correct?

Mr. SYMINGTON. That is what I was told by the general commanding the base in question. The next day I went to another base and asked the same question. The commanding officer told us that only a certain percentage of our people were allowed to work on the base.

I then asked for the figures and was told there were 775 German civilians working on this U.S. base yet only 70 Americans were allowed to work on that same base.

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

Mr. SYMINGTON. I am glad to yield.

Mr. MANSFIELD. Is it true there appeared in the press a few days ago a story to the effect that the wives and dependents of American GI's will now be allowed to do KP?

Mr. SYMINGTON. Yes, I believe I read the item the majority leader just mentioned.

Mr. MANSFIELD. I think that is a true statement of fact. It just brings us back again—and I know of the distinguished Senator's interest in this question—to the fact that we have 525,000 military personnel and dependents, not in West Germany only but in Western Europe. To maintain those 525,000 military personnel and dependents takes $14 billion out of the defense budget every year. Is that correct?

Mr. SYMINGTON. That is correct.

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

Mr. MANSFIELD. Mr. President, I ask that I be recognized for 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. That figure has never been contravened on the floor of the Senate and it has been cited time and time again. This is just the beginning of a question that will achieve more importance.

I will allow the Senator from Missouri to proceed on my time for the remainder of his speech.

Mr. SYMINGTON. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. SYMINGTON. Mr. President, the next morning the papers over there reported a lecture, a warning, that was being given to us by their financial leaders with respect to the careless manner in which we back here were handling our own financial problems.

Some 8 years ago I began presenting to my colleagues on the Senate floor a growing apprehension about our foreign political, military and economic policies; policies which were and are causing a sharp rise in our persistent unfavorable balance of payments. At that time I warned that this continuing outflow of American dollars could only result in severe damage to the value of the dollar itself.

Since 1963, on this floor, I have warned again and again about that growing danger; and as of this morning we face it in more practical fashion.

Financial experts pointed out only last week that—

Such recent financial crises as those of 1967 and 1969 were the result of speculation and panic; whereas this latest crisis of today is the calculated work of European moneymen, serving notice to the United States that they were tired of the rules of the game.

"Flexing new financial muscles of their own, and fed up with what they saw as the U.S. failure to live up to its obligations, they were debating a decisive new step away from the system that was virtually dictated by the triumphant United States at Bretton Woods, N.H., 27 years ago. There was a growing rift in the Atlantic alliance, and the consequences would be as sweeping as they were incalculable.

"What had forced this dramatic showdown? At bottom, of course, the Europeans were reacting to the endless deficits in the U.S. balance of payments, a result of the country's chronic inability to earn as much as it spends and invests abroad. Last year saw the biggest deficit yet, a staggering $9.8 billion, and in the first three months of this year the U.S. chalked up a record quarterly deficit estimated at $5 billion—as much as some had predicted for all of 1971."

The above remarks were in an article in Newsweek magazine which came out before the start of the present dollar crisis in Europe.

In any case, I would serve notice to this administration, as I did to the past administration, that if this policy of sending some $100 million a day out of this country in a fruitless effort to finance most of the rest of the world and defend most of the world is not changed, the value of the dollar could well continue to disintegrate, to the point of catastrophe.

For over 5 years, some of us in the Senate, led by the distinguished majority leader, have been urging that the United States reduce substantially its military posture in Europe, and surely the above gives further justification to this request.

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

Mr. SYMINGTON. I shall be glad to yield.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Rhode Island is recognized on his own time.

Mr. PASTORE. Mr. President, I want to endorse and associate myself with everything the distinguished Senator from Missouri has just said. I was on the trip that he discusses. Everywhere we went, he asked many, many questions. Some of the answers were rather vague, and some, of course, were even harder to understand.

I do not think anyone is taking the position that the overall military posture in Europe should be cut down in its role as a supplement to the deterrent power that we have at the present time. What we find fault with is the mix—who is doing what and giving how much as a contribution to this overall military posture.

Much of the involvement of the United States in Europe is predicated upon a situation that existed immediately after World War II. Then Europe was bankrupt and we were booming. Now the tables have turned. As a matter of fact, Mr. President, we learned that in Germany, which has a population of 91 million people, they import some 2,700,000 foreign workers. An American wife cannot get a job even on an American base. Why? Because that job has to be reserved for German Nationals. This, for me, is hard to understand.

We went to Austria. Austria is not a partner in NATO, but we Senators wanted to get a closeup idea of the situation there. Austria we found has only a 2-percent unemployment rate, while in this country we have an average rate of between 6 and 7 percent. Austria is booming too.

What we are saying it that a greater contribution has to be made by our allies. After all, they have at least as much, and even more, at stake than we have in Europe. The time is at hand when we ought to be allowed to take back some of our troops. We ought to be allowed to relax some of our commitments, just so we can help bring about financial stability in this country. That is what the Senator from Missouri is saying.

No one is saying that the overall forces in Europe should be cut down, but why, in the name of commonsense, do we alone have to live up to our commitments, while not one of the NATO alliance members has done the same? That is what we are talking about, and the time has come when I think this Government has to put its foot down. We have to begin to talk about American problems. We have always understood our allies' problems, but they never seem to understand ours. Today Europe is booming. I say fine, marvelous. But we are not booming. Yet our commitment goes up and up and up, and they have not fulfilled their own.

I hope this country, through its Government, and through the Congress, will begin to assert itself so that we can bring about some semblance of equity within our organization as to whose responsibility it is to defend and protect their own security.

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

Mr. PASTORE. I yield.

Mr. MANSFIELD. I am in full accord with what the distinguished Senator from Rhode Island has said.

Also, after reading all of his speech, and listening to most of what the distinguished Senator from Missouri has said, I think it is time that we begin to look after our own interests. I would say that, on the basis of the colloquy had on the floor this afternoon, we have laid the foundation for an amendment—not a resolution, but an amendment—to bring about a reduction in U.S. troops and dependents in Europe, and a substantial reduction from the number of 525,000 now, which calls for taking out of the defense budget, I repeat, $14 billion every year.

Mr. PASTORE. That is right, and I want to say to the distinguished majority leader that while we were there we were told about the ministers conference of the NATO organization in December of last year. There certain pledges were made that over a period of 5 years they might spend anywhere from $500 million to $5 billion. That is only a pledge, and that is not enough, when we realize that we already spend about $14 billion. That just is not enough.

Do the Senators want to know why they held that conference in December? Do the Senators want to know why they made the pledge? Because of the Mansfield resolution. That is the only way they are going to act. Unless we begin to pass resolutions in the Congress to cut off money, they are never going to provide their share. The time to do it is now. We would act not because we dislike them, not because we do not want to defend them. It is because we expect them to put up their proper share to defend themselves.

Mr. SYMINGTON. Mr. President, I want to associate myself not only with the remarks of the majority leader but also with the senior Senator from Rhode Island. This trip was his idea, and it was about the most informative trip I have been on in the some 19 years I have been in the Senate. I again thank the Senator for his wisdom in suggesting that we take it.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL) laid before the Senate the following letters, which were referred as indicated:

REPORT OF AGREEMENTS UNDER THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

A letter from the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, report of agreements signed providing for foreign currencies submitted for March and April 1971 (with accompanying reports); to the Committee on Agriculture and Forestry.

REPORT OF CONCLUSION OF JUDICIAL PROCEEDINGS REGARDING DOCKET NO. 289, INDIAN CLAIMS COMMISSION

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report on the final conclusion of judicial proceedings regarding docket No. 289, the Peoria Tribe of Indians of Oklahoma and Mabel Staton Parker on behalf of the Plankeshaw Nation; and the absentee Delaware Tribe of Oklahoma and the Delaware Nation, et al., plaintiffs, against The United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT OF ORDER DISMISSING PETITIONS BEFORE THE INDIAN CLAIMS COMMISSION

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report on the final conclusion of judicial proceedings regarding dockets Nos. 236–K, 236–L, and 236–M, Gila River Pima-Maricopa Indian Community, et al., petitioners against the United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT OF FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Director of Civil Defense, Office of the Secretary of the Army, Department of the Army, transmitting, pursuant to law, federal contributions program equipment and facilities for the quarter ending March 31, 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION PERMITTING PERSONS FROM COUNTRIES FRIENDLY TO THE UNITED STATES TO RECEIVE INSTRUCTION AT UNITED STATES ACADEMIES

A letter from the Secretary of the Navy, submitting a draft of proposed legislation to amend and extend for a temporary period the Act of November 9, 1966, permitting persons from countries friendly to the United States to receive instruction at the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, and for other purposes (with accompanying papers); to the Committee on Armed Services.

REPORT OF STUDY OF IMPACT ON BANKING SYSTEMS

A letter from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report on the study of the possible impact on the banking systems and other economic effects of changes in existing law to be made by section 2 of that Act governing income taxes, intangible property taxes, so-called doing business taxes, and other similar taxes that are or may be imposed on banks by State and local governments (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, the annual report of the Federal Power Commission for the fiscal year July 1, 1969 to June 30, 1970 (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION TO CONTINUE THE INTERNATIONAL COFFEE AGREEMENT ACT OF 1968

A letter from the Acting Secretary of State, submitting a draft of proposed legislation to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1969 (with accompanying papers); to the Committee on Finance.

PETITION

A joint resolution of the Legislature of the State of Maine was presented to the Senate by Mrs. SMITH, for herself and Mr. MUSKIE.

The joint resolution, which reads as follows, was referred to the Committee on Finance:

JOINT RESOLUTION MEMORIALIZING CONGRESS TO LOWER THE RETIREMENT AGE UNDER SOCIAL SECURITY FROM 65 TO 62 YEARS

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Fifth Legislative Session assembled, most respectfully present and petition your Honorable Body as follows:

Whereas, social security legislation is now under consideration by the Congress of the United States; and

Whereas, a proposal has been made to lower the retirement age from 65 to 62 at which full benefits could be received; and

Whereas, the lowering of the retirement age will assist approximately 8 million citizens for the first year; and

Whereas, of these 8 million citizens, 3.5 million persons will become eligible for the first time; and

Whereas, of these 3.5 million citizens, 1 million persons may act to claim benefits in the first year; and

Whereas the cost of this provision will be approximately 2.6 billion dollars a year, now, therefore, be it

Resolved: That we, your Memorialists, recommend and urge that the Congress of the United States give immediate and favorable consideration to this provision lowering the retirement age for receiving full benefits under socal 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 the Speaker of the House of Representatives in the Congress of the United States and to members of the said Senate and House of Representatives from this State.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

Mrs. SMITH. Mr. President, on behalf of the Senator from Mississippi (Mr. STENNIS), I report from the Committee on Armed Services, together with supplemental views of Senators SYMINGTON, SCHWEIKER, HUGHES, and DOMINICK, H.R. 6531, a bill to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. COOK (for himself, Mr. SCOTT, Mr. BAKER, Mr. TAFT, and Mr. WEICKER (by request)):

S. 1769. A bill to establish a Legal Services Corporation and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 1770. A bill to establish a system of general support grants to State and local governments; to authorize Federal collection of State income taxes; and to encourage modernization of State tax systems. Referred to the Committee on Government Operations and, by unanimous consent, when reported by that committee to be referred to the Committee on Finance.

By Mr. FULBRIGHT (by request):

S. 1771. A bill to amend further the Peace Corps Act (75 Stat. 612), as amended. Referred to the Committee on Foreign Relations.

By Mr. GRAVEL:

S. 1772. A bill for the relief of Ho Shing Fan. Referred to the Committee on the Judiciary.

By Mr. MCGOVERN (for himself, Mr. PERCY, Mr. HART, Mr. MONDALE, Mr. KENNEDY, Mr. NELSON, Mr. CRANSTON, Mr. COOK, Mr. SCHWEIKER, Mr. BAYH, Mr. GRAVEL, Mr. EAGLETON, Mr. HARTKE, Mr. MCGEE, Mr. HUMPHREY, Mr. PASTORE, Mr. MOSS, Mr. RANDOLPH, Mr. TUNNEY, Mr. RIBICOFF, Mr. HARRIS, Mr. HOLLINGS, Mr. SPONG, Mr. STEVENSON, Mr. MUSKIE, Mr. PELL, Mr. JAVITS, Mr. CASE, Mr. MATHIAS, Mr. HATFIELD, Mr. HUGHES, Mr. JACKSON, and Mr. MONTOYA):

S. 1773. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER:

S. 1774. A bill to furnish assistance to farmers in emergencies caused by natural disasters. Referred to the Committee on Agriculture and Forestry.

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

S. 1775. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes. Referred to the Committee on Agriculture and Forestry.

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

S. 1776. A bill to provide equitable treatment of veterans enrolled in vocational education courses. Referred to the Committee on Veterans' Affairs.

By Mr. HATFIELD (for himself, Mr. RANDOLPH, Mr. MILLER, Mr. MCGOVERN, and Mr. PACKWOOD):

S. 1777. A bill to supplement and strengthen voluntary youth service and learning opportunities supported or offered by the Federal Government by establishing a National Youth Service Council and a National Youth Service Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

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

S. 1778. A bill to provide for orderly trade in antifriction ball and roller bearings and parts thereof. Referred to the Committee on Finance.

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

S. 1779. A bill to amend the Public Works and Economic Development Act of 1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be Economic Disaster Areas, and for other purposes. Referred to the Committee on Public Works.

By Mr. BENNETT:

S. 1780. A bill to amend the National Labor Relations Act in six areas closely related to one another, all of which touch in varying degrees the kinds of collective bargaining units which should exist under the act. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON:

S. 1781. A bill to amend section 8 of the Federal Water Pollution Control Act, relating to grants for the construction of treatment works, in order to increase the Federal share of construction costs and to authorize the obligation of certain amounts of such grants, and to amend section 10 of the act relating to water quality standards, and for other purposes. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS

By Mr. COOK (for himself, Mr. SCOTT, Mr. BAKER, Mr. TAFT, and Mr. WEICKER (by request)):

S. 1769. A bill to establish a Legal Services Corporation and for other purposes. Referred to the Committee on the Judiciary.

LEGAL SERVICES CORPORATION ACT

Mr. COOK. Mr. President, on behalf of the administration, I am today introducing legislation to create an independent, nonprofit legal services corporation. Fathered by the Office of Economic Opportunity, the legal services program over the last 6 years has proven to be one of the most successful programs of the war on poverty. Its 2,000 attorneys in 900 neighborhood offices handle more than a million cases per year on behalf of the poor. Through the dedicated efforts of program attorneys, individual tragedies have been averted and gross injustices remedied.

This bill is a testament to the value of the program and to the administration's commitment to equal justice for all Americans. It provides in general for:

An independent, nonprofit legal services corporation to be incorporated under the laws of the District of Columbia for the purpose of providing legal services in noncriminal matters to persons financially unable to afford counsel;

An 11 member bipartisan board of directors—a majority of whom must be lawyers—appointed by the President with the advice and consent of the Senate;

An advisory council which includes representatives of the client community and the organized bar;

A president appointed by the board who is required to be a member of the bar;

The power to represent the collective interests of the poor before Federal agencies.

The administration bill builds on the foundation of the past 6 years, while acknowledging and dealing with some of the problems revealed by the program's short history. Through carefully drawn limitations, the bill insures that the energy and resources of the corporation will be focused on the specific legal needs of the poor. But at the same time it preserves the professional independence of the program attorneys.

By providing a permanent, independent home for the legal services program, we can demonstrate to those who are poor and powerless that the system does listen and respond to their needs. I believe this bill is an excellent beginning in the establishment of a legal services program. Although there may be some disagreement over specific provisions in the bill, I urge my colleagues to give it their thoughtful consideration.

By Mr. MUSKIE:

S. 1770. A bill to establish a system of general support grants to State and local governments; to authorize Federal collection of State income taxes; and to encourage modernization of State tax systems. Referred to the Committee on Government Operations and, by unanimous consent, when reported by that committee to be referred to the Committee on Finance.

INTERGOVERNMENTAL REVENUE ACT OF 1971

Mr. MUSKIE. Mr. President, I am today introducing the Intergovernmental Revenue Act of 1971. I ask unanimous consent that the bill and a section-by-section analysis, with exhibits, be printed in the RECORD following these remarks.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. MUSKIE. Mr. President, our States, cities and counties are in dire need of financial assistance. The Congress must respond to their call for help. We cannot continue to allow local governments to face, as many of them now do, either financial insolvency or forced cutbacks in such necessary services as police and fire protection, health care, and education of our children.

The bill I introduce today would meet the financial crisis of State and local governments directly. It is based on the 1969 recommendations of the Advisory Commission on Intergovernmental Relations. I first introduced this bill with former Senator Goodell in June 1969, and it has been substantially revised after 7 days of hearings in the last Congress.

Again this year, it will receive a thorough airing before the Subcommittee on Intergovernmental Relations, which I chair.

The concept of revenue sharing has gained solid backing from the Governors of our States and the mayors of our cities. It has received strong support from the American people. It is not difficult to understand why.

Today, as in the past, we must rely on the States and localities to provide the functions which are performed best by the levels of government closest to the people—essential services such as keeping the streets safe and clean, building and maintaining decent schools, collecting trash on a regular basis and building adequate sewer systems. Yet, in increasing numbers, State and local governments cannot find the financial resources to pay for these services.

This inability of State and local governments to meet their bills, in large part, is a result of a fiscal imbalance in our Federal system which must be corrected.

By a "fiscal imbalance" I mean simply there exists today a great imbalance in revenue raising capacity between the Federal Government and the State and local governments. To a significant extent, that imbalance exists because the States have not effectively utilized the most lucrative source of tax revenue—the income tax.

Ever since the Federal income tax was enacted, the discrepancy between the revenue raising capacity of the Federal Government and State and local governments has grown. Income taxes provide the greatest single portion of the revenue raised by government. And, in 1969, 91.1 percent of all income taxes in the United States were collected by the Federal Government.

The income tax is extremely lucrative because its returns grow automatically as the economy expands. Every time the economy expands one percent Federal income tax revenues increase 1.5 percent.

Many State governments, for whatever reason, have not tapped the income tax as a principle source of revenue, and many communities are barred from use of the income tax by State law. These governments have relied on property and sales taxes for the greatest part of their taxes. Unlike the income tax, revenues from property and sales taxes do not necessarily reflect growth in the economy as a whole. Furthermore, the property tax is now being used to finance services—such as social services—which it was not designed to pay for.

That means that when State and local governments want to increase police protection or build better schools, or just stay even with the added costs of inflation, they are forced to either raise existing taxes or levy new taxes. In the past 12 years alone, in order to increase their revenue at roughly the same rate Federal income tax revenues have increased, State governments have raised tax rates or enacted new taxes no less than 450 times. During the same period the Federal income tax rate has actually decreased.

If State and local governments could utilize the income tax as effectively as the Federal Government has done, they doubtlessly would not be in the position of having to continually call on their citizens to pay higher tax rates. But they have not, and we must look to the future rather than the past.

Now, the revenue pools of State and local governments are running dry. Some experts have, in fact, predicted that next year the incomes of State and local governments will run $10 billion short of their expenditures.

The results of this inability of State and local governments to raise enough tax revenue to pay for the increasing cost of government are clear.

In many States, including the one which taxes its citizens the heaviest, programs are cut back or delayed for lack of money at the same time that taxes are increased.

In Massachusetts, earlier this year, the Governor placed a freeze on State government hiring to hold down costs. In Kentucky, the legislature slashed $16 million from the budget across the board to stave off going into the red.

In many larger cities, insufficient funds have forced mayors to cut public payrolls, put off needed capital improvements, and reduced the quantity and quality of public services. In Cleveland and Detroit, city employees have been

laid off because the city governments could not afford to pay them.

In some communities, citizens have voted to close their schools rather than approve tax levies to pay for them.

We in the Congress may find comfort in the argument that the fiscal crisis confronting our States, cities and counties is of their own making—that is the result of their failure to enact modern forms of taxation or to reform inefficient systems of government. But criticism will not solve the problem. State and local governments need more money now, and they need Federal assistance in modernizing their own tax structures so they can meet more of their needs with their own resources.

Revenue sharing is one way to provide more money now, and to provide as well strong incentives for reforming State tax systems.

The purposes of the Intergovernmental Revenue Act are to provide immediate fiscal relief for our State and local governments which so badly need it, to restore State and local governments to more equal partnership in our Federal system by allowing them to share in the benefits of the Federal income tax, to help our Federal-State-local tax system become more progressive, to assist the economically weaker States to improve their services without increasing the burden on their already overtaxed taxpayers, to stimulate tax efforts at all levels of government, and to provide significant assistance to the economically distressed urban areas.

In its first full year, the bill will create a $6 billion fund of Federal revenues to be shared with State and local governmental units. That fund will be made up of 1.3 percent of the total taxable income of Federal tax returns and 10 percent of the total amount of income taxes collected by State governments across the Nation.

The 10-percent bonus for State income tax collections, which would be returned on a proportional basis to States with income taxes, would provide $1 billion more in revenue sharing than under the administration's plan in the first full year. These additional funds—and more funds for other programs directed at the needs of our people—can be made available without increasing this projected budget deficit. They can easily be made available by reducing wasteful expenditures for extravagant military hardware that do nothing to add to our national defense or by ending our involvement in that costly and fruitless war in Southeast Asia.

I, by no means, want to imply that the only differences between the bill I am introducing today and the administration's revenue-sharing proposal is that my bill provides more money. There are several significant differences.

First, this bill is a general revenue-sharing bill which is in no way tied to special revenue sharing. As such, it is not intended to replace or allow cutbacks in existing categorical grant programs. Revenue sharing and categorical grant programs provide solutions to different problems within our federal system, and their roles must not be confused or combined. Both of them are needed.

Revenue sharing is needed because the distribution of income and wealth varies so widely throughout the country. There are vast differences in the taxpaying ability of the various communities across the Nation. As a result, all governmental units cannot provide all the necessary services and facilities their people need. It is this specific problem in the federal system which revenue sharing is intended to solve.

At the same time, however, we must continue and expand Federal categorical assistance. These programs are directed at critical problems, national in scope, which must be attacked by the Federal Government, because the States and localities alone cannot deal with them, or have not dealt with them effectively in the past. Many States and communities have not responded affirmatively to demands for equal opportunity for all their citizens. Many have responded with less vigor than others to the educational needs of their people, and to the poor families who must rely on public assistance.

Revenue sharing is not the answer to these problems. That is why we need categorical assistance programs, and that is why it is not the intention of my revenue-sharing proposal to attempt to replace such programs. Our national domestic problems are so grave today, that we must not talk about gutting categorical grant programs; we must consider ways to expand them.

Second, the fund in my bill has been designed to expand automatically and rapidly. The reason for this is that the revenue-sharing fund is based not only on a fixed percentage of Federal taxable income, but it is also tied to the rapidly expanding State income taxes.

Through the 10-percent bonus for State income taxes and through an option which authorizes State income tax collection by the Federal Government, the bill includes strong incentives for the States to make greater use of the progressive income tax. The $1 billion in additional money provided by this bonus would be shared on an equitable basis by the States which have income taxes and their local communities.

Third, this legislation provides for an equitable apportionment of shared revenues to cities, counties, and townships within the States—with a special emphasis placed on a community's need.

It permits the States and local governments to agree on a formula for distribution of shared revenues to local governmental units.

It requires the States to make a fair and equitable distribution to governmental units of less than 25,000 population based on such factors as need, population, tax burden and revenue raising effort.

It guarantees weighted shares to cities, counties, and townships of more than 100,000 with a high percentage of low-income residents and public assistance recipients and to cities between 25,000 and 100,000 with substantial need measured by the number of low-income families.

Thus, this legislation would in effect compensate those large cities, counties, and townships in which a substantial percentage of the population is too poor to pay taxes. It does so by giving those communities additional assistance. The city of Baltimore, for example, which has a high percentage of poor people in comparison with the rest of its State, and which has made a considerable effort to raise revenues from local taxes, would receive more than three times as much shared revenue as it would under the administration's bill.

Fourth, this bill would guard against the use of funds to perpetuate discrimination by providing a mechanism through which any individual can file suit against a governmental unit which he believes is using money it receives under this act in a discriminatory manner. It does not rely on the inclination of officials in Washington to enforce civil rights laws as the sole safeguard against the use of shared revenues for discriminatory purposes. The President's bill has no such provision.

Fifth, this bill as a convenience to the States, contains a provision giving the States the option of having the Federal Government collect their State income taxes.

Mr. President, several weeks ago, I had the privilege of addressing the leaders of our cities on the subject of revenue sharing. In that speech I set down several objectives I believe revenue-sharing legislation must meet.

It must not be a substitute for, or a basis for reducing the funding of, categorical assistance programs.

It must allocate funds within the States in proportion to need.

It must provide adequate safeguards against the use of funds to perpetuate discrimination.

My belief has not changed.

And I believe the legislation I introduce today meets the criteria for revenue sharing I set out in my speech to the city officials.

It would provide State and local governments with much needed financial assistance without scrapping vital categorical aid programs.

It recognizes the need factor in apportioning assistance to local government units within the States.

It contains adequate safeguards against funds being used for discriminatory purposes.

The bill I introduce today will not, in itself, reverse the order of our national priorities. It will, in itself, offer no panacea to the financial difficulties of State and local governments. But it will help. And it provides a logical and workable beginning toward correcting the fiscal imbalance in our system that we in the Federal legislature have allowed to exist too long.

Mr. President, I expect that during the hearings and in committee, this bill will be revised. Indeed, I welcome the help of my colleagues on both sides of the aisle—especially that of my good friend Senator Baker who most eloquently argued for the cause of revenue sharing in introducing the administration's bill—in improving this legislation. But if the

Congress is to enact revenue-sharing legislation this year—and I believe we must—we need a sound basis on which to begin. I believe this bill provides that sound basis.

EXHIBIT 1

S. 1770

A bill to establish a system of general support grants to State and local governments; to authorize Federal collection of State income taxes; and to encourage modernization of State tax systems

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 "Intergovernmental Revenue Act of 1971."

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that an imbalance exists between the revenue capacity of the Federal Government and the revenue capacities of State and local governments; that this imbalance exists largely because the Federal Government has better utilized the individual income tax as a revenue raising measure than have State and local governments; that because of their inability to raise adequate revenue State and local governments have found it difficult to pay for the essential services they must provide for their residents; and that the financial crisis of State and local governments could be eased significantly if they received general financial assistance from the Federal Government and if they better utilized the individual income tax as a revenue raising measure.

(b) Therefore, the Congress declares it to be the policy of the United States to provide general financial assistance payments to the States and local governmental units to help them pay for essential governmental services; to allow State and local governments to share in the benefits of the Federal income tax; and to encourage the States to make better use of the income tax themselves.

TITLE I—GENERAL SUPPORT PAYMENTS TO STATES AND THEIR POLITICAL SUBDIVISIONS

DEFINITIONS

SEC. 101. For purposes of this Act—

(1) "Secretary" means the Secretary of the Treasury;

(2) "State" means the several States and the District of Columbia;

(3) "State entitlement" shall mean the general support payment to which a State is entitled under section 104 of this Act;

(4) "taxable income" means taxable income as defined in section 63 of the Internal Revenue Code of 1954 as shown by returns made by individuals of the tax imposed by chapter 1 of such Code;

(5) "total personal income" means the aggregate personal income for residents of a State as defined by the Office of Business Economics of the Department of Commerce;

(6) "revenue ratio" of a State, city, county, or township means the ratio, for the most recent annual period for which usable data are available, between—

(A) the total receipts from all taxes (as defined by the Bureau of the Census of the Department of Commerce) imposed by such State, city, county, or township; and

(B) the total receipts from all taxes (as defined by the Bureau of the Census of the Department of Commerce) imposed by the State and all its political subdivisions;

(7) "population ratio" of a city, county, or township having a population between twenty-five thousand and ninety-nine thousand nine hundred and ninety-nine shall be 50 percent or the percentage by which the population of the city, county, or township exceeds fifty thousand, whichever is greater;

(8)(A) "Poverty ratio" of a city, county, or township shall be 1.25 or such lesser number obtained by—adding the low-income ratio of such unit of government to its welfare ratio, and dividing the resulting sum by two.

(B) The "low-income ratio" of a unit of government shall be the ratio which the percentage of families in such unit of government having annual incomes of less than $3,000 (or such higher amount as may be established by or pursuant to the latest data available from the Department of Commerce) bears to the percentage of such families in the entire State.

(C) The "welfare ratio" of a unit of government shall be the ratio which the percentage of families in such unit of government who regularly receive assistance, under a Federal, State, or local program of public assistance, bears to the percentage of such families in the entire State.

GENERAL SUPPORT FUND

SEC. 102. (a) There is hereby appropriated for a general support grant for each of the five fiscal years beginning on or after July 1, 1971, and ending on or after June 30, 1976, an amount as determined by the Secretary equal to the amount obtained by adding—

(1) 1.3 percent of aggregate taxable income reported on Federal individual income tax returns for the calendar year for which the latest published statistical data are available from the Department of the Treasury at the beginning of such fiscal year, and

(2) 10 percent of the State personal income taxes collected by all the States for the latest twelve-month period preceding the fiscal year for which published statistical data are available from the Bureau of the Census.

(b) In each of the first three years following the enactment of this Act, the Secretary shall deduct an amount not to exceed one-half of 1 percent of the amount appropriated under this title for the purpose of enabling the Secretary to carry out his duties and responsibilities, including the provision of any requisite statistical or data gathering activities required under this Act. The Secretary is hereby authorized to spend the amount so deducted for such purposes as in his discretion will facilitate the equitable distribution of the general support grants established by this Act.

BASIC PAYMENTS TO THE STATES

SEC. 103. Subject to the provisions and qualifications of this Act, the Secretary shall, during the fiscal year beginning July 1, 1971, and during each fiscal year thereafter, pay to each State from amounts appropriated under this title for the fiscal year in which payments are made, a total amount equal to the entitlement of the State under section 104. Such payments shall be made in installments periodically during any fiscal year but not less often than once each quarter. Proper adjustments shall be made in the amount of payment to each State to the extent that payments previously made were in excess of or less than the amounts required to be paid. Adjustments in payments by the Secretary under this section shall be final and conclusive.

STATE ENTITLEMENT

SEC. 104. (a) The Secretary shall determine the basic entitlement of each State to an amount of support grants during the fiscal year beginning July 1, 1971, and during each fiscal year thereafter as provided in this section.

(b) The total entitlement for each State for each fiscal year shall be the amount equal to the sum of—

(1) the amount appropriated under this title pursuant to subsection 102(a)(1) (and not deducted pursuant to subsection 102(b)) multiplied by the ratio of the product obtained by multiplying the total resident population of the State for the fiscal year by the tax effort factor of the State and then dividing such product by the sum of such products for all States, and

(2) 10 percent of the State personal income tax collections of the State for the preceding fiscal year as determined by the Secretary pursuant to section 102(a).

(c) For purposes of subsection (b), a State's tax effort factor for any fiscal year is the result obtained by dividing (1) the annual total of State and local taxes plus the net profits from the operation of State-owned liquor stores collected by the State and its political subdivisions by (2) the total personal income of individuals residing in the State for a closely related annual period.

QUALIFYING AGREEMENTS WITH THE SECRETARY

SEC. 105. (a) In order for any State or local government to qualify for any payments provided by this Act, the Governor of the State, on behalf of his State and any recipient political subdivisions, shall enter an agreement with the Secretary assuring—

(1) that such payments shall be used solely for governmental purposes;

(2) that the State and its political subdivisions shall adhere to the same methods of public scrutiny and debate over the use of funds and the same budgetary process, laws, and responsibility with resepct to the fiscal control and accountability for all payments received under this Act as they do with respect to funds derived from their own taxing powers, and the State will report annually to the Secretary, at such time as he may prescribe, on the disposition of such payments. If the Secretary so prescribes, such report shall include a five-year projection of State government expenditures.

(3) That, except as required by this Act, the State shall impose no restrictions on the use of funds distributed to political subdivisions which are not applicable to the use of funds which its political subdivisions derive from their own taxing powers, other than to prohibit a political subdivision from spending any portion of the funds distributed to it for purposes which are in conflict with any State plan enacted into law dealing with the utilization and development of the State's human and physical resources or particular aspects thereof;

(4) that the State shall confirm by annual reports filed with the Secretary following each of the first three years after the effective date of this Act, that the State distributed to each city, county, and township government for which an allocable share is specified in this Act, a total amount not less than the sum of the annual amount allocable to that government under this Act plus all amounts it received from the State during the State fiscal year that ended in calendar 1970, or demonstrate to the satisfaction of the Secretary that any failure to meet this requirement is entirely offset by the intervening transfer from the local government to the State of financial responsibility for direct support of particular services or facilities;

(5) that the State and its political subdivisions shall adhere to all applicable Federal laws in connection with any activity, program, or service provided solely or in part from any funds received by a State or its political subdivisions under this Act;

(6) that the State and its political subdivisions shall make reports to the Secretary, the Congress, and the Comptroller General in such form and containing such information as they may reasonably require to carry out their functions under this Act, and provide to the Secretary or his representatives, on reasonable notice, access to, and the right to examine, any books, documents, papers, or records as he may reasonably require for the purposes of reviewing compliance with this Act.

(b) Each State shall distribute in each fiscal year out of payments of the State entitlement—

(1) to each city, county, and township

having within its boundaries a population of one hundred thousand or more an amount not less than the product obtained by multiplying (A) the general support entitlement for the State under section 104 by (B) twice the local revenue ratio of the city, county, or township, and (C) the poverty ratio of the city, county, or township.

(2) to each city, county, and township having within its boundaries a population between twenty-five thousand and ninety-nine thousand nine hundred and ninety-nine an amount not less than the product obtained by multiplying (A) the general support entitlement for the State under section 104 by (B) a fraction representing the product of (i) twice the local revenue ratio of the city, county, or township, (ii) the population ratio of the city, county, or township, and (iii) the poverty ratio of the city, county, or township; and

(3) to other units of government within the State (which may include independent school districts) an amount established pursuant to State law: *Provided, however,* That in no event shall the State withhold from distribution to political subdivisions in any year an amount in excess of 60% of the State entitlement or the product obtained by multiplying the State entitlement for such year by the revenue ratio of the State, whichever is lower. Such distribution to other units of government (and the inclusion or exclusion of units of government) shall be fair and equitable, but may favor units of government which service relatively greater populations, contain relatively more low-income families, or have high local tax burdens in relation to individual income, as compared with similar units of government within the State.

(4) In no event shall any political subdivision of a State receive under subsection 105 (b) an amount in excess of 60% of the State entitlement.

(c) To encourage States to take the initiative in strengthening the fiscal position of local units of government and to maximize flexibility in the use of general support payments for meeting the particular needs of differing State-local fiscal systems, the Secretary shall accept an alternative plan for the distribution of general support funds made available to local units of government under this section, provided the plan is enacted by the State legislature and conforms to at least one of the following conditions:

(1) Each city, county, and township having a population of 25,000 or more receives a total amount under the State alternative plan equal to or greater than the general support payment it would otherwise have allocated to it under the provisions of this section.

(2) The governing bodies of cities, counties, and townships which comprise at least 50 percent of the governments otherwise entitled to receive general support payments pursuant to subsection 105(b)(1) and (2), and which together would be entitled to receive at least 50 percent of such general support payments required to be distributed pursuant to such subsections, concur by formal resolution, that the State's alternative plan will result in the use of general support funds that accords better with the requirements of the State and its local units of government.

(d) The proposed State alternative plan as authorized in subsecton (c) shall be submitted to the Secretary with such supporting information as he may require annually not later than ninety days preceding the fiscal year to which the plan pertains. In the event of the acceptance of such an alternative plan, its provisions shall govern the use of funds otherwise allocated by this Act to cities, counties, and townships.

(e) Determinations under this section of this Act shall be made by the Secretary on the basis of the most recent acceptance data available from the Department of Commerce.

POWERS OF THE SECRETARY

SEC. 106. (a) Not later than two years following enactment of this Act, the Secretary of the Treasury shall make such recommendations to Congress as may be necessary to make more equitable the allocation of funds under this Act to States and to local units of government. Such recommendations shall be based on data which takes into account such factors as personal income, market value of taxable property, effective rates of property and other local taxes, and other factors for measuring the relative tax efforts of units of government.

(b) The Secretary is authorized to obtain from other Federal agencies statistical data, reports, studies, and other materials which he deems necessary to discharge his responsibilities under this section, and Federal agencies shall carry out their statistical functions in such manner as will, to the maximum extent permitted by other applicable law, assist the Secretary in carrying out his duties and responsibilities under this section.

(c) For the first three fiscal years following the enactment of this Act, the Secretary shall reimburse, with funds provided to him in section 102(b), Federal agencies for the cost of providing any data which in his discretion are necessary for the proper administration of this Act. For subsequent fiscal years there are authorized to be appropriated sums sufficient to enable Federal agencies to provide information required by the Secretary for the administration of this Act.

(d) Whenever the Secretary finds, after reasonable notice and opportunity for hearing to the Governor of a State, that there is a failure by such State to comply substantially with any undertaking required by section 105, the Secretary shall notify the Governor that further payments under this Act will be withheld until the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall withhold payments to such State in excess of the amounts to which the political subdivisions of such State are entitled under section 105(b). In the case of the failure of the State to comply, for a period in excess of six months after receipt of notice, the Secretary shall forthwith cancel any payments withheld pursuant to this paragraph for the current and for any subsequent fiscal year and shall reapportion and pay such cancelled payments to all other States then entitled to receive payments under section 104 in proportion to the original installments paid to such States for the fiscal year to which such cancelled payments pertain. Such payments to all other States shall be considered payments made pursuant to section 104.

(e) Whenever the Secretary finds, after reasonable notice and opportunity for hearing to the Governor and a political subdivision of a State, that there is a failure by such political subdivision to comply substantially with any undertaking required by section 105, the Secretary shall notify the Governor and political subdivision that further payments under this Act will be withheld until the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall direct the Governor to withhold an amount of the payments to the State allocable to such political subdivision under the plan then in effect in the State. In the event of a failure by such local government to comply for a period in excess of six months after the receipt of notice, the Secretary shall direct the Governor to forthwith cancel any payments withheld for the current and for any subsequent fiscal year for which there is noncompliance, and the Governor shall reapportion and pay such payments to all other political subdivisions of such State then entitled to receive payments pursuant to section 105(b), in proportion to the original payments made to such political subdivisions for the fiscal year to which the cancelled payments pertain.

JUDICIAL REVIEW

SEC. 107. (a) Any State which receives notice under section 106 that payments to it will be withheld may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of the Secretary's action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(b) In accordance with the provisions of this subsection, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. However, if any finding is inconsistent with the preceding sentence and is not supported by substantial evidence, the court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PROHIBITION AGAINST DISCRIMINATION

SEC. 108. (a) The provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) shall apply to any activity, program, or service financed in whole or in part from any funds received by any State or its political subdivisions under this Act. The Secretary of the Treasury shall promulgate regulations to carry out the provisions of such title VI with respect to the distribution and use of any funds under this Act. Whenever the Secretary of the Treasury determines that any State or political subdivision receiving funds under this Act has failed to comply with the provisions of such title VI, or any regulation of the Secretary promulgated with respect thereto, he is authorized to (1) refer the matter to the Attorney General with a recommendation that approriate action be instituted, (2) exercise the powers and functions provided by such title VI, or (3) take such other action as may be provided by law.

(b) Any person adversely affected or aggrieved by an action of an official of a State or political subdivision thereof in violation of subsection (a) of this section, or in violation of regulations promulgated by the Secretary of the Treasury pursuant thereto, may bring a civil action for relief on his own behalf or on behalf of a class of persons similarly situated against such official. Any such action may be in any district court of the United States in which such person resides, or in which the claim arose, or in the United States District Court for the District of Columbia. The court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(c) In any action commenced pursuant to

this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(d) In the case of an alleged act or practice prohibited by this section which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under this section before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

REPORT BY SECRETARY

SEC. 109. The Secretary shall report to the Congress not later than the first day of March of each year on the operation under this title during the preceding fiscal year and on its expected operation during the current fiscal year. Each such report shall include a statement of the appropriations to, and the disbursements made from, the trust fund during the preceding fiscal year; an estimate of the expected appropriation to, and disbursements to be made from, the trust fund during the current fiscal year; and any changes recommended by the Secretary concerning the operation of the trust fund.

CONGRESSIONAL STUDY

SEC. 110. (a) The Appropriations Committee and the Finance Committee of the Senate and the Appropriations Committee and the Ways and Means Committee of the House of Representatives shall conduct full and complete studies, at least once during each Congress, with respect to operations under this title of this Act, and to the financing of State and local governments and report findings to each House, respectively, together with recommendations for such House, respectively, together with recommendations for such legislation as they deem advisable.

(b) This section is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE II—FEDERAL COLLECTION OF STATE INCOME TAXES

FEDERAL COLLECTION

SEC. 201. (a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. FEDERAL COLLECTION OF STATE INCOME TAXES

"(a) GENERAL.—Where the law of any State or possession of the United States imposes an income tax, upon the request of the proper officials of such State or possession authorized to make such request pursuant to State law, the Secretary or his delegate is authorized in his discretion to enter into an agreement with such State or possession, under which, to the extent provided therein, the Secretary or his delegate will administer and enforce such income tax in behalf of such State or possession.

"(b) COSTS.—As a part of any agreement entered into pursuant to subsection (a), the Secretary or his delegate shall require that such State or possession pay to the Treasury Department the cost of the work or services performed (including material supplied) in administration and enforcement of such tax."

(b) The table of sections for chapter 77 of such Code is amended by adding after the item relating to section 7516 the following new item:

"Sec. 7517. Federal collection of State income taxes."

(c) Subsection (c) of section 7809 of such code (relating to deposit of collections) is amended—

(1) by striking out "and" in paragraph (2);

(2) by renumbering paragraph (3) as paragraph (4); and

(3) by inserting a new paragraph (3) immediately following paragraph (2) as follows:

"(3) Work or services performed (including material supplied) pursuant to section 7517 (relating to Federal collection of State income taxes); and".

EXHIBIT 2

SECTION-BY-SECTION ANALYSIS OF THE INTERGOVERNMENTAL REVENUE ACT

Section 1 provides that this legislation may be cited as the "Intergovernmental Revenue Act of 1971".

DECLARATION OF POLICY

Section 2 sets out congressional findings that an imbalance exists between the revenue capacities of the Federal Government and the State and local governments primarily because the Federal Government has better utilized the individual income tax than have the States; that inadequate revenues have made it difficult for the States and local governments to pay for essential services; and that the financial crisis of State and local governments could be eased significantly by general financial assistance (revenue sharing) from the Federal Government and by better utilization of the income tax.

Section 2 further declares the national policy to provide general financial assistance payments to the States and localities; to provide State and local governments a share of Federal revenues; and to encourage the States and localities to make greater use of the income tax.

TITLE I—GENERAL SUPPORT PAYMENTS TO STATES AND THEIR POLITICAL SUBDIVISIONS

Section 101 defines several terms used in this title of the act.

GENERAL SUPPORT FUND

Section 102 establishes an automatic five-year appropriation for general support grants (revenue sharing). The section directs the Secretary of the Treasury to determine the annual appropriation as an amount equal to (i) 1.3 percent of Federal individual taxable income and (ii) 10 percent of State personal income tax collections. Automatic appropriations to under the foregoing formula would expire after five years, thus permitting Congress to reassess the effectiveness of revenue sharing and the funding formula after a significant period of operation.

In fiscal 1972 the appropriations under Title I of the Act would approximate $6 billion determined as follows:

[In billions of dollars]

(A) 1.3% of Federal individual taxable income	5.0
(B) 10% of State personal income tax collections	1.0
Sum of (A) and (B)	6.0

This section further provides a ½ of 1% set aside, for the first three years following enactment, to be used by the Secretary of the Treasury to fulfill his administrative and data gathering responsibilities under this title.

BASIC PAYMENTS

Section 103 requires the Secretary of the Treasury to make quarterly payments from amounts appropriated to the States and to adjust subsequent payments to reflect any previous over or under payments.

STATE AREA ENTITLEMENT

Section 104 directs the Secretary of the Treasury to determine by formula, the amount of the entitlement for each State. The formula specified in this section allocates to each State an amount that depends on the population and relative tax effort in each State. In addition the formula provides a 10% bonus measured against State income tax collections.

The Secretary would obtain for each State its:

(A) resident population;

(B) tax effort, *i.e.*, the result of dividing the annual total of State and local taxes plus profits of State-owned liquor stores by the total personal income of individuals in the State; and

(C) State personal income tax collections.

The allocation for each State is determined as follows:

(A) After multiplying factors A and B for each State, the products are added to determine the sum for the 50 States and the District of Columbia. This total becomes the denominator for calculating a ratio between each State's population-tax effort product and the total population-tax effort product for all States. The amount of the appropriation equal to 1.3% of Federal individual taxable income, multiplied by this ratio for any State, would yield that State's entitlement under subsection 104(b)(1) in the first year under the bill.

(B) Those States having State income taxes would also receive an additional amount equal to 10% of the State personal income tax collection.

Exhibit A shows estimated State entitlements for $6 billion in shared revenues under the foregoing formula.

QUALIFYING AGREEMENTS WITH THE SECRETARY

Section 105 (a) requires the Governor of a State to enter an agreement with the Secretary in order to qualify to receive revenue sharing payments. States would pledge to adhere to these conditions:

(1) Use of shared revenues only for governmental purposes.

(2) Financial control and accountability over payments to the State and local governments of the same type the State and local governments give to State funds.

(3) Maintenance of the unrestricted character of the funds distributed to cities, counties and townships, except that a State could prohibit cities, counties and townships from spending the money for a purpose that conflicts in whole or in part with a State's plan dealing with the utilization and development of its human or physical resources.

(4) Confirmation by report to the Secretary that in each of the first three years after the effective date of the Act that the State did not reduce its grants out of its own funds to eligible cities, counties and townships because of the Federal aid assured to these governments under this Act. It is thus the intent of the Act that the States not reduce their grants out of their own funds to eligible cities, counties and townships.

(5) Adherence to all Federal laws in connection with any activity or program supported by funds provided in this Act so that these funds do not perpetuate practices that conflict with national policy.

(6) Submission of reports as necessary to the Secretary, the Congress and the Comptroller General to help them carry out their responsibilities under the Act.

Subsections 105 (b) and (c) prescribe two methods of determining allocations of shared revenues between a State and its political

subdivisions and among political subdivisions.

Under subsection (c) the State and its political subdivisions may agree to any method of distribution which is fair and equitable, so long as general purpose local governments having populations of 25,000 or more (a) are guaranteed an amount equal to their statutory entitlement under the Act, or (b) agree by majority vote to the plan of distribution. Those governments making up the majority must also represent at least 50% of the statutory dollar entitlement of local governments having populations of 25,000 or more within the State.

Subsection 105(b) sets out the statutory formula for distribution of shared revenues within a State, applicable when the State and its political subdivisions do not agree to an alternative plan of distribution. Under the statutory formula, the State must distribute—

(1) To cities, counties and townships having a population of 25,000 or more, a portion of the State entitlement in accordance with a formula based on the tax receipts, size and percentage of poverty level families of each such city, county and township; and

(2) To other political units within the State, an amount established by State law, which shall be fair and equitable and which may favor units of government with relatively large populations or poverty level families, or relatively high tax burdens. In any event the State may not withhold from distribution to its political subdivisions an amount in excess of 60 percent of the State entitlement or the proportion which taxes raised by the State bears to all taxes collected by the State and its political subdivisions, whichever is lower. This provision will provide the necessary flexibility for the States to make distributions to smaller communities in light of particular circumstances within the State, while at the same time assuring smaller units of government that the State will not retain a disproportionate amount of the State entitlement. In addition, under subsection 105(b)(4), the amount which any single local government may receive under the statutory formula is limited to 60% of the State entitlement.

Computation of the statutory pass-through to cities, counties and townships having populations of 25,000 or more is in two stages. The distribution formula provides for the allocation of shared revenue among large jurisdictions on the basis of three factors: revenues raised from taxation, population, and need as measured by relative numbers of poverty level families.

(A) Under the first part of the formula, the basic entitlement of a city, county or township with a population between 25,000 and 99,999 is determined in accordance with the "revenue ratio" and "population ratio" of the local jurisdiction.

The revenue ratio of a particular jurisdiction is defined as the ratio of the taxes it collects to all taxes collected by the State and/or political subdivisions within it. For jurisdictions between 25,000 and 99,999, the revenue ratio is automatically doubled. The population ratio for jurisdiction between 25,000 and 99,999 is either .5 or the percentage by which the jurisdiction's population exceeds 50,000, whichever is greater.

The basic entitlement of local jurisdictions with populations between 25,000 and 99,999 is determined by multiplying the doubled revenue ratio and the population ratio of the jurisdiction by the total amount of shared revenue received by the State. The definition of population ratio makes it impossible, under the first stage of the computation, for any local government to receive less than the amount allocable to it on the basis of its revenue ratio. However, local governments with populations above 75,000 and below 99,999 will receive additional shares equal to the percentage by which their populations exceed 50,000.

In the case of local governments with populations over 100,000, the basic entitlement, under the first part of the formula, is determined in accordance with only the revenue ratio, which is defined in the same way as for communities between 25,000 and 99,999. For jurisdictions with more than 100,000 population, too, the revenue ratio is automatically doubled. Thus, those jurisdictions are assured, under the first stage of the computation, of an amount of shared revenues equal to twice the proportion of the taxes they raise to all taxes raised within the State. To determine the dollar amount that jurisdictions with more than 100,000 population will receive, their doubled revenue ratio is multiplied by the total amount of shared revenue received by the State.

(B) Under the second stage of the computation, the entitlement of the local government as determined in (A) above is adjusted to take into account its share of the State's poverty level families. This is accomplished by determining the relationship of the percentage of poverty level families in the local jurisdiction to the percentage of poverty level families in the State. Determination of the "percentage of poverty level families" as defined in the Act, takes account of both families whose annual incomes are under $3,000 and families who regularly receive public assistance.

The poverty ratio of a community may be less than 1 or as high as 1.25, thus making it possible for a poor community to receive as much as 25% more shared revenues than it would receive if its allocation were based solely on its tax collections and its size.

POWERS OF THE SECRETARY

Section 106 directs the Secretary to make recommendations to the President and the Congress, within two years after passage of the Act, as to how to improve the allocation of general funds under the Act. This section further directs the Secretary to obtain the requisite statistical data, reports and other materials he needs to discharge his responsibilities under this title and gives him authority to reimburse Federal agencies for the cost of providing any data necessary to the administration of this Act from the funds allocated for the Secretary by a percentage set aside in the first three years following the enactment of the Act. It further authorizes appropriations after the first three years to support the continuing information requirements of the Secretary under the Act.

This section also empowers the Secretary, after giving notice and conducting a hearing, to stop payments to a State or local government that fails to comply with the agreements required under section 105 of the Act until such time as corrective action is taken.

JUDICIAL REVIEW

Section 107 permits a State to file a petition for review of the Secretary's action in the appropriate United States Court of Appeals. The scope of the judicial review authority is spelled out and includes final appeal to the Supreme Court.

PROHIBITION AGAINST DISCRIMINATION

This section makes Title VI of the Civil Rights Act applicable to activities financed in whole or in part from general support funds. This section further expressly guarantees the right of individuals to sue in the Federal district courts in case of violations of Title VI, and provides, in appropriate cases, for the payment of reasonable attorney's fees to the prevailing party.

REPORT BY THE SECRETARY

Section 109 requires the Secretary to report to the Congress on the operation of the trust fund for the preceding and current fiscal years. He must file a statement of the actual and estimated appropriations and disbursements from the trust fund and may recommend changes in its operation.

CONGRESSIONAL STUDY

Section 110 charges the respective Appropriations and Legislative committees of both the House and the Senate to conduct a full and complete study with respect to the operation of the trust fund at least once during each session of Congress. This section explicitly provides that the Congress retains the same rule-making authority with respect to these rules as it does with other rules.

TITLE II—FEDERAL COLLECTION OF STATE INCOME TAXES

Section 201 adds a new section to Chapter 77 of the Internal Revenue Code to allow the proper officials of any State and the Secretary of the Treasury to enter into an agreement for Federal administration and enforcement of that State's income tax. It requires that the State pay to the Treasury Department the cost of any work or services performed as a result of the agreement.

If the States, on their part, evidence a willingness to enter into the agreements authorized under this section, the day may come when taxpayers of a State can discharge both Federal and State tax liabilities with a single set of tax officials. States have tended increasingly to conform their income tax laws to the Federal Internal Revenue Code. The prospects of working out a mutually accepted agreement have thereby been enhanced. Currently several States are considering the enactment of a personal income tax for the first time. If the Secretary of the Treasury had this authority, one or more of these States might immediately take steps to enter into an agreement in order to avoid the cost of establishing its own income tax administrative machinery.

EXHIBIT 3

Estimates of State entitlements under Intergovernmental Revenue Act of 1971

State:	*Muskie bill entitlement*
Alabama	87.21
Alaska	9.10
Arizona	57.275
Arkansas	47.845
California	657.40
Colorado	70.545
Connecticut	64.625
Delaware	18.45
District of Columbia	23.07
Florida	163.37
Georgia	115.94
Hawaii	32.47
Idaho	25.09
Illinois	317.49
Indiana	133.60
Iowa	87.085
Kansas	63.935
Kentucky	80.11
Louisiana	101.30
Maine	28.76
Maryland	123.925
Massachusetts	192.585
Michigan	254.61
Minnesota	140.29
Mississippi	61.99
Missouri	111.505
Montana	23.33
Nebraska	35.285
Nevada	12.32
New Hampshire	20.405
New Jersey	155.865
New Mexico	28.505
New York	765.43
North Carolina	150.905
North Dakota	17.82
Ohio	222.14
Oklahoma	65.19
Oregon	78.90
Pennsylvania	373.385
Rhode Island	23.83
South Carolina	65.43

State:	Muskie bill entitlement
South Dakota	19.695
Tennessee	86.57
Texas	230.930
Utah	36.16
Vermont	17.77
Virginia	137.065
Washington	96.875
West Virginia	47.87
Wisconsin	169.71
Wyoming	10.36

Mr. BAKER. Mr. President, I am delighted that our distinguished colleague, Senator MUSKIE, has taken this important initiative today, in introducing for consideration the Intergovernmental Revenue Act of 1971.

When I first came to the Senate in 1967, I was assigned to two subcommittees chaired by the junior Senator from Maine—the Subcommittee on Intergovernmental Relations and the Subcommittee on Air and Water Pollution. I readily became aware of the deep commitment on his part to maintaining the Federal nature of our Government. Throughout his long public career—as a State legislator, a Governor, a Senator, and a member of the Advisory Commission on Intergovernmental Relations—Senator MUSKIE has endeavored to strengthen and revitalize those units of government closest to the needs of the people: State, county, and city governments. Coming as he does from a region of this country where pure democracy was—and in some instances still is—very nearly realized in the town meeting, his confidence in local government and in the people remains strong.

In the last Congress Senator MUSKIE introduced a general revenue-sharing bill devised, in large part, by the Advisory Commission on Intergovernmental Relations. Because I knew of his great interest in revenue sharing, I made a special effort to solicit his support for the President's proposal in this area before I introduced S. 680 on February 9. Although he gave the bill careful consideration, he found for some of the reasons he has outlined today that he preferred drafting his own bill to supporting the President's proposal.

Although Senator MUSKIE has not, as I did, sought specific cosponsorship of his proposal, he did extend to me the generous courtesy of permitting me to review his bill prior to its introduction today. This is characteristic of the Senator's fairmindedness, and I appreciate it very much.

In reviewing the Senator's proposal, I was immediately struck by what appear to me to be the many areas of similarity between his approach and that of the President. Although there are significant and important differences between the two bills, I find their mutuality far greater than their disagreement.

I find this similarity most encouraging for two reasons, one substantive and the other strategic. The fact that the two bills share many substantive features do not indicate an effort on either side to plagiarize or preempt, far from it. It indicates to me that the administration and Senator MUSKIE have independently determined that certain fundamental features of general revenue sharing are necessary if the scheme is to accomplish its goals.

As for strategy, the many areas of agreement between the two bills should provide a major boost for the concept of general revenue sharing. I said when I introduced S. 680, and I have said many times since then, that my interest and the President's interest is not in any particular bill or in who gets the credit but in the concept itself. I do not expect to see S. 680 enacted precisely as written, and I doubt very much that Senator MUSKIE would expect that his bill will be enacted as written. But we are all moving in essentially the same direction, and this confluence must certainly act to improve significantly the prospects for congressional action.

Let me mention briefly those areas in which the two bills are in agreement. First, they both seek to address the same urgent need, which is the growing fiscal crisis confronting our State and local governments, by sharing a small portion of Federal revenues with those governments. The bulk of the funds to be shared by each bill would derive from an annual appropriation equal to 1.3 percent of the personal taxable income reported for the prior calendar year. The shared funds would be allocated among the States by both bills on the basis of population and revenue effort. Each bill offers each State the option of negotiating with its own constituent governments a formula for sharing the revenues within the State. Each bill provides that each State must pass through to local units of government an aggregate amount at least equal to the proportion of all revenues raised within the State raised by local governments. Each bill contains language barring the use of any of the shared funds for discriminatory purposes. Each bill provides for judicial review, for annual accounting and reports, and for discretionary judgments by the Secretary of the Treasury. In each of these major elements the bills are strongly similar where not identical.

The principal differences between the bills are, in my view, four in number. First, the Muskie bill provides an incentive to States for the enactment of personal income taxes and a bonus for those who now have such taxes or which later impose them. Second, the bill mandates sharing with local units of governments only where the population of those governments exceeds 25,000 persons, where the President's bill requires sharing with all communities with populations over 2,500 persons. Third, the bill would give proportionately greater relief to communities with a high concentration of poor persons. And fourth, the Senator's bill would require specifically that each State maintain its current level of assistance to each local unit of government within that State.

I find these differences by no means insuperable. I might eventually prefer one or two of them. I reemphasize that our areas of agreement are far greater than our areas of disagreement.

When I introduced S. 680, I tried to articulate the reasons for my opposition to the tax credit alternative, which is essentially the State personal income tax alternative. Although I understand the motivation behind such an approach—which is to broaden State resources in a more progressive way—it seems to me that a system of 50 different State personal income taxes would have the effect of greatly inhibiting the free movement of people and goods from one State to another, as the States fashioned their personal tax structures to compete for industry and employment.

I also question the wisdom of limiting the passthrough mandate to communities which are urban in character, that is, with populations of 25,000 or more. A major element of the urban crisis is poverty in rural areas, which drives the unemployed rural worker into our cities.

But again, these are details that can be openly discussed and debated on their merits during the coming hearings. I am delighted, by the way, that the Senator intends to hold hearings on general revenue sharing, and I look forward to the exposure that such hearings will provide.

Mr. President, I would make one last point with reference to the Senator's statement today, and that has to do with the relationship between general revenue sharing and special revenue sharing. Although the two concepts have certain broad purposes in common, they are quite distinct and separable. Neither is dependent upon the other. The Senator has implied today that President Nixon's general revenue-sharing proposal would cut into existing categorical grant-in-aid programs. I state categorically that it would not. It is true that the President's six special revenue-sharing proposals would involve a degree of "grant consolidation"—I frankly wish that the six proposals had been called "grant consolidations" or "block grants" so that we might have avoided this unnecessary confusion—the President's general revenue-sharing proposal would in absolutely no way whatsoever affect existing categorical grant-in-aid programs, unless one wanted to argue that the funds proposed to be shared could otherwise be used to expand existing grant programs or to fund new ones, and this is as true of Senator MUSKIE's bill as it is of S. 680. So I earnestly wish that we could avoid this specious confusion between general revenue sharing, which does not in any way affect categorical grant programs, and so-called special revenue sharing which would affect them. If Senator MUSKIE likes general revenue sharing and does not like special revenue sharing, that judgment is most clearly his prerogative. But it only diminishes the honesty of debate on the issue to persist in seeking to confuse the two quite distinct proposals.

Mr. President, I close in reiterating my desire to work closely with Senator MUSKIE, Senator HUMPHREY, Congressman REUSS, and the many others who are devoted to the concept of general revenue sharing. It is a concept that is urgently in need of practical realization, and I think that the Senator's bill will make a significant and important contribution to the common goal that we seek together.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that S.

1770, the bill on revenue sharing just introduced by the Senator from Maine (Mr. MUSKIE), be referred to the Committee on Government Operations, and that if and when reported from that committee it be then referred to the Committee on Finance.

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

By Mr. FULBRIGHT (by request):

S. 1771. A bill to amend further the Peace Corps Act (75 Stat. 612), as amended. Referred to the Committee on Foreign Relations.

A BILL TO AMEND FURTHER THE PEACE CORPS ACT

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend further the Peace Corps Act (75 Stat. 612), as amended.

The bill has been requested by the Director of the Peace Corps and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I ask unanimous consent that the bill together with the letter to the Vice President dated April 13, 1971, be printed in the RECORD at this point.

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

S. 1771

A bill to amend further the Peace Corps Act (75 Stat. 612), as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)), which authorizes appropriations to carry out the purposes of that Act, is amended by striking out "1971" and "$98,800,000" and inserting in lieu thereof "1972" and "$72,300,000," respectively.

PEACE CORPS,
Washington, April 13, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed for your consideration are copies of draft legislation "To amend further the Peace Corps Act (75 Stat. 612), as amended."

The proposed legislation would authorize appropriations of $72,300,000 to carry out the purposes of the Peace Corps Act during the fiscal year 1972.

In his message to the Congress transmitting Reorganization Plan No. 1 of 1971, which would establish a new national volunteer service agency to be known as Action, the President stated his intention to delegate to the new agency the principal authority for the Peace Corps currently vested in the President and delegated to the Secretary of State. He also announced his intention to submit additional legislative recommendations to the Congress relating to the new agency.

In order to assure continued financing of Peace Corps activities pending congressional action on the President's proposals, we recommend legislation to authorize appropriations for the Peace Corps for the fiscal year 1972.

The Office of Management and Budget has advised that enactment of this draft bill would be in accord with the program of the President.

We respectfully request that the bill be referred to the appropriate committee for consideration.

Sincerely,

JOSEPH H. BLATCHFORD.

Mr. FULBRIGHT. Mr. President, I reserve my right to support or oppose this legislation and propose amendments to it. As Mr. Blatchford's letter points out, the President intends to transfer the Peace Corps Act authorities vested in him to the new Action Agency to be established under the pending Reorganization Plan No. 1.

The broad nature of my concern about the President's proposal is set forth in a letter to the senior Senator from Arkansas, the chairman of the Government Operations Committee, and I expect the Committee on Foreign Relations to give it serious consideration.

I ask unanimous consent that my letter of April 20, 1971, to the senior Senator from Arkansas be printed in the RECORD at this point.

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

APRIL 20, 1971.

Hon. JOHN L. MCCLELLAN,
Chairman, Government Operations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing with respect to Reorganization Plan No. 1, which proposes the merging of domestic voluntary service programs into a new agency to be called Action. The plan, as it stands, is concerned strictly with domestic programs and I have no particular views on this aspect.

But in his message of transmittal, the President announced that he intends to transfer the authorities vested in him in the Peace Corps Act from the Department of State to the new agency when it is established. I do have some questions about this subsequent transfer, arising mainly from the impact the Peace Corps has on foreign relations. I intend to explore the questions further during consideration of the Peace Corps legislation this year, possibly with a view to amending the Peace Corps Act to insure that the Peace Corps keep its separate identity and that the authority of the Secretary of State and our Ambassadors not be diluted.

With best wishes, I am

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

By Mr. MCGOVERN (for himself, Mr. PERCY, Mr. HART, Mr. MONDALE, Mr. KENNEDY, Mr. NELSON, Mr. CRANSTON, Mr. COOK, Mr. SCHWEIKER, Mr. BAYH, Mr. GRAVEL, Mr. EAGLETON, Mr. HARTKE, Mr. MCGEE, Mr. HUMPHREY, Mr. PASTORE, Mr. MOSS, Mr. RANDOLPH, Mr. TUNNEY, Mr. RIBICOFF, Mr. HARRIS, Mr. HOLLINGS, Mr. SPONG, Mr. STEVENSON, Mr. MUSKIE, Mr. PELL, Mr. JAVITS, Mr. CASE, Mr. MATHIAS, Mr. HATFIELD, Mr. HUGHES, Mr. JACKSON, and Mr. MONTOYA):

S. 1773. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

ENDING HUNGER IN AMERICA

Mr. MCGOVERN. Mr. President, at the beginning of this new Congress, I pledged to introduce legislation that would for once and for all end the tragedy of continuing hunger and malnutrition in America. Today, I rise to fulfill that pledge.

I wish it were no longer necessary to introduce this kind of legislation. I wish that the unfortunate and totally unnecessary blight of malnutrition had been adequately dealt with by the legislation enacted by the last Congress.

But this was not the case. Despite all the effort and energy invested by so many over the last several years, the legislation passed late last year, and under considerable duress, falls far short of that goal.

Just how far short was made dramatically clear last week during a hearing of the Select Committee on Nutrition and Human Needs. Testimony before the committee indicated that the new food stamp regulations issued recently will result in hundreds of thousands of needy persons being eliminated from the food stamp program and millions of people now on the program having their benefits reduced.

I must say that this testimony was so startling that I was at first skeptical it could really be so. After all the claims made that hunger was being ended and the food stamp program being expanded, how could this kind of movement backward be possible? Yet, it is so, and the Department of Agriculture has confirmed the fact.

Early next week, I intend to introduce a sense of the Senate resolution that these new regulations be held in abeyance for at least another month beyond the Agriculture Department's projected May 17 closing date. I have already written the Secretary of Agriculture requesting such a delay. I hope that he will act immediately, to make a Senate resolution unnecessary.

The measure we are introducing today, however, will not leave the fate of America's hungry poor a matter of hope—or of administrative discretion. It will, if enacted by Congress, finally guarantee all Americans an adequate diet.

The proposed legislation is designed to remedy the most glaring inadequacies of the bill which I have described as a mixed bag of groceries for America's poor, some fresh and some stale. I accepted last year's bill as the only alternative to letting the food stamp program die altogether.

I would now like to review briefly the key points of the bill being introduced today.

As chairman of the Select Committee on Nutrition and Human Needs, it gives me great pleasure to announce that nine of the members of that committee are cosponsors of this bill—Senator PERCY and myself, and Senators HART, MONDALE, KENNEDY, CRANSTON, NELSON, COOK, and SCHWEIKER. Also sponsoring the bill are Senators BAYH, EAGLETON, GRAVEL, HARRIS, HARTKE, HOLLINGS, HUMPHREY, MCGEE, MOSS, MUSKIE, PASTORE, PELL, RANDOLPH, RIBICOFF, SPONG, STEVENSON, TUNNEY, CASE, HATFIELD, JAVITS, MATHIAS, HUGHES, and JACKSON.

I send the bill to the desk, together with an explanation, and ask unanimous consent to have these two documents printed in the RECORD at the conclusion of my remarks.

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

(See exhibits 1 and 2.)

Mr. MCGOVERN. The first point to be

made is that the proposed legislation sets a firm target date for finally eliminating hunger in the Nation. It does this by requiring a genuine nationwide food stamp program by July 1, 1972. The administration has repeatedly said that that was its goal—a nationwide food stamp program to put an end to hunger in this country. I want to give whatever credit is due for the progress that has been made in this direction. But what I have on my mind today is the painful gap that still exists between the goal of ending hunger and the actual achievement of it. This legislation would finally implement that goal.

The second point of the proposed legislation is that it would provide a truly adequate diet under the food stamp program. The Agriculture Department continues to use the economy diet, $108 a month, or 29 cents a meal, for a family of four, a diet described as inadequate by its own research division. We propose to raise that to the level of the so-called low-cost food plan, or $134 a month for a family of four. This is by no means a luxury diet. It simply fulfills the mandate of the food stamp law which requires an "adequate nutritional diet."

A third point, one to which I attach great importance, has to do with the so-called "work requirement." It was said, during the days of debate on this subject, that I opposed a work requirement. It would be more accurate to say I oppose this particular work requirement in the present law. Frankly, if I had my way, we would take steps in this country to guarantee a work opportunity for every man and woman who wanted to work. This requirement cuts off food stamps to children where a parent or even an older brother or sister refuses work. Many of these families have been neglected so long that they are disorganized. It is very frequent that one member of the family is an alcoholic or for one reason or another is not responsible to other members of the family. Yet, under the terms of this legislation, if, in a family of eight or 10 children, either one of the parents or any one of the children above the age of 18 refuses to work, the entire family would be cut off from food benefits. Personally, I cannot accept denying children food because some adult in the family is found unwilling to work. This approach makes these children twice damned for the acts of their parents or their older brothers or sisters. I do not think the American people believe in this sort of recrimination against innocent children because of the wrongs of others in a particular family.

This work requirement does not contain language regarding suitability of work in terms of training or work conditions, contrary to current labor law. Neither does it provide for payment of the prevailing wage in an area for a specific type of work.

A fourth object of the new legislation is to eliminate the red tape which is currently strangling the food stamp program. As this program has grown, it has become increasingly difficult to administer, not to mention more expensive. The proposed legislation simplifies the administration of the program by eliminating complex certification procedures, by moving the purchase of stamps from banks to post offices, and by giving greater financial assistance to those local governments who are doing an exemplary job.

Finally, the proposed legislation aims at easing the provision of assistance to the Nation's elderly poor. It will permit the elderly to gather in groups and purchase meals together. This would be both a nutritional and social boon to our aged citizens. The present law, as interpreted by the new regulations, limits individual elderly persons to purchasing meals served in their homes.

The bill which I have introduced today, along with the distinguished Senator from Illinois (Mr. PERCY) and others, addresses itself to what we consider to be defects in the present law. I would like to make it clear that we are not saying that no progress has been made. There certainly has been progress—we are now serving some 13 million persons with family food assistance, compared with only 3 million 4 years ago. But this progress has brought us only halfway home. I am convinced that the legislation which we introduce today can bring us the rest of the way. There are still an estimated 12 million needy persons not participating for reasons which this bill addresses itself to.

Mr. President, we all have an obligation to live up to our promises to end hunger in America. Nothing less than this Nation's human dignity is at stake. The time is long past to make good on our promises to America's hungry poor. We need only the will to end hunger—the resources are obvious. We had the will to go to the moon, and we did. We had the will to sponsor great strides forward in all walks of civilization, and we did. How can we be satisfied to go just halfway toward ending hunger? Would we have been satisfied to go halfway to the moon? Will we be satisfied in finding half a cure for cancer?

Two centuries ago, a great English biographer wrote:

A decent provisions for the poor is the true test of civilization.

Our failure to muster the will to end hunger in America may overshadow every last one of our great, but superficial, strides toward civilization.

EXHIBIT 1

S. 1773

A bill to amend the Food Stamp Act of 1964

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 "Adequate Nutrition Act of 1971".

SEC. 2. The Food Stamp Act of 1964 as amended (7 U.S.C. 2011–2025), is amended as follows:

Definitions

(1) Section 3 is amended by adding at the end thereof the following new definitions:

"(n) The term 'operating agency' means any State agency, the Secretary, or any public agency or private nonprofit organization administering any program pursuant to sections 10(g) of this Act.

"(o) The term 'political subdivision' means any county, city, township, or other unit of general local government responsible for administering public assistance programs within a State."

Eligible Households

(2) Section 5 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Secretary shall require every individual who is a member of a household that is participating in the food stamp program, other than an individual described by clause (1), (2), (3), (4), (5), or (6) of subsection (d) of this section, to register for employment with the local public employment office or, when impractical, at such other appropriate office as shall be designated in regulations issued by the Secretary of Labor. If the Secretary finds that any such individual has failed to register for employment without good cause, the continued eligibility of the household (of which such individual is a member) to participate in the food stamp program shall not be affected, but the value of the coupon allotment, determined under section 7(a) of this Act, authorized to be issued to such household shall be reduced by an amount which bears the same ratio to the amount determined by subtracting from that authorized allotment the amount charged therefor pursuant to section 7(b) of this Act as the number of such unregistered individuals in such household bears to the total number of individuals in such household. Before any such reduction is made, the individual concerned shall be afforded reasonable notice and opportunity for a fair hearing held in the same manner and subject to the same conditions as a hearing under section 10(e)(4) of this Act. A reduction in the food stamp allotment of any household under this subsection shall continue so long as such individual fails or refuses to register for employment as provided herein.

"(d) An individual shall not be required to register pursuant to subsection (c) of this section if such individual is—

"(1) ill, incapacitated, disabled or over sixty years of age;

"(2) a mother or other relative of an individual under the age of eighteen who is caring for such individual;

"(3) an individual under the age of eighteen;

"(4) an individual eighteen years old or over who is a student regularly attending a school, college, or university, or the equivalent thereof, or regularly attending a course of vocational or technical training designed to prepare him for gainful employment;

"(5) an individual whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household; or

"(6) an individual eighteen years old or over and is employed at least 30 hours per week or earns at least $48 per week.

"(e) If the Secretary of Labor finds that any individual registered under subsection (c) of this section has refused, without good cause, to accept suitable employment in which such individual is able to engage and that such employment was offered through the public employment offices of the State, or was otherwise offered by an employer and the offer of such employer was a bona fide offer of employment, the eligibility of the household (of which such individual is a member) to participate in the food stamp program shall not be affected, but the value of the coupon allotment authorized to be issued to such household shall be reduced in accordance with the method set forth in subsection (c) above. Before any such reduction is made, the individual concerned shall be afforded reasonable notice and opportunity for a fair hearing held in the same manner and subject to the same conditions as a hearing under section 10(e)(4) of this Act. A reduction in the food stamp allotment of any household under this subsection shall continue so long as such individual fails or refuses to accept employment as provided by this section.

"(f)(1) In determining whether any employment is suitable for an individual for purposes of subsection (e) of this section, the Secretary of Labor shall consider the degree of risk to such individual's health and safety, his physical fitness for the work, his prior training and experience, the length of his unemployment, his realistic prospects for obtaining work based on his potential, and the distance of the available work from his residence.

"(2) In no event shall any employment be considered suitable for an individual if any one of the following conditions applies—

"(A) the position offered is vacant as a direct result of a strike, lockout, or other labor dispute;

"(B) the wages for such job are payable at a rate less than the highest of the following:

"(i) the State or local minimum wage;

"(ii) $1.60 per hour or the minimum hourly rate which is or would be applicable to the job under the Fair Labor Standards Act of 1938 if section 6(a)(1) of such Act, as amended, applied to the job, whichever is higher; or

"(iii) the prevailing rate of pay in the same labor market area for persons employed in similar work in the locality; or

"(C) the hours and other terms and conditions of the work offered are contrary to or less favorable than those prescribed by Federal, State or local law or are substantially less favorable to the individual than those prevailing for similar work in the locality."

Value of the coupon allotment and charges to be made

(3)(A) Subsection (a) of section 7 is amended by adding at the end thereof the following: "In determining the amount necessary to purchase a nutritionally adequate diet for any household, the Secretary shall take into consideration such relevant factors as he deems appropriate but may not consider the availability or expected availability of appropriations to carry out this Act. In no event shall the amount determined by the Secretary to be necessary to purchase a nutritionally adequate diet for any household be less than the amount which the Agricultural Research Service of the United States Department of Agriculture determines to be necessary to permit a household of comparable size to purchase the kinds and amounts of food specified in the Low-cost Food Plan described by such Service and published in the 'Family Economics Review'."

(B) Subsection (b) of section 7 is amended by striking all after *"Provided further,"* and inserting in lieu thereof the following: "That notwithstanding any other provision of this Act, a household may, if it so elects, purchase any amount of coupons less than the full coupon allotment it is entitled to purchase. The amount charged any household for any portion of a coupon allotment less than the full coupon allotment shall be an amount which bears the same ratio to the amount which would have been charged such household for the full coupon allotment as such portion of the full coupon allotments bears the full coupon allotment such household was entitled to purchase. The Secretary shall prescribe general guidelines and minimum requirements with respect to the quality of certification and issuance services to be provided by State agencies to eligible households, including, but not limited to, matters relating to the places, times, and frequency of coupon issuance services in political subdivisions approved for participation in the food stamp program. Such general guidelines and minimum requirements shall include at least the following provisions: (1) that the issuance of coupons shall take place no less often than once per week, and (ii) that any household may purchase its entire monthly coupon allotment at any time of issuance for that month or may elect to purchase any portion of its monthly allotment having a face value of three-quarters, one-half, or one-quarter at any time of issuance for that month and thereafter may purchase the proportionate remainder of that allotment which has not previously been purchased for that month."

Administration

(4) (A) Subsections (b) and (c) of section 10 are amended to read as follows:

"(b) Subject to the following conditions, the operating agency shall assume responsibility for the certification of applicant households and for the issuances of coupons. Applicant households shall be certified for eligibility solely on the basis of a simplified statement, conforming to standards prescribed by the Secretary, and such statement shall be acted upon and eligibility certified within seven days following the date upon which the statement is initially filed. The Secretary shall, however, provide for adequate and effective methods of verification of the eligibility of recipients subsequent to certification through the use of sampling and other scientific techniques. If a household, certified as eligible in any political subdivision to participate in the food stamp program or a program of distribution of federally donated foods moves to another political subdivision in which either program is operating, the household shall remain eligible to participate in such program in such other political subdivision for a period of sixty days from the date of such move without regard to compliance with any requirement of the new political subdivision.

"(c) In the certification of applicant households for either the food stamp program or a program of distribution of federally donated foods there shall be no discrimination against any household by reason of race, religious creed, national origin, or political beliefs.

"B) Subsection (e) of section 10 is amended to read as follows:

"(e) The State agency of each State shall submit for approval a plan of operation specifying the manner in which such State intends to conduct such program. Such plan of operation shall provide, among such other provisions as may by regulation be required, the following: (1) for the use of the eligibility standards promulgated by the Secretary under section 5 of this Act and the certification procedures specified in subsection (b) of this section; (2) safeguards which restrict the use of disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act; (3) that the State agency shall undertake effective action to inform low-income households concerning the availability and benefits of the food stamp program and encourage the participation of all eligible households; (4) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program; and (5) for the submission of such reports and other information as may from time to time be required. Notwithstanding any other provision of law, the State agency shall, in conjunction with the appropriate Federal agency, institute procedures under which any household participating in the food stamp program shall be entitled, if it so elects, to have the charges, if any, for its coupon allotment deducted from any grant or payment such household may be entitled to receive under the Social Security Act and have its coupon allotment distributed to it with such grant or payment. The State agency shall arrange for the issuance of coupons to eligible households and for the collection of sums required from eligible households as payment therefor through the facilities of United States post offices directly or by mail, or in such other manner convenient to participating households as shall best insure their participation.

"(C) Subsections (g) and (h) of section 10 are amended to read as follows:

"(g) (1) By April 1, 1972, if a food stamp program is not being operated by the State agency in every political subdivision of any State, the Governor of the State shall have the right directly to administer the food stamp program in any such subdivision in which the program is not being operated. If the Governor shall fail so to act by May 1, 1972, the Secretary shall directly administer the food stamp program in any such subdivision through any appropriate Federal, State, or county agency or through any public agency or private nonprofit organization approved by the Secretary, and such program shall be in operation by no later than June 30, 1972.

"(2) If, one hundred and eighty days after a food stamp program has begun to operate in a political subdivision in any State, a three-month period should occur in the course of which the number of persons participating in that program is less than 50 per centum of the number of persons in that subdivision who are from households whose annual income is below the poverty level as determined by the Secretary in consultation with the Secretary of Health, Education, and Welfare (which number shall be determined annually on the basis of the most recent available data from the Secretary of Commerce), the Governor of the State in which such subdivision is located shall have the right directly to administer the food stamp program in such subdivision. If the Governor refuses to exercise his right or fails to do so within thirty days of being notified of said right by the Secretary, the Secretary shall directly administer such program in such subdivision or administer such program through any appropriate Federal, State, or county agency or through any public agency or private nonprofit organization approved by the Secretary. If the Governor accepts administration of the program and participation does not increase to 66 per centum within one hundred and eighty days then the Secretary shall directly administer the program in such subdivision or administer such program through any appropriate Federal, State, or county agency or through any public agency or private nonprofit organization approved by the Secretary. When the Secretary administers a food stamp program through a public agency or private nonprofit organization, he shall require the public agency or private nonprofit organization to observe all the appropriate provisions of this Act and regulations issued pursuant thereto.

"(h) Members of an eligible household who are sixty years or over or an elderly person and his spouse may use coupons issued to them to purchase meals prepared for and served to them in any location other than a resident institution or boardinghouse by a political subdivision or a private nonprofit organization which is operated in a manner consistent with the purposes of this Act and is recognized as a tax-exempt organization by the Internal Revenue Service. Meals served pursuant to this subsection shall be deemed 'food' for the purpose of this Act."

Cooperation With State Agencies

(5) Subsection (b) of section 15 is amended to read as follows:

"(b) The Secretary is authorized to pay to each State agency an amount equal to 75 per centum of the sum of: (1) the direct salary, travel, and travel-related cost (including such fringe benefits as are normally paid) of personnel, including the immediate supervisors of such personnel, for such time as they are employed in taking the action re-

quired under the provisions of subsections 10(a) and 10(c) (3) and (4) of this Act and in making certification determinations for households other than those which consist solely of recipients of public assistance. In addition, the Secretary shall pay an operating agency in a State 50 per centum of the cost of issuing coupons to eligible households and of collecting the sums required from eligible households as payment therefor and shall pay 100 per centum of such costs if the number of persons participating in the food stamp program administered by such agency is equivalent to or greater than 66 per centum of the number of persons in the political subdivision covered by that program who are from households whose annual income is below the poverty level as established by the Secretary pursuant to section 10(g)(2) of this Act. In the event that a public agency or private nonprofit organization is authorized to administer the food stamp program in any area in accordance with the provisions of section 10(g) of this Act or that such an agency or organization undertakes activities pursuant to section 10(a), the Secretary is authorized and directed to reimburse such agency or organization for all of the costs it incurs in carrying out such program or activities."

Appropriations

(6) Section 16 is amended to read as follows:

"SEC. 16. To carry out the provisions of this Act, there is hereby authorized to be appropriated not in excess of $2,500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $3,500,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974. Sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this Act until expended. Such portion of any such appropriation as may be required to pay for the value of the coupon allotments issued to eligible households which is in excess of the charges paid by such households for such allotment shall be transferred to and made a part of the separate account created under section 7(d) of this Act. If the Secretary determines that any of the funds in such account are no longer required to carry out the provisions of this Act, such portion of such funds shall be paid into the miscellaneous receipts of the Treasury. With funds appropriated under this section, the Secretary is authorized to conduct, or contract with public agencies or private nonprofit organizations to conduct research, demonstration, or evaluation projects designed to test or assist in the development of new approaches or methods to achieve the purposes of this Act."

EXHIBIT 2

EXPLANATION OF FOOD STAMP BILL, 1971

Work Requirement. A work requirement exists in the current law which cuts off entire families from food stamp benefits if any single member of the family should be found able but unwilling to work. This bill is designed to protect the children and others in a family who may be unable to work. Essentially, it would require a reduction in food stamp allotments commensurate with the number of individuals who are required to register for employment, but who refuse to do so. In other words, if in a family of six there were one adult who was required by the law to register for work, and that individual refused to do so, the family would receive henceforth ⅚ of the food stamp allotment that they would normally be entitled to.

The bill provides that before any such reduction is made, the individual concerned shall be afforded reasonable notice and opportunity for a fair hearing.

The following adult individuals would not be required to register for employment:

(1) anyone ill, incapacitated, disabled, or over sixty years of age.

(2) a mother or other relative of an individual under the age of 18 who is caring for such individual.

(3) persons under 18.

(4) an individual over 18 who is regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare him for gainful employment. (NOTE: The new law prevents students from receiving stamps unless they are financially needy.)

(5) an individual whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household.

(6) an individual who is employed over 30 hours per week or who earns at least $48 per week.

This work requirement would protect families from the vagaries of any individual's actions within the family and would not allow whole families to be cut off from food stamps if one member refused to work.

Suitability of Work. Consistent with current labor law, the bill would require that employment suitability consideration include the degree of risk to the individual's health and safety, his physical fitness for the work, his prior training and experience, the length of his unemployment, his realistic prospects for obtaining work based on his potential, and the distance of the available work from his residence.

The employment shall not be considered suitable if the position offered is vacant as a direct result of a strike, lockout or other labor dispute, or if the wages for the job are payable at a rate less than the highest of the state or local minimum wage of $1.60 an hour or the minimum hourly rate applicable under the Fair Labor Standards Act of 1938, or the prevailing rate of pay in the same labor market area for persons employed in similar work in the locality.

Value of Coupon Allotment. The current food stamp allotment provides benefits at the Economy Diet level of $106. a month for a family of four, equal to 29¢ a meal. The Department of Agriculture itself describes this diet as nutritionally inadequate on a continuing basis. Last year the Department said of the economy diet, "the public assistance agency that is interested in the nutritional well-being of its clientele will recommend a money allowance for food considerably higher than the cost level of the economy plan." The Low-Cost Plan required by this bill provides $134 a month for a family of four.

Certification of Households. Certification of eligible households would be by execution of a simplified statement containing the necessary information on a family's income and other factors to establish the family's eligibility and eligibility must be certified within seven days. Certification would remain in effect when a family moves to another political subdivision for a period of 60 days from the time the family moved. In addition, the State plan would provide that the state make every effort to insure that all eligible households are certified to participate in the program.

In addition, by April 1, 1972, if a food stamp program is not being operated by the State agency in every political subdivision of any State, the Governor of the State shall have the right directly to administer the program in that area. If he fails to act by May 1, 1972, the Secretary shall directly administer the program through any appropriate Federal, State or county agency or through any public agency or private nonprofit organization approved by the Secretary. The program shall be in operation by no later than June 30, 1972.

Further, if, 180 days after a food stamp program has begun to operate in a political subdivision, a three-month period shall occur in which the number of persons participating is less than 50% of those determined to be from households whose annual income is below the poverty level as determined by the Secretary, the Governor of the State shall have the authority to administer the program. If he fails to do so within 30 days, the Secretary shall directly administer the program.

Assistance to States. The Secretary is authorized to pay each State agency an amount equal to 75% of the salary and other expenses of personnel involved in carrying out the administration of the certification procedures of this Act. In addition, the Secretary shall pay 50% of the cost of issuing coupons to eligible households and of collecting the sums required from participants. The Secretary shall pay 100% of these costs if the program is covering more than 66⅔% of those in poverty in the area.

In the event that the Secretary authorizes a public agency or non-profit private organization to operate the program, the Secretary is directed to reimburse that agency for all of the administrative cost of the program.

Appropriations

[In millions]

Fiscal year 1972	$2,500
Fiscal year 1973	3,500
Fiscal year 1974	3,500

The Administration has requested $2 billion for FY 1972. This level assumes that the average number of participants in that year will be about 11.5 million per month, allowing for a rate of program growth of about 1.5% per month. The proposal also assumes that USDA will pay out about $14.25 in bonuses per person per month.

Yet, since December 1968, participation has more than tripled, going from 2.8 million persons to over 9.5 million in December 1970. This rise is due to higher program benefits, greater availability, and unemployment.

The monthly rate of program growth ranged from 3% to over 15%, with an average monthly rate of about 10%.

Program growth would be minimal if unemployment drops in fiscal 1972. However, most economists are projecting unemployment to continue at or near the 6% rate for this budget period. The projection also further complicates the pressures for higher food stamp benefits as their income level declines.

Program growth from among the Americans who live in poverty can be expected to increase steadily, as monthly participation figures show. If certification procedures are simplified, such as self-certification for the family who receives welfare payments, normal program growth would be accelerated.

Another source of program growth is the expansion of food stamps to new areas, an action which the Administration has previously acknowledged as basic program policy. If the food stamp program continues to replace commodity distribution, program growth would also accelerate as a result.

All of this can be summarized this way: the food stamp program continues in the expansionary phase which has been its dominant character. If anything, the growth pressures are greater than at any previous time. Given the condition of the economy, program growth in fiscal 1972 is likely to be at least 4% per month, at a minimum. If the level of program benefits monthly $14.00–$14.25 per person range, an average 13.5 to 14 million persons per month will be reached at an annual cost of $2.44 billion. If the monthly growth rate is larger, as higher unemployment or better program administration would cause, or average program benefits show an increase, the cost could easily reach $2.7 billion or more.

Finally, when fully in operation (by FY 1973) the program will be reaching between 16–20 million poverty-level individuals, for a program cost of 2.74 to 3.43 billion dollars.

We have also included a provision which will allow needy families to purchase their coupons on a monthly, bi-monthly, or weekly basis.

Mr. PERCY. Mr. President, as I stood in this Chamber last New Year's Eve, I stated that I was casting a vote with tremendous reluctance for a food stamp conference report that posed a serious question of conscience. Today, speaking as the ranking Republican member of the Select Committee on Nutrition and Human Needs, I am honored to join the chairman, the distinguished Senator from South Dakota (Mr. McGOVERN), in introducing our suggestions for a more reasoned reform of the food stamp program.

At the Follow-Up White House Conference on Food, Nutrition and Health on February 5 of this year, Secretary of Health, Education, and Welfare Richardson suggested that the end of the 91st Congress only signified "half time" in the fight against hunger. Secretary of Agriculture Hardin stressed that "much more remains to be done."

Our proposals try to remedy the inhuman decree which says that if a father cannot or will not work for some reason, his family should not eat. I believe strongly that children should not have to suffer for the sins of their father. In the dying hours of the 91st Congress the Senate reluctantly accepted this in order to salvage the rest of the program. We pledged, however, that we would return this session to right the inequity that we were forced to impose. Our suggestions today would simply make a proportionate decrease in the number of stamps to a family where an adult refused to work or to take a job. This provision would be in harmony with the relevant provisions of President Nixon's proposed Family Assistance Plan.

The other major improvement our bill would provide would be in the minimum level of support for what the Department of Agriculture terms a nutritionally adequate diet. We would mandate in the law itself that the Secretary of Agriculture, in determining the amount necessary to purchase a nutritionally adequate diet, set an amount not less than the cost of food specified in the Department's low-cost food plan.

Our reforms include many of those that the Senate passed more than 18 months ago, but which were eventually lost in the Conference Committee last December:

We would require a minimum weekly issuance of stamps.

We would permit a purchaser to buy his month's allotment of food stamps in segments of 25 percent, 50 percent, 75 percent, or all of them at any issuance point during the month.

We would permit self-certification for both public assistance and nonpublic assistance households.

We would maximize the time allowed for certification to 7 days.

We would permit full utilization of the U.S. Post Office facilities for issuance of stamps.

We would require that the food stamp plan be implemented throughout the Nation by June 30, 1972, with provision for State and Federal oversight.

We would allow the elderly to use stamps in feeding programs run by nonprofit agencies outside of their homes.

We would increase administrative assistance to the States for both certification and issuance costs.

Finally, we would authorize $2.5 billion for fiscal 1972, $3 billion for fiscal 1973, and $3.5 billion for fiscal 1974, thereby ending the uncertainties of open-ended funding.

Mr. President, if there is any question in anyone's mind whether this is an excessive amount, I should only like to remind my colleagues in the Senate that the Bureau of the Budget, well over a year ago, estimated that in order to close the gap on hunger in this country, it would require a budget of $2.9 billion; so that by today, with inflationary costs and the problem of delivery of food and food services, the figure of $2½ billion for fiscal 1972 is on the conservative side, if anything, by the Budget Bureau—now the Office of Management and Budget—figures alone.

We are only working toward an adequate program in 1973 and 1974, at which time we would have the additional costs for the delivery of food services that we do not now have.

I am therefore pleased to join the distinguished chairman, the Senator from South Dakota (Mr. McGOVERN) and my many other colleagues from both sides of the aisle in a renewal and a reaffirmation of our commitment to ending hunger in America.

I should also like to state categorically, Mr. President, that this administration has done more to feed the hungry in America than any previous administration in the history of this country. We recognize that food and nutrition must be weighed against other priorities of Federal spending, yet this administration has recognized the importance of this program. While it has allocated vast resources in the way of manpower and funds to try to close the hunger gap both as it affects schoolchildren, and the impoverished, the destitute, and the elderly, it has not ultimately reached the level necessary to eliminate hunger in America.

It is for this reason that I have recently counseled Secretary Richardson not to permit the experimental program of feeding the elderly across the country to lapse. The program has proven itself to be extremely successful.

Thirty-one feeding centers in Chicago have made the difference between hope and encouragement, and concern and care, for thousands of the elderly in the city of Chicago. The newspapers and the news media have recently pointed out the serious deficiencies, the loneliness, the bitterness, and the neglect that many of the elderly in this country feel. We have, certainly, by taking the Committee on Aging of the Senate to the city of Chicago demonstrated and proved that. Members of the Senate have been able to see it with their own eyes. We need to do more, not less, in this area.

I commend the members of the Committee on Nutrition and Human Needs for their diligence and for what they have done to alert the country to this problem, and to the sense of priority which we have developed and the responsiveness of the Nixon administration to this entire problem.

Mr. COOK. Mr. President, as a cosponsor of the "Adequate Nutrition Act of 1971," I believe that both the distinguished Senator from South Dakota (Mr. McGOVERN) and the distinguished Senator from Illinois (Mr. PERCY) have eloquently presented today a clear view of the provisions within this bill. The 1970 amendments to the Food Stamp Act, which were hurriedly passed in the final hours of the 91st Congress, fall short in combating hunger and malnutrition in America. This fight—and it is a fight—will be desperately lost unless more reasonable reform is passed into law. Such reform is contained in the bill being introduced today.

The work requirement in the existing law is not only harsh, but it is also contradictory to the attempt to break the poverty cycle. The present work requirement denies the children benefits of adequate nutritional diet if the father fails to register for work or refuses to work. Evidence from numerous sources suggests that malnutrition not only results in physical damage to the young person, but also can cause changes in the brain which may be manifested by faulty intellectual development. Without a nutritional diet to grow, the child's ability to learn and to develop is limited. With such limitations, poverty will be a way of life for that child from a low-income family. For the rest of his life, this limited person is a burden on the taxpayer. Such a tax burden can be avoided if foresight is used in legislation. The work requirement in the "Adequate Nutrition Act of 1971" is more in accordance with the purpose of the Food Stamp Act and is more reasonable by reducing the food stamp allotment commensurate with the number of individuals who are required to work but who fail to do so, rather than cutting off an entire family from benefits. The provision in the bill for increasing the value of the allotment to $134 per month is also more in accordance with the declared purpose of the Food Stamp Act to maintain an adequate level of nutrition for low-income households.

One proposal of the bill which I feel should be noted here today is the suggested full utilization of post offices in the issuance of food stamps. During past meetings of the Select Committee on Nutrition and Human Needs, I have expressed my strong interest in using post offices for this purpose. I do not know of any organization in the United States that is better equipped to distribute and to sell food stamps than the Post Office. With post offices located all over the country in both urban and rural communities, recipients would not have to travel an unreasonable distance and spend money for travel costs to buy food stamps. When one considers the fact that banks now charge about $.95 per coupon transaction, the utilization of post offices in issuance of food stamps would allow for both lower costs and

more efficiency in the administration of the distribution of stamps as well as for the use of existing facilities.

Mr. President, I urge all of those who are sincerely concerned with the devastating effects of hunger on the productive life potential of low-income citizens to give this proposed legislation serious consideration.

By Mr. TOWER:

S. 1774. A bill to furnish assistance to farmers in emergencies caused by natural disasters. Referred to the Committee on Agriculture and Forestry.

DROUGHT DISASTER ASSISTANCE

Mr. TOWER. Mr. President, on April 21, I made a personal tour of Texas areas affected by severe drought, and I can personally attest that it is a disaster as pervasive and as dreadful as any of the sudden natural calamities which we read about when nature goes on a rampage. Because no one is thrown about and killed and because houses are not discovered miles from their foundation, there is not the obvious emotional impact of a hurricane or tornado. Because there is absent the sad spectacle of people shoveling mud out of their living rooms, we do not empathize as fully with the victims of drought as with the victims of flood. But, even if no one is killed in a drought as in other natural disasters, hope and ambition are killed, and economic well-being is either denied or severely limited.

A drought is month after month of cloudless skies darkened only by night or by billows of dust when the wind rises. It is not being able to discern the roadway from the roadside when it is covered by precious topsoil. It is not being able to keep your face or your clothes clean.

But these are simply inconveniences compared to the reality of dead cotton crops, dead feed grain, dead wheat, ravaged grasslands, and starving cattle.

Nature does not have to rage and rave and create drama to create havoc in men's lives; it can quietly do nothing—such as it is now doing in my State—and it can ruin life: vegetable, animal, and human.

I can tell my colleagues sincerely, it is so dry in Texas, not even the weeds will grow.

On my trip I flew over this area with Secretary Hardin, OEP Director Lincoln, Congressman BOB PRICE, and others. We discussed at length what assistance could be rendered to try to alleviate economic hardship for those adversely affected.

Congressman PRICE and I were assured that the Federal Government had sufficient authority to deal with the severe drought conditions without a full disaster declaration from the President. Our disaster programs which would be triggered by a Presidential declaration are designed primarily to assist local areas where there has been loss of utilities, destruction of property and loss of life. This is not the experience, of course, with drought. Schools, local government facilities, houses, and other physical properties are unaffected by drought, as we all know.

A drought is an agricultural disaster and as such can best be dealt with on the Federal level by the Department of Agriculture.

We were assured that adequate Federal assistance would be available through an agricultural disaster declaration by the Secretary of Agriculture and this action has been taken.

I am somewhat dismayed that there has been some misunderstanding of my position in this area, and I wish to make my position clear.

I am extremely concerned over the adverse situation resulting from the persistent drought in Texas. The Agriculture Department has the authority to take steps to alleviate the drought situation.

To give a progress report, there are currently 81 counties in my State which have been approved for emergency assistance in obtaining livestock feed to preserve and maintain foundation herds at not less than 75 percent of the feed grain current basic county support rate, including the value of any applicable price support payment in kind.

For other livestock, eligible farmers and ranchers may obtain CCC-owned feed grain at not less than 100 percent of the current basic support rate.

This applies only to those who are unable to obtain sufficient feed for their livestock through normal channels without undue financial hardship.

Permission has also been granted at this time for grazing or haying on feed grain, wheat, and cotton acreage diverted or set aside under the cropland adjustment program in 125 Texas counties. This is permissible only in areas certified by the Governor with the concurrence of the Secretary of Agriculture who designates the area.

At this point, 235 counties have been made eligible for low-interest rate emergency Farmers Home Administration loans enabling farmers and ranchers to complete 1971 farming operations and to begin 1972 operations.

In addition, 62 counties have been certified for assistance to implement emergency conservation measures including the control of wind erosion or rehabilitation of farmland damaged by wind erosion or other natural disasters, and the Federal Government has released $2 million to the State ASC committee to share with farmers the cost of these conservation efforts.

Also, the Small Business Administration has informed me that they have the legislative authority necessary to make loans to businesses adversely affected by the drought situation if that business constitutes a major portion of a local economy. For example, should drought kill the cotton crop in an area, a cotton gin whose operation is severely inhibited by the lack of available cotton may obtain SBA loan assistance to remain in operation.

The Economic Development Administration has also informed me it has the legislative authority necessary to make economic assistance loans to areas which meet their criteria as a result of significant local economic depression resulting from drought disaster or any other cause.

But my experience has now shown that there is need for additional congressional action to enable the Federal Government to fully meet the needs for assistance due to the current drought in Texas. And I believe this need for increased legislative authority would exist in any severe drought situation anywhere in the country.

I, therefore, take this opportunity to introduce a new bill to furnish assistance to farmers and ranchers in emergencies caused by natural disasters.

As my colleagues are aware, drought conditions are working severe economic hardship on farmers and ranchers in Texas as well as adjacent and other areas of our Nation. The administration has taken some significant steps to render valuable assistance under existing legislation, but our experience in Texas has demonstrated that the Federal Government needs to have the freedom to take additional steps required by the situation.

A drought is a unique form of natural disaster in that it does not render sudden devastation; but as it persists and as it covers a wider and wider area, the effects of drought are no less significant to either farmers and ranchers or the public generally.

Today I offer a bill which I feel needs the immediate attention of Congress and which will do much to assist farmers and ranchers who suffer from extensive drought conditions.

The bill I introduce today is identical to one introduced in the House of Representatives May 3 by my fellow Texan, Representative BOB PRICE.

It would enable the Secretary of Agriculture at his discretion, and in any area in which he has determined a natural disaster exists, to:

First, make available to affected farmers and ranchers any farm commodity or product owned or controlled by the Commodity Credit Corporation on such terms and conditions as the Secretary may deem to be in the public interest;

Second, make available such assistance to unemployed farmworkers as the Secretary deems appropriate but not to exceed the maximum amount and duration of payment under the State's own unemployment program; and

Third, provide up to $2,500 forgiveness on emergency Farmers Home Administration loans.

Mr. President, in the current case of Texas, this bill would allow the Secretary of Agriculture to move more quickly in providing feed assistance for livestock, and would be of significant assistance in providing credit for economically burdened farmers and ranchers and in assisting local economies.

I believe many of my colleagues, particularly those from States with significant agricultural interests, will understand the benefits to farmers and ranchers which could result from passage of the legislation I introduce today. I ask that the Senate give early attention to this legislation. It is legislation which not only is needed now, but which is already overdue.

I also ask that this legislation be referred to the Committee on Agriculture. It deals specifically with the Agriculture

Department and is designed to meet the additional needs of agricultural disasters.

Finally, Mr. President, I wish to state that while the administration has a great deal of the authority required to act, not enough action has been taken and it has not happened rapidly enough. I sense a need for the additional authority which I seek today in the legislation I have offered, but in my opinion the administration has not acted to the full measure of its existing capabilities even though I was assured that this full measure of assistance would be made available.

I am disappointed with the level of assistance which has been rendered, and I am determined to see that full assistance is provided. I shall work in Congress for rapid passage of the legislation I introduce today, and I shall work also to insure full implementation of the assistance which the administration can render under existing authority. The wheels of Government have moved too slowly. The farmers and ranchers in my State are facing virtual economic collapse in many cases. We must have a full response at the Federal level to insure that the agricultural industry in my State maintains a viable economic position which will enable full recovery when the drought is ended.

Mr. President, I have just this moment returned from a personal conference with President Nixon on the drought situation in the Southwest. He expressed his continuing concern for the drought-stricken area and has directed his domestic counsel to cooperate with me in receiving suggestions on what can additionally be done to most effectively provide relief to the stricken areas.

Mr. President, I ask that the text of my 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. 1774

A bill to furnish assistance to farmers in emergencies caused by natural disasters

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That in any area in which the Secretary of Agriculture determines that an emergency exists because of flood, drought, fire, hurricane, earthquake, storm, disease, insect infestation, or other natural disaster—

(1) The Secretary may make available any farm commodity or product thereof owned or controlled by the Commodity Credit Corporation and livestock feed, whether in Commodity Credit Corporation stocks or private stocks, including grain, mixed feed, hay, or any roughage, to farmers and stockmen affected by the disaster, on such terms and conditions as he may deem in the public interest;

(2) The Secretary may make available such assistance as he deems appropriate to unemployed farm workers. Such assistance shall not exceed the maximum amount and the maximum duration of payment under the unemployment program of the State in which the emergency exists, and the amount of assistance under this section to any such individual shall be reduced by the amount of unemployment compensation or by private income protection insurance compensation available to such individual for such period of employment; and

(3) The assistance authorized under this section shall be made available through the funds and facilities of the Commodity Credit Corporation.

SEC. 2. Section 232 of the Disaster Relief Act of 1970 is amended by striking out "except that this clause (A) shall apply only to loans made to cover losses and damage resulting from major disasters as determined by the President,".

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

S. 1775. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE NATIONAL AGRICULTURAL MARKETING AND BARGAINING ACT

Mr. TUNNEY. Mr. President, I am today introducing, for myself and Senator CURTIS, legislation designed to give farmers bargaining power in the marketplace. Identical legislation has been introduced in House by Congressman BERNIE SISK of California.

In 1967, the Congress enacted the Agricultural Fair Practices Act which established the policy that because agricultural products are produced by numerous individual farmers, and most of the products are perishable, they have very little marketing and bargaining power unless they are able to voluntarily join together in cooperative organizations.

However, the 1967 act did not include an affirmative duty to bargain. Thus the 1967 act's prohibition against unfair bargaining practices has not been effective. The legislation which I am introducing today creates a mutual duty for producers and purchasers of agricultural commodities to bargain in good faith. The bill would not, however, impose an agreement upon the parties. This bill contemplates and encourages a good-faith mutual desire on both sides to arrive at a reasonable solution beneficial to both.

The bill defines bargaining as the mutual obligation of a handler and a qualified association of producers to meet at reasonable times and to negotiate in good faith with respect to the price, terms of sale, compensation for commodities produced under contracts, and other contract provisions.

In addition, the bill sets up administrative machinery by which the bargaining parties are defined and the policy and procedures are enforced.

Finally, this legislation amends the Agricultural Adjustment Act to extend eligibility for marketing orders to all agricultural commodities.

Agriculture is the No. 1 industry economically in the State of California producing an annual farm income of $4.5 billion. Farmers—particularly small farmers—face severe economic difficulty given the farmer's vulnerability in the marketplace.

It is my hope that hearings will be held on this legislation and that Congress will soon enact this or similar legislation designed to insure the continuation of an economically sound and diversified agricultural industry.

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

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

S. 1775

A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes

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

TITLE I—AGRICULTURAL MARKETING AND BARGAINING—LEGISLATIVE FINDINGS AND PURPOSE

SEC. 101. Congress has already found that because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Congress hereby finds, further, that membership by a farmer in a cooperative organization can only be meaningful if a handler of agricultural products is required to bargain in good faith with an agricultural cooperative organization as the representative of the members of such organization who have had a previous course of dealing with such handler. The purpose of this title, therefore, is to provide standards for the qualification of agricultural cooperative organizations for bargaining purposes, to define the mutual obligation of handlers and agricultural cooperative organizations to bargain with respect to the production, sale, and marketing of agricultural products and to provide for the enforcement of such obligation.

SHORT TITLE

SEC. 102. This title shall be known and may be cited as the "National Agricultural Marketing and Bargaining Act of 1971."

DEFINITIONS

SEC. 103. When used in this title—

(a) "Qualified association" means an association of producers accredited in accordance with section 105 of this title.

(b) "Association of producers" means any association of producers of agricultural products engaged in marketing, bargaining, shipping, or processing as defined in section 15 (a) of the Agricultural Marketing Act of 1929, as amended (49 Stat. 317; 12 U.S.C. 1141(a)), or in section 1 of the Act entitled "An Act to authorize association of agricultural producers" approved February 18, 1922 (42 Stat. 388; 7 U.S.C. 291).

(c) "Board" means the National Agricultural Bargaining Board provided for in this title.

(d) "Handler" means any person other than an association of producers engaged in the business or practice of (1) acquiring agricultural products from producers or associations of producers for processing or sale; (2) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers; (3) contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers or associations of producers with respect to the production or marketing of any agricultural product; or (4) acting as an agent or broker for a handler in the performance of any function or act specified in (1), (2), or (3) above.

(e) "Person" includes one or more individuals, partnerships, corporations, and associations.

(f) "Producer" means a person engaged in the production of agricultural products as a farmer, planter, rancher, poultryman, dairyman, fruit, vegetable, or nut grower.

NATIONAL AGRICULTURAL BARGAINING BOARD

SEC. 104. (a) There is hereby established in the Department of Agriculture a National

Agricultural Bargaining Board, which shall administer the provisions of this title.

(b) The Board shall consist of three members who shall be appointed by the President with the advice and consent of the Senate. The original Board shall be composed of one member for a one-year term, one member for a three-year term, and one member for a five-year term. The President shall indicate the length of term when making the appointment of the original Board. Thereafter, as the term of each member expires, the President shall, with the advice and consent of the Senate, appoint a successor to serve for a term of five years. Any individual chosen to fill a vacancy caused by other than expiration of the term shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall select one member of the Board to serve as Chairman.

(c) Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office but for no other cause.

(d) A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board. Two members of the Board shall, at all times, constitute a quorum of the Board.

(e) All of the expenses of the Board, including all necessary traveling and subsistence expenses incurred by the members of the Board or the employees of the Board under its orders, shall be allowed and paid in the same manner as payment of such expenses for employees of the Department of Agriculture.

(f) The Board shall have authority from time to time to adopt, amend, and rescind, in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the provisions of this title.

QUALIFICATION OF ASSOCIATION OF PRODUCERS

SEC. 105. (a) Only those associations of producers that have been qualified in accordance with this section shall be entitled to the benefits provided by this title.

(b) An association of producers desiring qualification shall file with the Board a petition for qualification. The petition shall contain such information and be accompanied by such documents as shall be required by the regulations of the Board.

(c) The Board shall provide for a public hearing upon such petition. The Board shall qualify such association if based upon the evidence at such hearing the Board finds—

(1) that under the charter documents or the bylaws of the association, the association is directly or indirectly producer owned and controlled;

(2) the association has contracts with its members that are binding under State law;

(3) the association is financially sound and has sufficient resources and management to carry out the purposes for which it was organized;

(4) the association represents a sufficient number of producers and/or a sufficient quantity of agricultural products to make it an effective agent for producers in bargaining with handlers; and

(5) the association has as one of its functions acting as principal or agent for its producer-members in negotiations with handlers for prices and other terms of contracts with respect to the production, sale, and marketing of their product.

(d) After the Board qualifies such association, it shall give notice of such qualification to all known handlers that, in the ordinary course of business, purchase the agricultural commodities that such association represents.

(e) A qualified association shall file an annual report with the Board in such form as shall be required by the regulations of the Board. The annual report shall contain such information as will enable the Board to determine whether the association continues to meet the standards for qualification.

(f) If a qualified association ceases to maintain the standards for qualification set forth in paragraph (c) of this section the Board shall, after notice and hearing, revoke the qualification of such association.

BARGAINING

SEC. 106. (a) As used in this title, "bargaining" is the mutual obligation of a handler and a qualified association to meet at reasonable times and negotiate in good faith with respect to the price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to the commodities that such qualified association represents and the execution of a written contract incorporating any agreement reached if requested by either party. Such obligation on the part of any handler shall extend only to a qualified association that represents producers with whom such handler has had a prior course of dealing. Such obligation does not require either party to agree to a proposal or to make a concession.

(b) A handler shall be deemed to have had a prior course of dealing with a producer if such handler has purchased commodities produced by such producer in any two of the preceding five years.

(c) Nothing in this Act shall be deemed to prohibit a qualified bargaining association from entering into contracts with handlers to supply the full agricultural production requirements of such handlers.

(d) It shall be unlawful for a handler to negotiate with other producers of a product with respect to the price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to such product while negotiating with a qualified bargaining association able to supply all or a substantial portion of the requirements of such handler for such product.

(e) It shall be unlawful for a handler to purchase a product from other producers under terms more favorable to such producers than those terms negotiated with a qualified bargaining association for such product.

(f) Whenever it is charged that a qualified association or handler refuses to bargain as that term is defined in paragraph (a) of this section, the Board shall investigate such charges. If, upon such investigation, the Board considers that there is reasonable cause to believe that the person charged has refused to bargain, in violation of this Act, the Board shall issue and cause to be served a complaint upon such person. The complaint shall summon the named person to a hearing before the Board or a member thereof at the time and place therein fixed.

(g) The person complained of shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise at the hearing and give testimony. In the discretion of the Board, or the member conducting the hearing, any person may be allowed to intervene to present testimony. Any hearing shall, insofar as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States.

(h) If, upon a preponderance of the evidence, the Board determines that the person complained of has refused to bargain, in violation of this title, it shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to bargain as that term is defined in paragraph (a) of this section and shall order such further affirmative action, including an award of damages, as will effectuate the policies of this title.

(i) If, upon a preponderance of the evidence, the Board is of the opinion that the person complained of has not refused to bargain, in violation of this title, it shall make its findings of fact and issue an order dismissing the complaint.

(j) Until the record in a case has been filed in a court, as hereinafter provided in section 106, the Board may at any time, upon reasonable notice and in such manner as it deems proper, modify or set aside, in a whole or in part, any finding or order made or issued by it.

ENFORCEMENT OF ORDERS AND JUDICIAL REVIEW

SEC. 107. (a) The Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the refusal to bargain occurred or wherein the person who engaged in such refusal resides or transacts business, for the enforcement of its orders made under section 105 and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board or the member before whom a hearing was conducted shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, or a member thereof, and to be made a part of the record. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(b) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the refusal to bargain was alleged to have occurred or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Board be

modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Board, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under paragraph (a) of this section and shall have the same jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

(c) The commencement of proceedings under paragraph (a) or (b) of this section shall not stay enforcement of the Board's decision but the Board or the reviewing court may order a stay upon such terms as it deems proper.

MISCELLANEOUS PROVISIONS

SEC. 108. The Board shall at all reasonable times have access to and the right to copy evidence relating to any person or action under investigation by it in connection with any refusal to bargain. The Board is empowered to administer oaths and to issue subpenas requiring the attendance of witnesses or the production of evidence.

SEC. 109. In case of contumacy or refusal to obey a subpena issued to any person, the district court, upon application by the Board, shall have jurisdiction to order such person to appear before the Board to produce evidence or to give testimony touching the matter under investigation, and any failure to obey such order may be punished by the court as a contempt thereof.

SEC. 110. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpena of the Board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. No individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 111. Complaints, orders, and other processes and papers of the Board may be served personally, by registered mail, by telegraph, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return of service shall be proof of such service. Witnesses summoned before the Board shall be paid the same fee and mileage allowance that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

SEC. 112. All processes of any court of which an application or petition may be made under this title may be served in the judicial district wherein the person or persons required to be served reside or may be found.

SEC. 113. The provisions of this title are severable and if any provision shall be held unconstitutional or invalid by a court of competent jurisdiction the decision of such court shall not affect or impair any of the remaining provisions.

SEC. 114. The activities of qualified associations and handlers in bargaining with respect to the price, terms of sale, compensation for commodities produced under contract, or other contract terms relative to agricultural commodities produced by the members of such qualified associations shall be deemed not to violate any antitrust law of the United States. Nothing in this title, however, shall be construed to permit handlers to contract, combine, or conspire with one another in bargaining with qualified associations.

TITLE II—ASSIGNMENT OF ASSOCIATION FEES

SEC. 201. If any producer of a farm product voluntarily executes and causes to be delivered to a handler, either as a clause in a sales contract or other instrument in writing, a notice of assignment of dues or fees to a qualified association directly representing the specific product involved, by which the handler is directed to deduct a sum from the price to be paid for such product and to pay the same over to such association as dues or fees for the producer, then such handler shall deduct the amount authorized from the price to be paid for any farm product being sold by any such producer and pay said amount over to the qualified association as assignee.

SEC. 202. No provision which is inserted in any contract that is prepared by a handler which makes ineffective an assignment of the dues or fees described in section 201 is valid.

SEC. 203. An assignment of dues or fees as described in section 201 may not exceed 2 per centum of the total value of the product which is delivered by the producer to the handler.

SEC. 204. Payment need not be made under an assignment of dues or fees pursuant to section 201 until the handler has available and under its control funds owing to the producer that are sufficient in amount to make the payment of the amount involved. In the case of an annual product, such payment need not be made until the end of the product year.

TITLE III—MARKETING ORDERS

SEC. 301. The Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, and subsequent legislation, is further amended as follows:

"Section 8c(2) is amended by inserting after the third sentence ending with the words 'Southwest production area.', the following: 'Notwithstanding any of the commodity, product, area, or approval exceptions or limitations in the foregoing sentences hereof, any agricultural commodity or product (except canned or frozen products) thereof, or any regional or market classification thereof, shall be eligible for an order, exempt from any special approval required by the preceding sentences hereof, if after a referendum of the affected producers of such commodity the Secretary finds that a majority of such producers voting in such referendum favor making such commodity or product thereof, or the regional or market classification thereof specified in the referendum, eligible for an order: *Provided, however*, That such referendum shall not be required for any commodity or product for which an order otherwise is authorized under the preceding sentences of this subsection (2) and for which no special approval or area limitation is specified therein'."

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

S. 1776. A bill to provide equitable treatment of veterans enrolled in vocational education courses. Referred to the Committee on Veterans' Affairs.

Mr. JORDAN of Idaho. Mr. President, I introduce today on behalf of myself and my distinguished colleague from Idaho, Senator CHURCH, a bill to provide more equitable treatment to veterans enrolled in vocational education courses.

Under present law, vocational students who are enrolled in educational courses under the GI bill are subject to being counted absent from their courses on some days when the school is not in session. The law provides that vocational students may have 30 days of excused absences during a 12-month period, not counting weekends and legal holidays established by Federal or State laws during which the institution is not in session. If the student is absent in excess of the 30 days, he does not receive compensation during any of such days.

The difficulty is that most schools have vacation periods which do not consist solely of weekends or legal holidays. For example, it is standard practice for many institutions to allow a 2-week vacation period for Christmas. It has been brought to my attention that veterans studying at such institutions may be given unexcused absences for up to 10 days during such a vacation period.

This situation seems to me to be clearly inequitable, especially since academic students do not receive similar treatment. The inequity is clearly pointed out in a letter which I received from Mr. Andrew J. Riksem, a vocational student at the College of Southern Idaho. I ask unanimous consent that the text of this letter be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. JORDAN of Idaho. Mr. President, the bill which Senator CHURCH and I are introducing today is designed to correct this inequity. The bill would allow the vocational student to take regular school vacations that the school establishes in conjunction with legal holidays without being charged for absences. Veterans enrolled in vocational courses have served their country just as well as those who enroll in academic courses and they are entitled to fair treatment. I believe that this bill is an appropriate step toward providing them with the type of treatment they deserve.

EXHIBIT 1

APRIL 23, 1971.

DEAR SENATOR JORDAN: I am a Viet Nam returnee currently enrolled in vocational training at the College of Southern Idaho and feel I am being personally persecuted by the Veterans Administration.

I have discussed this problem with various concerned persons and officials of this school. Neil Cross, Assistant Director, has allowed me to read recent correspondence with you concerning this particular matter. Also I have perused several letters concerning the V.A.'s outlook of this situation. So I understand *what* is happening to me . . . and I also want to know *why* I am being discriminated against.

On October 26, 1970 I enrolled in the welding course at C.S.I. and following are the days of recorded absences *required* by V.A.

October, '70—28; November, '70—4, 17, 27; December, '70—2, 7, 21*, 22*, 23*, 24*, 28*, 29*, 30*, 31*; January, '71—no absences; February, '71—2, 18, 25; March, '71—1, 2, 8, 10*, 11*, 12*, 16.

Please acknowledge I have put a star above the dates which were school holidays when I

could not be in school. If there is question on the above dates they may be confirmed by C.S.I. officials.

My last two checks from V.A. have been considerably short. I assume because I have used up the allotted days of absence.

My main question is as a student of a fully accredited institution, why should I be handled differently because of my educational objective? The officials at the College of Southern Idaho also feel this biased handling is not necessary.

Your assistance on this matter will be greatly appreciated.

With sincerity,

ANDREW J. RIKSEM.

EQUITY NEEDED FOR VETERANS SEEKING VOCATIONAL EDUCATION

Mr. CHURCH. Mr. President, I am pleased to join with my colleague, Senator JORDAN, today in introducing legislation which will change the current law to provide equity to veterans seeking vocational, as opposed to academic, education under the GI bill.

Mr. President, under current law, a vocational education student receiving aid under the GI bill may lose benefits for not attending a class which he cannot attend because the school itself is not in session. This inequity is a result of a provision in current law which limits to 30 days the number of excused absences which a vocational education student may take during any 12-month period—excluding weekends or legal holidays established by Federal or State law. For every day in excess of this 30-day maximum, the vocational education student loses benefits.

It is a recent, and I think desirable, development that many educational institutions today are providing both academic and vocational education under the same school administration. As we all know, many academic institutions have traditionally provided for vacation periods which are not solely limited to an established legal holiday. One of the best examples of this is the traditional 2-week vacation which many schools grant during the Christmas season. While an academic student may now take this entire 2 weeks and lose none of his benefits under the GI bill, a vocational student who may be attending the same school may lose 10 days of benefits under the GI bill. I think that this is clearly inequitable and feel that the law should be changed to put academic and vocational students on the same footing.

The legislation which Senator JORDAN and I introduce today would achieve that goal by allowing absences to be excused where the educational institution which the student attends is not regularly in session.

Mr. President, I ask unanimous consent that the text of our bill appear following my remarks.

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

S. 1776

A bill to provide equitable treatment of veterans enrolled in vocational education courses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1681(b)(2) of Title 38, U.S. Code, is amended to read as follows: "(2) to any veteran enrolled in a course which does not lead to a standard college degree for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends, legal holidays established by Federal or State law during which the institution is not regularly in session, or vacation periods established by the institution in conjunction with such holidays; or"

By Mr. HATFIELD (for himself, Mr. RANDOLPH, Mr. MILLER, Mr. MCGOVERN, and Mr. PACKWOOD):

S. 1777. A bill to supplement and strengthen voluntary youth service and learning opportunities supported or offered by the Federal Government by establishing a National Youth Service Council and a National Youth Service Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

THE NATIONAL YOUTH SERVICE ACT OF 1971

Mr. HATFIELD. Mr. President, I send to the table for myself and Senators RANDOLPH, MILLER, MCGOVERN, and PACKWOOD a bill entitled "The National Youth Service Act of 1971." The proposal was first introduced April 22, 1969, but no other action was taken on it during the 91st Congress.

The concept of service has been bandied about for quite some time, and most particularly during recent months in connection with the military draft. Some have suggested national service as an alternative to military service. But, this utilization of the word "service" is contradictory to any common use or experience of service-oriented activity. Service by its very nature is a voluntary expression free of external coercion. Be that as it may, it is not the proper role of the Government to force individuals into activities which it deems appropriate, no matter how it is rationalized. To conscript men and/or women into national "service" for any length of time is tantamount to the totalitarianism that this country has opposed since its founding. We would become the very thing we were fighting. But, there is a definite role the Government can and should play in stimulating service opportunities both at home and abroad. There already exist Federal, State, and private programs that reflect the areas of greatest need for service-oriented activities.

However, coordination and the scope of the programs is rather constrained. The purpose of the bill I am introducing today is to help coordinate and further stimulate citizen participation in voluntary service activities.

Earlier this year, President Nixon sent a reorganization plan to the Congress. The plan would combine all of the Federal/volunteer organizations, with the exception of the Teacher Corps, into one agency. This is very similar to part of the proposal I am introducing today which could be easily adapted or replaced by the President's reorganization plan. More importantly, however, is the focus and the magnitude of the National Youth Service Act.

First, it is youth oriented. Members of our society between the ages of 17 and 27 have exhibited an idealism and vitality that has been of great value to our country. But, that energy could be much more beneficial if provided with an expanded opportunity to meet people's needs.

A second important aspect of the National Youth Service Act is its focus on service learning. The individuals participating in various programs under the act would not only provide a service to others but would also be learning certain skills. References are made throughout the bill to youth service and learning programs. Such programs are designed to improve educational opportunities, improve health and welfare, contribute to the development, conservation or management of natural resources or recreational areas, strengthen library services, and improve community services. These programs could be undertaken on an experimental basis and then adjusted as experience and reflection determine.

A third distinguishing feature of the act is its scope. While the act would not create new Federal or State bureaucracies, it would substantially increase the potential of already existing programs, whether on the Federal, State, or private level. Funding would be provided through the National Youth Service Foundation which would be operated by a 21-member board of trustees.

The National Youth Service Foundation would be authorized to make grants to or contract with public and private nonprofit agencies for recruitment and training of 17- to 27-year-olds, for periods up to 2 years for, and to conduct, youth service and learning programs as defined in the act; agree to furnish 17- to 27-year-olds to public and private nonprofit agencies to carry out any youth service and learning program or any other program approved by the Foundation; recruit and train 17- and 27-year-olds for, and to conduct, youth service and learning programs; provide technical assistance to any public and private nonprofit agency receiving assistance under the act; and develop and carry out a program to encourage greater participation by State and local agencies and by private agencies and organizations in programs offering greater opportunities for youth participation in projects for community betterment.

There is authorized to be appropriated for the National Youth Service Council an amount not to exceed $2 million for any fiscal year. Authorizations for the National Youth Service Foundation are divided into: First, those for grant and contract awards; and, second those for the activities carried on directly by the Foundation. In the first category, authorizations are provided of $75 million for the first fiscal year; $300 million for the second fiscal year; and $600 million for the third fiscal year. The second category provides for authorizations of $75 million for the first fiscal year; $200 million for the second fiscal year; and $300 million for the third fiscal year.

I wish to stress the positive objective of the bill. We are passing through a time when the temptation is greater to adopt measures designed to repress the energies of young people in the cities and on the campuses. But, we have to recognize that energy per se is neither moral nor immoral. It is amoral. It can be used to shape a sword or a plowshare. By providing constructive ways for all young

people to use their energies and talents, they will have a chance to relate to and serve their society—as well as to help peacefully improve it where necessary.

Mr. President, I ask unanimous consent that the bill which I have introduced 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. 1777

A bill to supplement and strengthen voluntary youth service and learning opportunities supported or offered by the Federal Government by establishing a National Youth Service Council and a National Youth Service Foundation, and for other purposes

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

TITLE II—GENERAL PROVISIONS

SHORT TITLE

SECTION 101. This Act may be cited as the "National Youth Service Act of 1971".

DECLARATION OF PURPOSE

SEC. 102. (a) The Congress hereby declares that it is the policy of the United States that the talents and energies of young people should be more effectively devoted to voluntary service and learning opportunities to the benefit of the whole Nation.

(b) The Congress declares that young people at all educational levels from high school dropouts through graduate students can and will take advantage of increased service and learning opportunities; that a huge number of domestic tasks remain unmet which simultaneously provides a unique opportunity for young people to serve and learn; that future manpower requirements for increased skills in the fields of education, health, conservation, welfare, job training, and governmental affairs are increasingly difficult to fulfill, and can be alleviated by a coordinated effort to increase service and learning opportunities for young people; and that the experience young people acquire in service and learning projects will serve to increase manpower skills and to strengthen their understanding of the world in which they live.

(c) It is the purpose of this Act, therefore, to strengthen, supplement, and coordinate programs and activities contributing to the policy contained in this section.

DEFINITIONS

SEC. 103. As used in this Act—

(1) "Youth service and learning program" means a program primarily designed to—

(A) improve the educational opportunities of persons in the area to be served by any such program, including projects for counseling, custodial services, library assistance, tutorial work, teaching assistance, and maintenance of educatonal equipment;

(B) improve the health and welfare of the persons in the area to be served by any such program, including projects for clinical or clerical assistance in nonprofit private or public hospitals or public health centers or other related facilities; health surveys, increasing sanitation services, improving air and water pollution control services, and increasing services to the handicapped;

(C) contribute to the development, conservation, or management of natural resources or recreational areas in the area to be served by any such program, including projects for historical site restoration, camp site building and maintenance, trail construction and maintenance, protecting and maintaining forests, animal care and game services, grounds keeping and landscaping, soil surveys and water shed improvements;

(D) strengthen library services in the area to be served by any such program, including projects for increased staffing of bookmobiles, reading and recording services for the blind and young children, cataloguing, shelving and repairing books, and preparing exhibits; or

(E) improve community services available to persons in the area to be served by any such program, including projects for increased day camp and child care services, assistance for museum professional personnel, playground maintenance and operation, and assisting probationers and the disadvantaged, particularly helping unemployed youths locate services available to improve their skills and employability

and is conducted or is to be conducted substantially for participation by persons who have attained 17 years of age but not 27 years of age. For the purpose of this paragraph "youth service and learning program" includes any program designed to increase the skills and employability of youths.

(2) "Private nonprofit agency" means any agency owned or operated by one or more corporations, organizations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(3) "State" means each of the several States and the District of Columbia.

TITLE II—COORDINATION OF YOUTH SERVICE AND LEARNING OPPORTUNITIES

ESTABLISHMENT OF THE NATIONAL YOUTH SERVICE COUNCIL

SEC. 201. (a) There is hereby established in the executive office of the President the National Youth Service Council (hereinafter referred to as the "Council") which shall be composed of—

(1) the President, who shall be Chairman of the Council;

(2) the Secretary of the Interior;

(3) the Secretary of Agriculture;

(4) the Secretary of Labor;

(5) the Secretary of Health, Education, and Welfare;

(6) the Secretary of Housing and Urban Development;

(7) the Chairman of the Civil Service Commission;

(8) the Commissioner of Education;

(9) the Director of the Peace Corps;

(10) the Director of the Teacher Corps;

(11) the Director of the Office of Economic Opportunity;

(12) the Assistant Director of the Office of Economic Opportunity for Volunteers in Service to America;

(13) the Director of the National Youth Service Foundation; and

(14) two individuals between the age of 17 and 27 appointed by the President.

(b) Each member of the Council from a department or agency of the Federal Government may designate another officer of his department or agency to serve on the Council as his alternate in his unavoidable absence.

(c) The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(d) Whenever any matter is considered by the Council relating to the interests of a Federal agency not represented on the Council, the Chairman shall invite the head of any such agency to participate in the business of the Council. The authority contained in this subsection may be exercised by the Chairman in any case in which the agency concerned is in a Federal department the head of which is a member of the Council.

FUNCTIONS

SEC. 202. It shall be the function of the Council to—

(1) advise and assist the President as he may request with respect to youth service and learning programs conducted or assisted by any agency of the Federal Government;

(2) assure effective program planning for summer and other related youth programs of the Federal Government;

(3) provide effective procedures for the coordination of youth programs and activities of all agencies of the Federal Government;

(4) develop and encourage, to the extent practicable, the adoption by appropriate agencies of the Federal Government of common procedures and simplified application forms for recruitment and transfer into any youth service and learning program conducted or assisted by any agency of the Federal Government, particularly with respect to the Job Corps, the Neighborhood Youth Corps, the Volunteers in Service to America, the Teacher Corps, the Peace Corps, and the National Youth Service Foundation;

(5) develop adequate procedures and encourage each agency of the Federal Government administering a youth service and learning program to coordinate at the local level recruiting and informational activities so that the young people in any such locality may be aware of the full range of service and learning opportunities available;

(6) to encourage the development of cooperative programs among agencies of the Federal Government administering or conducting youth service and learning programs with particular emphasis on cooperative programs designed to more effectively meet the unmet community needs and services;

(7) encourage State and local agencies and private nonprofit and other private agencies and organizations to participate fully in efforts to provide service and learning opportunities for youths;

(8) resolve differences arising among agencies of the Federal Government with respect to youth service and learning programs; and

(9) report to the Congress at least once in each fiscal year on the activities of the Council during the preceding fiscal year.

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) The Council may employ a staff to be headed by an executive director and a deputy director. The executive director, subject to the direction of the Chairman, is authorized to—

(1) appoint and fix the compensation of such staff personnel, including not more than five persons who may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and who may be compensated, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, as he deems necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(b) The Council shall, to the fullest extent possible, use the services, facilities, and information, including statistical information, of other Governmental agencies as well as private research agencies. Each department, agency, and instrumentality of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Council, upon request made by the Chairman, such information as the Council deems necessary to carry out its functions under this title.

(c) The Council is authorized to establish an advisory committee and may consult with such representatives of State and local governments and other groups, organizations, and individuals as the Council deems advisable.

COMPENSATION OF THE EXECUTIVE DIRECTOR

SEC. 204. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(92) Executive Director—National Youth Service Council."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(128) Deputy Director—National Youth Service Council."

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated such sums as may be necessary, not to exceed $2,000,000 for any fiscal year, to carry out the provisions of this title.

TITLE III—NATIONAL YOUTH SERVICE FOUNDATION

ESTABLISHMENT OF FOUNDATION

SEC. 301. (a) In order to carry out the purposes of this Act, there is hereby established an agency to be known as the National Youth Service Foundation (hereinafter referred to as the "Foundation").

(b) The Foundation shall be subject to a Board of Trustees (hereinafter referred to as the "Board"). The Board shall be composed of 15 members who shall be appointed by the President, by and with the advice and consent of the Senate, of whom 4 members shall be appointed from among officials of agencies of the Federal Government, administering any youth service and learning program, and 11 members shall be appointed from among individuals from private life who are widely recognized by virtue of their experience or ability as specially qualified to serve on the Board. The Director of the Peace Corps, the Director of the Teacher Corps, the Assistant Director of the Office of Economic Opportunity for Volunteers in Service to America, the Director of the Neighborhood Youth Corps, the Director of the Job Corps, and the Director of the Foundation shall serve as ex officio members of the Board. In making appointments from private life, the President is requested to give consideration to the appointment of individuals who—

(1) will be representative of youth in the United States, and

(2) will provide collectively the appropriate regional balance on the Board.

(c) The term of office of each appointive trustee of the Foundation shall be six years; except that—

(1) the members first taking office shall serve as designated by the President, five for terms of two years, five for terms of four years, and five for terms of six years, and

(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(d) Members of the Board who are not regular full-time employees of the United States shall, while serving on business of the Foundation, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per diem, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The President shall call the first meeting of the trustees of the Foundation, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of enactment of this title. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years in duration. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Foundation shall elect an individual from among the trustees to fill such vacancy.

(f) A majority of the trustees of the Foundation shall constitute a quorum.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 302. (a) There shall be a Director and a Deputy Director of the Foundation who shall be appointed by the President, by and with the advice and consent of the Senate, in making such appointments the President is requested to give due consideration to any recommendations submitted to him by the Board. The Director shall be the chief executive Officer of the Foundation. The Director shall receive compensation at the rate provided for level IV of the Federal Executive Salary Schedule, and the Deputy Director shall receive compensation at the rate provided for level V of such Schedule. Each shall serve for a term of four years unless previously removed by the President. The Deputy Director shall perform such functions as the Director, with the approval of the Foundation, may prescribe, and be acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(b) The Director shall carry out the programs of the Foundation subject to its supervision and direction, and shall carry out such other functions as the Foundation may delegate to him consistent with the provisions of this title.

AUTHORITY OF THE FOUNDATION

SEC. 303. (a) The Foundation is authorized to—

(1) make grants, enter into contracts or other arrangements in any State with public and private nonprofit agencies, including junior colleges and other institutions of higher education, under which such agencies will recruit, select, train and enroll persons who have attained the age of 17 years of age but not 27 years of age, for periods up to two years in a youth service and learning program assisted under this title;

(2) make grants, enter into contracts or other arrangements in any State with public and private nonprofit agencies to conduct youth service and learning programs;

(3) enter into arrangements in any State to furnish persons who have attained 17 years of age but not 27 years of age to public and private nonprofit agencies to carry out any youth service and learning program or any other program approved by the Foundation to be conducted by such agency or organization;

(4) to recruit, select, train and enroll persons who have attained 17 years of age but not 27 years of age for youth service and learning programs;

(5) conduct youth service and learning programs;

(6) provide technical assistance to any public and private nonprofit agency receiving assistance under this title;

(7) develop and carry out a program to encourage greater participation by State and local agencies and by private agencies and organizations in programs offering greater opportunities for youth participation in projects for the betterment of the community.

(b) No payment may be made under paragraphs (1), (2), (3), (6), and (7) of this section, except upon application therefor which is submitted to the Foundation in accordance with regulations and procedures established by the Board.

LIMITATIONS ON PAYMENTS

SEC. 304. (a) No payment may be made pursuant to this title in excess of 50 per centum of the cost of the program, project, activity, or award for which the application is made. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, or services. For the purposes of this subsection, financial assistance under any provision of Federal law other than this Act shall be considered financing from a non-Federal source.

(b) Not more than 12½ percentum of the funds provided in this title for grants or contracts pursuant to paragraphs (1), (2), and (3) of section 303(a) shall be made available within any one State.

(c) No compensation or stipend paid to any individual pursuant to this title may exceed $5,000 in any fiscal year. This limitation shall not apply to medical or travel expenses and other special expenses as determined by the Foundation.

(d) Assistance pursuant to this title shall not cover the cost of any land acquisition, construction, building acquisitions, or acquisition of major equipment.

(e) Nothing contained in this title shall be construed to authorize the making of any payment under this title for religious worship or instruction.

ADMINISTRATIVE PROVISIONS

SEC. 305. (a) In addition to any authority vested in it by other provisions of this title, the Foundation, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary governing 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 Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Foundation, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Foundation with a condition or restriction, including a condition that the Foundation use other funds of the Foundation for the purposes of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per-diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this title, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) or any other provision of law relating to competitive bidding;

(8) make advances, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(9) rent office space in the District of Columbia; and

(10) perform such other functions as are necessary to carry out the provisions of this title.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this title, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Foundation deems appropriate.

ADVISORY COUNCIL OF YOUTH SERVICE AND LEARNING PROGRAMS

SEC. 306. (a) There is established an Advisory Council on Youth Service and Learning Programs (hereinafter referred to as the Advisory Council) composed of 24 members

appointed by the President from among individuals who are widely recognized by reason of experience, education, or scholarship as specially qualified to serve on such Advisory Council. In making such appointments the President shall give due consideration to any recommendations submitted by the Board. At least 8 members appointed to the Advisory Council shall not have attained the age of 27 years on the date of appointment.

(b) The Advisory Council shall advise the Board on broad policy matters relating to the administration of this title. The Advisory Council shall select its own chairman and vice chairman.

(c) Each member of the Advisory Council who is appointed from private life shall receive $100 per diem (including travel time) for each day during which he is engaged in the actual performance of his duties as a member of the Council. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 307. (a) For the purpose of making payments pursuant to paragraphs (1), (2), and (3) of section 303(a) of this title there is authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1970, $300,000,000 for the fiscal year ending June 30, 1971, and $600,000,000 for the fiscal year ending June 30, 1972.

(b) For the purpose of carrying out other provisions of this title there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, and $300,000,000 for the fiscal year ending June 30, 1972.

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

S. 1779. A bill to amend the Public Works and Economic Development Act of 1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas, and for other purposes. Referred to the Committee on Public Works.

ECONOMIC DISASTER RELIEF ACT OF 1971

Mr. JACKSON. Mr. President, I introduce for appropriate reference the Economic Disaster Area Relief Act of 1971.

The purpose of this measure is to authorize the President of the United States to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas and to extend a meaningful program of Federal assistance to the people who live in these areas.

Mr. President, hundreds of areas of this country are currently experiencing critical economic downturns and millions of able-bodied American working men and women are out of work—not by accident or by some freak chance of fate, but because this administration planned it that way. They are the victims of a man-made disaster that has had a more devastating economic impact on the people of this country than any natural disaster we have ever endured.

The record on this matter is very clear to anyone who wishes to read it. The high interest rates of the past 2 years, the veto of the Public Service Employment Act last fall, the failure to institute wage and price guidelines, the freezing of funds appropriated to meet critical social needs, the virtual "no new starts" public works policy, and a whole range of other actions by this administration make it clear that today's unemployment and economic problems have been created by a series of conscious choices on the part of the administration.

Many of these conscious policy choices have been made in the name of fighting inflation. Inflation is a matter of great concern, but the policies adopted to date and the cures which have been proposed are threatening to kill the patient. This administration has dealt with inflation by the single-minded expedient of creating the highest levels of unemployment in 9 years to choke off consumer demand.

The tragic results of the administration's failure to take positive action to relieve economic stagnation and to reduce unemployment are obvious. Look at the statistics for March of this year:

Unemployment again reached 6 percent, leaving 5½ million people out of work. This is double the number of persons unemployed in February 1969.

Five major labor areas were added to the substantial unemployment list, bringing the total number in that category to 50, the highest level since 1962.

Sixteen of the 150 major labor areas have unemployment rates of 9 percent or more.

Five major labor areas have unemployment rates exceeding 11 percent.

Mr. President, these statistics do not tell the full story. The full story is one of regional economic depression, of personal suffering; of loss of self-respect and dignity, of mortgage foreclosures, repossessions, eviction notices, and personal deprivation.

The quality of family life in this country, the standards of social welfare and economic security we have worked to achieve for the people of this Nation are consciously being eroded as a matter of administration policy. An irreplaceable national resource in the form of trained engineers, scientists, and skilled and blue-collar workers lies idle and forgotten while the Nation's cities, transportation systems and natural environment continue to decline and degrade.

Mr. President, the highest duty of the Federal Government is to promote the general welfare, the security, and the well-being of our citizens. This duty is not only being neglected, it has been repudiated. Instead of a national commitment to a policy of full employment, high productivity, and a rising standard of living, we have a Presidential commitment to policies which have created intolerable unemployment and economic disaster areas in many regions of the country.

Last year the Congress adopted a Comprehensive Disaster Relief Act to provide a comprehensive and coordinated Federal response and assistance program to areas stricken by natural disasters such as hurricanes, earthquakes, and floods. This act provides that when a natural catastrophe strikes which, "in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government," the President may make a wide variety of programs of Federal assistance available to the people of that area.

The U.S. Government recently invested over half a billion dollars through various disaster relief programs to help alleviate the effects of the earthquake in California. This was a very laudable and justifiable investment. In my view, the employment and economic disaster brought into being by this administration is surely deserving of at least the same kind of response we extend in times of natural disasters.

The measure I am introducing today, the Economic Disaster Area Relief Act of 1971, is designed to do just that. The act recognizes that the personal suffering caused by fiscal and monetary policies which result in high levels of unemployment and a stagnant regional economy cannot be distinguished from the personal suffering caused by natural disasters such as floods, hurricanes, and fire.

The bill would amend the Public Works and Economic Development Act of 1965, as amended, by adding a new title VI. The bill provides for the following:

First. Establishes in the Executive Office of the President an Office of Economic Aid to Depressed Areas.

Second. Sets forth procedures for Presidential designation of economic disaster areas eligible for assistance under the act. An area is eligible for a wide range of assistance under the act when the President determines: that the area is experiencing or is likely to experience unemployment rates in excess of 6 percent; that unemployment has increased by 50 percent within a 1-year period; that the area's economy is adversely affected by changes in Federal policies; or that an area is experiencing critical economic conditions and would benefit from assistance under the act.

Third. Provides that a Federal coordinating officer shall be designated to coordinate the administration of Federal grant-in-aid programs and the special economic recovery programs established by the act. The Governor of the State in which the designated area is located is required to appoint a State coordinating officer to work with the Federal officer.

Fourth. Mandates the assistance and cooperation of other Federal agencies in the development of a coordinated and tailormade plan of assistance designed to target in on the achievement of economic and employment objectives.

Fifth. Authorizes the reprograming of appropriated funds within an area to attain a better focus on economic revitalization.

Sixth. Allows the modification and waiver of procedural and administrative requirements which impede the granting of timely assistance through existing grant-in-aid programs.

Seventh. Establishes a $2,000,000,000 Federal Economic Recovery Fund to provide direct recovery assistance. The fund is not categorical and revenues may be used for unrestricted grants to States and local government, to enlarge existing grant-in-aid programs, for loans to

prevent mortgage foreclosure and repossession, for housing, relocation, and unemployment assistance, and for such other forms of assistance which will best meet the needs of local residents. The fund is designed to provide an immediately available, unrestricted source of revenue to be used to deal with pending or existing economic disasters in any region of the country. Maximum latitude is granted to the President and the Director of the Office of Economic Aid to Depressed Areas to establish priorities and develop assistance programs to rejuvenate local economics and to create new employment opportunities.

Eighth. Requires each State to develop full employment and economic recovery plans for guidance in dealing with future regional recessions and unemployment problems. Among other things, the State plan must include an up-to-date continuing status report on all public works projects—planned and under construction—which could be accelerated by funds made available under the act.

Ninth. Provides for a gradual phasing out of assistance made available under the act when the goals of economic recovery have been attained.

Tenth. Prohibits discrimination in the allocation of benefits made available under the act, and authorizes the Director of the Office to issue such regulations as are necessary to implement the act.

Mr. President, the Economic Disaster Relief Act of 1971 is designed to do three things which are not being done today: First, to give the President the tools and the money to undertake early action to prevent local economic recessions from growing into major regional economic depressions. Second, to provide a program which will enable areas already experiencing high unemployment rates and stagnant economic activity to put skilled people back to work. Third, to provide a compassionate and humanistic program of Federal aid to unemployed persons which will enable them to weather an economic downturn without having to suffer the calamity of a mortgage foreclosure, eviction and repossession of personal goods. The act also provides housing assistance and funds to buy essential food products, and authorizes the President to provide unemployment assistance to individuals whose workmen compensation benefits under State law have expired.

Mr. President, the Senate Public Works Committee has scheduled a hearing for May 12 on legislation of this nature. I invite other Members of the Senate to join with me in sponsoring this measure and in urging the Public Works Committee to incorporate this measure in Conference Committee as a new title to the Senate-passed bill S. 575, to extend the Appalachian Development Act.

Mr. President, I ask unanimous consent that the text of the bill together with the text of a statement I filed with the Public Works Committee at their hearings in Seattle on April 14 be printed at this point in the RECORD, and I also ask unanimous consent that a statement prepared by Senator MAGNUSON be printed in the RECORD.

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

S. 1779

A bill to amend the Public Works and Economic Development Act of 1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be Economic Disaster Areas, and for other purposes

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 "Economic Disaster Area Relief Act of 1971."

FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds and declares that—

(1) the human suffering, the loss of income, the dislocation of families and the national economic loss caused by regional unemployment and economic downturns is a matter of critical national concern;

(2) the personal suffering caused by fiscal and monetary policies which result in high levels of unemployment and stagnant regional economies cannot be distinguished from the suffering caused by natural disasters such as floods, hurricanes and fire, and

(3) there is a direct Federal responsibility to provide economic disaster assistance to individuals in regions of the country experiencing high unemployment and faltering economies to enable them to maintain their residences and to support their families without the human degradation, the loss in self respect and the decline in confidence in the American government which are caused by persistent unemployment, mortgage foreclosures, evictions, repossession and bankruptcy.

(b) It is the purpose of this Act to authorize the President of the United States to provide a direct program of Federal assistance to individuals, the States and to local government to alleviate the wasteful economic disruption and loss resulting from regional economic disasters by—

(1) establishing within the Executive Office of the President an Office of Economic Aid to Depressed Areas;

(2) providing for a coordinated Federal response;

(3) authorizing extension and, in some cases, forgiveness of all or part of obligations due the Federal Government; and

(4) waiving certain administrative and procedural requirements of Federal programs to facilitate an early and coordinated program of relief.

SEC. 3. The Public Works and Economic Development Act of 1965, as amended, is further amended by adding a new Title VI and by redesignating and renumbering subsequent Titles and Section numbers as appropriate:

"TITLE VI EMERGENCY ECONOMIC DISASTER AREA RELIEF

"OFFICE OF ECONOMIC AID TO DEPRESSED AREAS

"SEC. 601(a) There is hereby established within the Executive Office of the President an Office of Economic Aid to Depressed Areas (hereinafter referred to as the "Office"). The Office shall have a Director who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate.

"(b) The Director of the Office may employ such officers and employees as may be necessary to carry out the Office's functions under this Act. In addition, the Office may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

"(c) The Director of the Office shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

"(d) It shall be the duty and function of the Office and the Director—

"(1) to carry out the purposes of this Act;

"(2) to assist and advise the President on methods, policies, and programs designed to reduce unemployment and to stimulate the economies of areas designated as Economic Disaster Areas pursuant to section 4;

"(3) to train and have available a professional staff of Federal coordinating officers for assignment to areas designated as Economic Disaster Areas;

"(4) to review and appraise the various Federal assistance programs for the purpose of determining the extent to which such programs and activities do or can contribute to reducing regional unemployment and stimulating regional economies;

"(5) to coordinate his studies with those of the Secretary of Commerce; and

"(6) to make such studies, reports and recommendations as the President may request.

"(e) There are authorized to be appropriated for the administration of the Office not to exceed $5,000,000 for each fiscal year."

"DESIGNATION OF ECONOMIC DISASTER AREAS

"SEC. 602. (a) The President, on the request of the Governor of a State, is authorized and directed to designate an area of the country an Economic Disaster Area when—

"(1) There is a 6 per centum or greater unemployment rate resulting from an abrupt rise which has existed for six of the preceding twelve months, or which is expected to occur and which will be more than temporary in duration; or

"(2) There has been or will be a 50 per centum or greater increase in unemployment in the area within a one-year period, which will be more than temporary in duration; or

"(3) There has been or will be changes in Federal procurement or contract policies or reductions in direct or related Federal employment which adversely affect an area's economy and employment opportunities; or

"(4) There are such other critical economic conditions resulting from an abrupt rise in unemployment as the President determines would benefit from assistance under this section.

"(b) In designating an Economic Disaster Area, the President may make the designation without regard to geographical or political boundaries and any such designation shall continue for a minimum period of one year."

"FEDERAL COORDINATING OFFICER

"SEC. 603. (a) Immediately upon the President's designation of a major disaster area, the Director of the Office shall assign a Federal coordinating officer to the designated area. The coordinating officer, acting under guidelines prepared by the Director in consulation with the Office of Management and Budget and the Domestic Council, shall—

"(1) make an initial appraisal of the Economic Disaster Area and the area's:

"(i) local economy;

"(ii) levels of present and prospective unemployment; and

"(iii) eligibility for Federal program assistance;

"(2) establish such field offices as he deems necessary;

"(3) coordinate the administration of all Federal programs authorized under this Act; and

"(4) administer the activities of Federal personnel temporarily assigned to the coordinating officer pursuant to section 6 of this Act.

"(b) The Governor of a State in which

an area has been designated an Economic Disaster Area shall appoint a State official to serve as a State coordinating officer to work with the Federal coordinating officer."

"ASSISTANCE OF OTHER FEDERAL AGENCIES

"SEC. 604. (a) At the direction of the President, and under the management of the Director and the Federal coordinating officer, all Federal agencies are hereby authorized to provide assistance to an Economic Disaster Area by—

"(1) utilizing or otherwise making available, with or without reimbursement therefor, personnel, equipment, supplies, and other resources; and

"(2) donating or lending real and personal property determined to be surplus to the needs of the Federal Government to State and local government;

"(b) Federal agencies may be reimbursed for expenditures made under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

"(c) In carrying out the purposes of this Act, the Federal coordinating officer is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is, with the approval of the Federal coordinating officer, authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise to achieve the purposes of this Act.

"AUTHORITY TO REPROGRAM FUNDS TO DEAL WITH ECONOMIC AND EMPLOYMENT PROBLEMS

"SEC. 605. (a) To create new employment opportunities and to improve the economies of areas designated as economic disaster areas pursuant to section 4, the President is hereby authorized to reprogram up to 30 per centum of any Federally appropriated funds scheduled for expenditure in an economic disaster area into other programs which are better able to relieve economic distress and reduce unemployment, and respond to the condition presented in that area.

"(b) Fifteen days before exercising authority granted pursuant to subsection 7(a) to reprogram funds, the Director of the Office shall transmit to the Congress a report identifying the source of funds proposed to be reprogramed, the proposed use of the funds, and the economic and employment benefits which are anticipated. The reprograming shall become effective unless either the House or the Senate by resolution disapproves within fifteen calendar days of receiving the report: *Provided*, That, if Congress is not in session, the reprograming authority granted pursuant to section 605(a) shall be reduced to 15 per cent until such time as Congress shall reconvene.

"FEDERAL GRANT-IN-AID PROGRAMS

"SEC. 606. The Director of the Office, with the concurrence of the President, is hereby authorized to direct any Federal agency charged with the administration of a Federal grant-in-aid program to modify or waive such administrative or procedural conditions for assistance which impede, frustrate, or prevent the granting of timely assistance under such programs to individuals and governmental units in areas designated to economic disaster areas.

"FEDERAL ECONOMIC RECOVERY FUND

"SEC. 602. (a) There is hereby established a separate fund in the Treasury of the United States to be known as the Federal Economic Recovery Fund (hereinafter called the "Economic Recovery Fund") which shall remain available until expended as hereinafter provided.

"(b) There is hereby authorized to be appropriated to the Economic Recovery Fund $2,000,000,000 and such funds as are necessary in subsequent years to maintain the fund at a level of $2,000,000,000, to be used by the President for the purposes set forth in this section and in this Act.

"(c) The Director of the Office, together with the heads of other Federal agencies, are directed to review existing Federal grant-in-aid loan and loan guarantee programs, and prepare a report identifying those programs eligible for assistance from the Economic Recovery Fund. In addition, assistance may include, but shall not be limited to—

"(1) loans to businesses and individuals to enable them to meet business and residential mortgage payments and to prevent foreclosure, eviction, and repossession of personal property;

"(2) unrestricted grants to State and local governments to implement local initiatives and projects designed to relieve unemployment and stimulate the economy, but which are not eligible for existing grant-in-aid programs;

"(3) grants to accelerate Federal, State or local projects which are underway or on which the planning is completed or substantially completed;

"(4) relocation assistance for unemployed individuals and their families;

"(5) unemployment assistance, without regard to the maximum duration of benefits available under the unemployment compensation program of the State in which the Economic Disaster Area is located, but such assistance shall not exceed the maximum amount set by the State and shall be reduced to the extent benefits are available under State law;

"(6) housing assistance and any necessary assistance to assure that all individuals in the designated area have a balanced diet of nutritious food;

"(7) grants to States and units of local government to enable them to pay the State share of other Federal grant-in-aid programs which would assist economic recovery;

"(8) grants or loans to non-profit organizations and loan guarantees to private profit-making organizations for job creation and holding major employers who would otherwise substantially reduce employment in the area; and

"(9) such other assistance which the Director of the Office, with the concurrence of the President, determines to be necessary and best suited to meet the needs of persons living within an Economic Disaster Area."

"STATE FULL EMPLOYMENT AND ECONOMIC RECOVERY PLANS

"SEC. 608. (a) The Director of the Office is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for relieving unemployment and stimulating regional economies in anticipation of future economic downturns and rising levels of unemployment. State Full Employment and Economic Recovery Plans (hereinafter referred to as "State Plans") shall be prepared and administered by a single State office to be designated by the Governor.

"(b) State Plans shall include—

"(1) short range emergency actions for economic stimulation and the creation of employment opportunities;

"(2) long range recovery plans requiring large capital expenditures and designed to improve public services and the quality of life;

"(3) an up to date continuing status report on: (i) on-going public works projects; (ii) public works projects on which planning has been completed but on which construction has not begun; (iii) public works projects which are being planned;

"(4) a contingency program for the continued delivery of essential public services, food products and the provision of adequate housing to persons displaced downturns; and

"(5) a current catalogue of State assistance programs designed to provide temporary or long term relief to individuals unemployed or otherwise damaged by economic forces beyond their power to anticipate or control.

"(c) The Director of the Office shall periodically review State Plans and shall prepare for submission to the Congress an annual report on the status of State planning and the actions of his Office under this Act.

"REVOCATION OF ELIGIBILITY

"SEC. 609. Any region designated as an Economic Disaster Area shall remain eligible for Federal assistance under this Act for a minimum period of one year. The Director of the Office shall recommend the removal of an area from the designated list of eligible areas only after a full review of the local economy, the area's employment level, the improvements resulting from assistance made available under this Act as well as the removal of the area from the Department of Labor's monthly bulletin on 'Area Trends in Employment and Unemployment.' Benefits made available under this Act shall be phased out over a reasonable period of time and in an orderly manner which will not disrupt the local economy."

"REGULATIONS AND NONDISCRIMINATION

"SEC. 610. The Director of the Office shall issue and may alter and amend such regulations as may be necessary to implement this Act. Such regulations shall include provisions for insuring that the relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to designation of an area as eligible for benefits under this Act."

DEFINITIONS

"SEC. 611. As used in this Act—

"(1) 'Director' means the Director of the Office of Economic Aid to Depressed Areas;

"(2) 'Economic Disaster Area' means a geographical area which the President has designated as meeting the criteria of section 4 of this Act;

"(3) 'Federal agency' means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government;

"(4) 'Federal coordinating officer' means an employee of the Office of Economic Aid to Depressed Areas who shall serve as the chief Federal officer in dealing with areas designated as Economic Disaster Areas;

"(5) 'Federal Economic Recovery Fund' means the fund established in section 9(a) of this Act to finance the programs authorized by this Act;

"(6) 'Full Employment and Economic Recovery Plans' means contingency plans prepared by the individual States pursuant to section 10 of this Act;

"(7) 'Governor' means the chief executive of any State;

"(8) 'Local government' means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village, and, for the purposes of this Act, shall include any Indian Reser-

vation or Indian community which enjoys a trust relationship with the United States:

"(9) 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands; and

"(10) 'United States' means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

STATEMENT BY SENATOR HENRY M. JACKSON

Mr. Chairman, I want to express my appreciation for the interest which you and other members of the Public Works Committee have shown in the economic problems which confront the State of Washington, and in particular, the City of Seattle. The citizens of Seattle, facing the dubious distinction of having the highest unemployment rate of any city in the Nation, welcomes your interest and presence.

This two day hearing by the Subcommittee on Economic Development provides an excellent forum to discuss the myriad economic ills of our State, the factors which contributed to these problems, and the effect unemployment has had on the economy and the individual. I feel such testimony is essential to the development of programs designed to reduce unemployment and to maximize the benefit to our economy.

I wish I could join you in hearing the testimony of elected officials, business leaders and concerned citizens, but I am scheduled to address the Senate today on the same matter which concerns you here today—the economic problems of Washington State and our nation and what can be done to ameliorate this depressing situation.

It is a most distressing experience to receive letters from constituents pleading for help because they have no jobs, because they have used all their unemployment benefits, or because they simply cannot feed their families.

We tend to deal with statistics or numbers to reveal the magnitude of the unemployment problem, but if this situation is put on an individual case basis, the misery, anxiety and suffering become much more apparent. The recently graduated scientist or engineer will retrench temporarily, but can usually rebound because he has maximum flexibility, no firmly established community ties, and can relocate or even be retrained if necessary. However, the mid-career employee who has a mortgaged home, children in school, and has become firmly implanted in the community with major family and business responsibilities is likely to become extremely depressed and perhaps lose all self-confidence. The prospect of facing a bank foreclosure on home and car, the thought of being unable to provide adequate schooling for children, and the potential of poverty is nearly impossible to tolerate. Perhaps the cruelest blow is dealt to the employee who has devoted long years to his work and who looks forward to retirement in a few short years. Now out of work and in his mid-fifties, the prospect for employment even at a reduced pay scale is remote. Worse yet, many find that their retirement benefits are lost. Many of these people have lost all hope.

Mr. Chairman, our unemployment situation in Washington is not only geographically widespread, but it is in some respects unique. Consider these examples:

The loss of more than 50,000 Boeing Company jobs in the Seattle area since 1968;

The drastic reduction of employees associated with the nuclear reactors at Hanford, with the possibility of still further reductions in the labor force;

The large-scale layoffs in the forest products and home building industries.

The diverse farm problems which have reduced many to bankruptcy and threaten far more.

Perhaps the most frustrating part of the harsh economic blow which the State of Washington has been dealt is the fact that in most respects it as been something over which the affected businesses have had little or no control. The success of our three most economically important businesses, aerospace, agriculture, and forestry, is dependent upon moderate-to-low interest rates and the availability of money. The record high interest rates, when coupled with a "tight money policy" have been particularly disastrous to our economy. For example:

The forest products industry depends upon the housing market for the purchase of 50% of its total output, and housing starts have been greatly reduced during the past two years;

The Boeing Company, whose revenues are derived predominantly from commercial aircraft sales, cannot sell planes if the airlines are unable to finance them at reasonable interest rates. Superimposed upon this is the recent decision by Congress to terminate the SST program.

The farmer, who has always been dependent upon the banks for operational loans, has frequently been unable to secure capital even at exorbitant interest rates.

One of the factors frequently overlooked in the economic plight of our State is the adverse secondary effects which occur whenever a major industry falters. Although this situation is most prevalent with subcontractors or other suppliers to the aerospace industry, it also applies to the agriculture and forest products fields. Like an iceberg, much lies below the surface and must be carefully surveyed to fully appreciate its vastness.

There are no simple solutions to the complex problems which confront our State. Complex problems require complex solutions, both of a short term and long term nature.

The purpose of this hearing is to consider what immediate assistance can be provided to stimulate the economy and to reduce unemployment levels. I know the committee will receive numerous lists of badly needed public works projects, and as a cosponsor of the accelerated Public Works bill in the Senate, I hope these recommendations will be favorably received. The House of Representatives is scheduled to take up their APW bill on April 21, and I am confident this Committee will expedite action so it may become law and be implemented immediately. As presently written, Seattle, Tacoma and other hard pressed Washington cities will be among the first to benefit under the bill.

Another measure which can be of real assistance to my State is the Emergency Employment Act, which I co-sponsored, along with 33 of my colleagues. This measure, which recently passed the Senate, is designed to put some 150,000 unemployed persons to work in State and municipal public jobs during the next two years. Enactment of this legislation is essential not only because of the sharp rise in unemployment in urban areas generally, but also because the drop in revenues available to city governments has resulted in a severe cutback of vital municipal services—a matter which compounds the hardships suffered by the unemployed. At a time when there are so many highly capable men and women sitting idle, temporary employment measures such as this must be made available without delay.

I am well aware of the fact that last December the President vetoed the Employment and Manpower Act, which provided for a permanent public service employment program. I am equally aware that he is opposed to the Emergency Employment Act. However, if he attempts to kill this measure, which promises immediate albeit temporary relief to so many who want to contribute to the nation's economy, and I am reasonably certain Congress will override his veto.

An existing program which can provide significant temporary employment assistance if extended and expanded is the Employment Supplement Program. The Employment Supplement Program in Washington State has been generally acknowledged as a highly effective way of providing those most severely affected by the economic slump with a source of temporary income and the dignity of work. There are approximately 700 public agencies and non-profit organizations in the Seattle area alone who have requested participants from this program. However, the program has operated on such a limited scale that these requests were not filled. Yet it is estimated that there are thousands of eligible applicants in Washington, and the figures continue to rise rapidly as more people exhaust their extended unemployment entitlements. I have written Secretary of Labor Hodgson about this matter, and I trust he will see fit to approve the proposal submitted by the Washington State Employment Security Department to extend this program to encompass the ESP's training period and expand this program to encompass 10,000 participants on a Statewide basis. I feel it would be extremely unfortunate if a program with such potential should expire due to lack of funds.

One of the most poorly understood, but potentially most devastating actions the President has taken is to impound federal money which Congress has appropriated and intends to be expended for public purposes. A recent review of this matter by Senator Ervin revealed that in excess of $11 billion has been frozen by the President. When countless unemployed walk the streets looking for work, this is a cruel and unwise impoundment of public monies. In effect, the President is exercising an item veto over appropriations acts by Congress, a power which he is denied in the Constitution.

I have obtained a breakdown of these frozen funds as they affect the State of Washington. In addition to the millions of dollars for agricultural research, military construction, environmental research, atomic energy, and water resource development programs, there are more than $125 million of Federal Highway Trust Fund monies sitting idle and ready to provide work if only the President would approve of their expenditure. Not only should much of this frozen money be spent to stimulate the economy, but a formula should be developed so that when released, a preference would be given to high unemployment.

The aforementioned, while offering great potential for reducing unemployment and stimulating our State economy, provides little hope for one segment of our unemployed—the highly trained and highly productive. Never before in the history of the United States have so many skilled engineers and scientists been reduced to poverty and human suffering as a result of a shift in "national priorities." The Boeing Company alone has been forced to release nearly 7000 engineers and scientists in the past three years because a decision was made by a bare majority of the Congress to terminate the SST program. In addition to the thousands of engineers and scientists who have already lost their jobs at Boeing, several thousand more will be released this year. In addition, there is the unemployment multiplier effect which hits equally highly skilled help in firms which do a large share of their business with Boeing and other firms in the aerospace industry.

Although many of these people may well end up working in accelerated public works or in public service programs if they are enacted, I am concerned that their talents will not be fully utilized and the benefits which could be derived from their experience and abilities will be lost. One of the most difficult tasks facing me, this Committee and other members of Congress, is how to best employ these people to benefit the United

States and the employer to the maximum extent.

Here is where we must differentiate between short range and long range programs. The short range programs will help the skilled and semiskilled wage-earner worker while being of nominal assistance to the highly trained salaried individual. There is some immediate federal assistance available to these people, such as the National Registry for Engineers, which is essentially a job bank which matches personnel skills with job opportunities. Similarly, the Department of Labor has initiated a small program to retrain or relocate technically trained persons. Both of these programs offer little assistance to most of those desiring substantive work.

I am hopeful that testimony received by this Committee during the next two days will stimulate ideas as to how long-range self-help programs can be designed to assist the unemployed and help the United States to more adequately meet the many social and environmental problems which are now areas of prime national concern. Whatever the testimony, I am sure there will be no single answer to the myriad unemployment problems confronting the State of Washington. Federal loan programs will help some, retraining may be a partial solution to others, and government research and development or production contracts will help certain businesses.

I again wish to express my thanks to the Committee for their sincere interest in the economic problems confronting the State of Washington. I am hopeful that many of the recommendations received at this hearing can be translated into short-term and long-term assistance programs which will bring relief to the unemployed of my State.

STATEMENT OF SENATOR MAGNUSON

Mr. President, today I join my colleague from Washington in sponsoring the Economic Disaster Area Relief Act of 1971. This measure answers the dire need in certain areas of the country for special aid and assistance when economic conditions create the severest kinds of human dislocation.

This measure also recognizes the blunt fact that federal decision making can and does randomly, harshly, and unfairly affect certain communities in the United States. The Seattle/King County area in Washington State is experiencing additional economic hardships because of the recent decision to cancel the SST program. This decision, coupled with the general downturn in the economy, has placed this area at the very top of the Nation's unemployment statistics with an adjusted rate of 13.1% unemployed. These figures are all based on "insured unemployment" and do not indicate how many others in this area are not covered by unemployment compensation or have given up their search for new employment. These figures, also, do not reflect "underemployment" which is an economic fact of life in Seattle/King County area. Engineers, scientists and skilled aerospace workers are taking whatever job is available in order to support their families. This certainly is a tragic waste of educational capability, scientific background and actual work experience.

This measure creates in the Office of the President a special office which will give leadership and hope to communities suffering severe economic dislocation; this legislation also provides a 2 billion dollar pool of funds from which the President can draw in order to finance emergency federal assistance to communities with disastrous economic problems.

Mr. President, the Senate Public Works Committee recently held hearings in Seattle and other parts of the nation in order to get a better understanding of the existing situation and to see if legislative action is needed. I have been informed that the committee is considering emergency legislation similar to that which is being introduced today by Senator Jackson and myself. I applaud this effort and pledge my wholehearted support to the Public Works Committee in seeking a legislative solution to this great problem. This bill being introduced today, is, in my judgement, timely, and presents the Committee with a potential amendment to the Accelerated Public Works legislation (H.R. 5376) recently passed by the House which is now pending before the Senate Public Works Committee.

Mr. President, my statement before the Senate Public Works Committee in Seattle, follows.

STATEMENT BY SENATOR WARREN G. MAGNUSON, BEFORE THE SENATE PUBLIC WORKS COMMITTEE, APRIL 14, 1971

Mr. Chairman and members of the committee, welcome to Washington. I speak, I'm sure, for all Washingtonians when I say that we sincerely appreciate your coming here today. Mr. Chairman, I am especially pleased that both you and Senator Montoya, chairman of the Subcommittee on Economic Development, have come to view up-close the economic disaster which has struck Seattle and the rest of Washington. The concern which both the full committee and the subcommittee obviously feel for the economic plight of this area will help, I'm sure, to focus national attention upon the difficulties we face.

Mr. Chairman, note that I say difficulties—not difficulty. Two separate and distinct problems face us and demand solution. First, is the immediate problem of severe unemployment and the hardships it has created. It is here now and must be met with emergency measures now. Second is the long-term, more complex problem of creating a new economic base capable of sustaining growth and prosperity in the future. Both are serious. But they are separate problems requiring separate approaches and different solutions.

First, then, what are the dimensions of the immediate unemployment problem?

Washington has the highest unemployment rate among the 48 contiguous States.

And Seattle, with a February unemployment rate of 13.1 per cent, is the first major city in the Nation since 1962 to experience unemployment above 12 per cent.

In 1968, Washington's unemployment rate was 4.3 per cent. In February of this year, it was 11.8 per cent.

In 1968, about 59,000 persons in Washington were jobless. In 1969, there were 67,000. In 1970—117,000. This January, there were 161,000. In February, there were 162,000; and after the defeat in Congress of the SST, there were approximately 180,000.

In 1968, the aerospace industry employed 104,000 people. By the end of this year, that figure will have dropped to about 29,000.

The State's three major urban centers—Seattle/Everett, Tacoma, and Spokane—have all experienced sharp increases in unemployment. In 1968, the unemployment rates for these three areas were, respectively: 2.9, 4.2, and 4.7 per cent. This February, the seasonably adjusted rates for the same areas were 10.9, 9.5, and 7.7 per cent.

In addition to the major metropolitan areas, 17 other areas in the State are now classified as persistent unemployment areas. That means they have had unemployment far above the national average for a prolonged period of time. Two others are listed as substantial unemployment areas—in other words, they have unemployment rates above 6 per cent.

At this time, then, Washington's three major urban centers as well as 19 other areas are struggling with unemployment above the national average. Taken together, they comprise 25 of the State's 39 counties. Translated into more human terms, this means 3 million of the States 3.5 million residents live in areas where unemployment is above 6 per cent. It is not difficult to imagine how that is affecting local tax revenues and the ability of local governments to meet their responsibilities.

The impact on business has also been severe. Commercial business failures increased from 119 in 1969 to 298 in 1970. In Seattle alone, the number of failures soared from 12 in 1969 to 68 in 1970—an increase of more than 500 per cent.

But it is the family without a paycheck that is suffering the most. There are 60 per cent more families in the State with employable—but unemployed—members on welfare now than there was a year ago. In the industrialized western part of the States, the increase has been an even greater 87 per cent. Some 92,000 families—or 280,000 persons—were buying their groceries with food stamps rather than cash in January and the total continues to rise. In the Puget Sound region alone, food stamp recipients quadrupled between 1969 and 1970—from 39,000 to 150,000. As a result, King County, which includes Seattle, has the dubious distinction of consuming more food stamps than any other county in the Nation.

Foreclosures have shot up even faster. In all of 1969, there were only 189 foreclosures in the State on FHA guaranteed mortgages. But in just the first three quarters of 1970, there were 1,034.

To sum up:

Washington has the highest unemployment rate in the contiguous United States.

Seattle is the first major city in the country to experience unemployment above 12 per cent since 1962.

Statewide unemployment has nearly tripled in two and one-half years.

Unemployment in the Seattle/Everett area has nearly quadrupled in the same period.

By the end of this year, aerospace employment will have shrunk to about a third of its 1968 size.

85 per cent of the State's population lives in areas where unemployment is above 6 per cent.

Commercial business failures in the State increased 150 per cent in 1970 and more than 500 per cent in Seattle.

Foreclosures on FHA mortgages increased nearly 1,000 per cent in 1970.

Mr. Chairman, in the past two years we have heard a great deal about the administration's game plan for the economy. But so far, the President's economic game plan has been about as successful as the Vice President's golf game. And while there have been some signs that the President may now be prepared to take a more active role in the Nation's economic affairs, there is still reason to question whether he will take the concerted, forceful action which is necessary if areas such as Seattle are to recover anytime soon. As Northwestern University economist Robert Eisner told the Joint Economic Committee in February:

"In view of the unemployment that has developed and the discouraging slack in capacity well noted by the Council [of Economic Advisers], the 1972 budget, and the economic report which accepts it, manifest a timidity which entails a reckless gamble with the jobs and well-being of a significant segment of the American people."

Mr. Chairman, we cannot afford to confront this area's unemployment problem with timidity nor can we leave its solution to mere chance.

As I noted at the outset, this problem is here now and must be confronted with emergency action now.

For that reason, I have urged all federal agencies to re-examine their procurement and contracting policies in view of the severe

unemployment caused here and elsewhere by cutbacks in aerospace and defense industries.

I've urged the Departments of Labor and HUD to accelerate planning for their joint program scheduled to begin this summer to re-orient unemployed aerospace professionals for jobs in local government. And I have been assured that the Seattle/Everett area is one of the ten regions under consideration as a recruitment area for this pilot program.

In addition to urging immediate executive action, we must also seek emergency legislative action. For example:

The emergency employment act of 1971, which would provide $1.75 billion during the next two fiscal years for additional jobs in the public sector.

Senate Concurrent Resolution 4, which calls upon the President to put 1,500 unemployed aerospace engineers and 500 veterans to work in the nation's model cities programs.

Senate Resolution 58, which calls upon the President to use the public works funds that Congress has already approved but which he has refused to spend.

Senate Bill 735, an amendment to the National Housing Act, which would allow the Federal Government to insure loans made by private lending institutions to jobless homeowners in danger of losing their homes.

And, Mr. Chairman, your proposal, the accelerated public works act of 1971, which would provide Federal funds to finance the construction of urgently needed public works projects while, at the same time, employing the unemployed.

As a co-sponsor of your bill, Mr. Chairman, I can assure you the need for such public works projects is indeed great in Seattle and throughout the state. Furthermore, I can assure you that a great number of these projects could be started this year if the necessary Federal funds were available. In Seattle, local matching funds are available and the blueprints are drawn for the following projects:

24 street and sewer projects, creating 8,780 man days of employment and costing $16,-810,000.

6 new fire stations, requiring 14,799 man days of work and costing $2,623,000;

13 park and recreation projects, providing 3,867 man days of employment and costing $1,322,500;

3 water projects, creating 21,978 man days of employment and costing $3,245,000;

2 new municipal buildings, requiring 22,096 man days of work and costing $5,050,000; and

16 city light projects, creating 70,659 man days of employment and costing $8,678,800;

For a total of 64 projects providing 142,179 man days of employment and costing $37,-729,300.

Similar needs exist throughout the state. For example, according to the Economic Development Administration in Washington, D.C., there are 20 EDA project proposals worth $38 million now pending from Washington state.

A recent survey of the second congressional district, which encompasses four counties north of Seattle, turned up the following public works investment needs:

In seven Indian communities—$10 million;

In Jefferson County—$16.5 million;

In Skagit County—$20 million;

In Clallam County—$31 million;

And in Snohomish County—$115 million.

Eventually, we will have to undertake the construction of these urgently needed public works projects. We can build now or wait for inflation to push prices even higher. We can employ now or wait for unemployment to rise even further. But the proper choice is obvious. Common sense and the immediate need for jobs dictate that we should build now and employ now.

That is what we *should* do, and that is what we *can* do if the accelerated public works act is passed by the Congress and implemented by the President.

Mr. Chairman, up to this point I've spoken only of economic first aid-emergency action to meet the immediate unemployment problem. Now we must turn our attention to the second problem. Once we have applied this economic first aid, what can we do to ensure sustained economic health in the coming years and decades? Unlike doctors with their miracle drugs for our physical health, economists have no ready prescriptions for our economic health. But examination of what has occurred here does provide three broad guidelines for the future.

To begin with, let's review briefly two of the statistics mentioned earlier. As you will recall, in the past two and one-half years, Aerospace employment in Washington has declined to about a third of its 1968 level. During that same period, total unemployment has nearly tripled. In other words, there has been a very close correlation between decreases in Aerospace employment and increases in total unemployment. The moral of that story is strikingly clear—if we are to avoid the pitfalls of a boom-or-bust economy in the future, our first task is to diversify and broaden our industrial base.

Second, just as we must diversify the economy, we must also diversify responsibility for our economic health and welfare; so that the burden is more equitably distributed among all levels of government. We cannot gamble our entire economy upon the Federal Government or one or two Federal projects. Now, I am not suggesting that the Federal Government's role in Washington will not continue to be a large and important one. For example, the Department of Labor and the Department of Health, Education, and Welfare are spending a combined total of more than $1 billion in Washington State this year. And, as chairman of the Senate Subcommittee which oversees both departments' budgets, I expect their expenditures in Washington will continue to grow in the coming years.

For what is more important to a healthy economy than a healthy and well educated population? I would also expect that the expenditures of other Federal departments in Washington will continue to grow just as they have over the years; until now, in fiscal 1971, we find the following approximate amounts being spent here:

$658 million out of the defense budget;

$260 million by the Department of Transportation;

$237 million by the Interior Department;

$61 million for public works;

$13 million for military construction;

And $296 million from the budgets of the Treasury Department, Postal Service, and other Government agencies.

But the Federal Government cannot carry the burden alone. State and local governments must be prepared to shoulder more of the responsibility and to provide greater leadership in economic affairs. Industry, too, must take a hard, searching look at itself and its responsibilites to the community.

Finally, Mr. Chairman, we must constantly remember in the years ahead that economic health must not be purchased at the price of environmental destruction. Now, Mr. Chairman, that statement may sound strange and unrealistic to some people in this country. For they have conjured up a view of the world in which economic growth and environmental integrity are mutually exclusive.

Their's is a negative view of the world and their watchword is "Stop". Stop the development of technology, they tell us, and the environment will be safe. Stop the growth of our economy, they promise, and men will lead more joyful lives. It is not only a negative view, Mr. Chairman, it is also a very unrealistic view.

Instead of this negative and unrealistic view, we must develop a positive and realistic outlook. And our watchword must be "advance". Let's not halt technological development. Let's advance it so that it will not only be environmentally safe, but so that it can also be used by man to preserve and enhance his economic environment.

The guidelines for the future, then, are:

Diversification of economic activity;

Diversification of the responsibility for our economic health; and

Economic development without environmental destruction.

Within those guidelines, there is an opportunity here as vast as the Pacific Ocean. Ready access to the Pacific via Puget Sound; the availability of a wide variety of engineers, scientists, and technicians; and the expertise of the University of Washington's Department of Oceanography and College of Fisheries make this the natural center for a national oceanographic research and marine development effort.

Through the cooperative efforts of all levels of Government and the business community, development of this vast potential can provide much of the diversified economic activity which is so critically needed. With planning, not only can this economic development be achieved without ecological damage but, in fact, it can teach us much about how we can use technology to preserve and enhance the natural environment.

And this is not merely a dream. The new National Oceanic and Atmospheric Administration has already announced that Seattle will be its west coast headquarters. Early this summer, NOAA's Administrator will come to Seattle at my request and make a thorough inventory of this region's oceanographic and marine resources.

The Senate Commerce Committee's Subcommittee on Oceanography will come to Seattle, together with officials of NOAA, for hearings to determine the best methods for establishing the Puget Sound area as the National Center of Oceanographic Research and Marine Development.

Because the potential is so vast, I have already taken steps to assure that this great natural resource is not lost at such time as oil shipments begin to come south from the Alaskan north slope. I have introduced legislation giving the Coast Guard broad new authority to regulate vessel movements in our harbor and coastal areas to reduce the possibility of tanker collisions and the oil spills they cause.

Another proposal would require all vessels operating in Puget Sound to use bridge-to-bridge radio systems to further reduce the possibility of collisions. I have been working closely with the Commerce Department to assure that tankers constructed to enter Puget Sound will utilize every known pollution safeguard. And because cooperation among public officials at all levels is so important, I have written to mayors and port officials throughout the Puget Sound area spelling out my concerns and asking for their comments on these proposals.

Oceanographic research and marine development is only one of several potential sources of economic diversification and long-term growth. Others include:

Development and demonstration of new high-speed urban and inter-urban mass transit systems;

Application of the same systems management techniques, which put huge jets into the sky and men on the moon, to our massive human development problems;

Creation of new methods for managing our great natural recreation areas so that more people may enjoy them without destroying them;

Development and demonstration of comfortable and practical low-cost housing.

With planning, cooperation, and sensible development, I am confident that economic

diversification and economic health can be achieved while, at the same time, we preserve our natural environment. That must be our long-term objective.

But, before I close, let me stress once more that we are faced with two different problems—the long-term problem, which I just discussed, and the short-term, immediate problem of severe unemployment, which I examined earlier. And let me emphasize that, while we plan for the future, we must also act now to solve the problem which must be solved now—the immediate problem of extreme unemployment and the need for accelerated public works construction.

Thank you.

By Mr. BENNETT:

S. 1780. A bill to amend the National Labor Relations Act in six areas closely related to one another, all of which touch in varying degrees the kinds of collective bargaining units which should exist under the act. Referred to the Committee on Labor and Public Welfare.

Mr. BENNETT. Mr. President, today I present for appropriate reference a bill to amend the National Labor Relations Act in six areas closely related to one another, all of which touch in varying degrees the kinds of collective bargaining units which should exist under the act. All these amendments are designed to correct misconceptions and misconstructions of the law by the National Labor Relations Board, and to some extent by the courts as well.

Without going into great detail about any of these separate amendments, Mr. President, I shall comment briefly on each one, cite the reasons for proposing it, and identify briefly the situation each amendment is designed to remedy.

The first amendment encompassed in this bill relates to so-called economic strikers. That is, employees who strike in furtherance of some economic goal, such as a demand for a wage increase, but who are not involved in any claim that an unfair labor practice has been committed.

Mr. President, this provision has a fairly long history. Under the 1935 Wagner Act, several NLRB and court decisions developed the proposition that though replaced economic strikers had no right to reinstatement, they might still vote to determine what union would represent employees of their former employer. To correct this, Congress in the 1947 Taft-Hartley Act specified that permanently replaced economic strikers would have no vote in NLRB elections. Nevertheless, in recent decisions the NLRB and the Courts have given a substantial right of replacement to an economic striker. The present state of the law appears to hold that economic strikers remain employees and are entitled to reinstatement at whatever future time their replacements might leave. This seems to eliminate a major risk involved in striking, and thus it encourages industrial unrest. The amendment remedies this defect by excluding a replaced economic striker from the definition of "employee" under the Act.

Mr. President, the second amendment deals with coalition bargaining, a subject about which we all heard a great deal during the last copper strike. Coalition bargaining is a fairly recent development on the industrial relations scene. Generally speaking, its purpose is to force company-wide negotiations with a team representing various unions, rather than adhering to the statutory pattern where a union deals with an employer only on behalf of employees in the particular bargaining unit where those employees work. The NLRB has required that a company meet not only with the representative of employees in a particular unit, but with a team of other unions representing employees in other bargaining units as well. This, despite such important considerations as different expiration dates for contracts, and the fact that under the act separate units are designated because employees in those units have separate and distinct concerns, concerns very different from the interests and concerns of workers in other bargaining units. In short, the NRLB would force upon employers and employees a bunching of bargaining representatives where the employees they represent are strangers to one another and where their interests are so diverse as to warrant the establishment of their own separate bargaining units in the first instance. My amendment, Mr. President, would restate the intent of Congress that employers be compelled to bargain in each case only with those representatives duly designated as the bargaining agent for employees in a particular unit. This does not limit the right of any union to consult in any way it sees fit with any source of advice and counsel in connection with its own bargaining responsibilities. Rather, the amendment seeks to restate the congressional purpose of giving to employees in a specific bargaining unit the right to be represented in negotiations with their employer by a union they have chosen to speak for them.

Another amendment, Mr. President, the third in this group, addresses itself to what might be called a type of reverse gerrymandering—a later amendment deals with direct gerrymandering of units, and I will discuss it shortly. Here the NLRB, instead of carving up established and appropriate bargaining units, has ordered the consolidation of several units into one. This, even though no union seeks election in the new and enlarged unit, and even though established patterns of separate bargaining exist. This makes a sharp departure from the long-time practice where petitions to merge or consolidate such units would not be entertained unless a genuine question of representation was found to exist.

Mr. President, this amendment would end this type of ad-lib consolidation and merger, but would not bar a legitimate petition by a rival union. Neither would it affect established rights of employees to move to decertify a particular union. It is designed to put a stop to what I would call a novel reverse type of gerrymandering, a practice which can only generate industrial strife by disturbing lawful and establishing bargaining relationships.

The fourth of these amendments, Mr. President, would clarify the right of an employer to seek an NLRB election among his employees. The requirements of the law are clear enough. The same rules apply in an election regardless of who files the petition. Nevertheless, the NLRB has applied more restrictive rules to employers seeking elections than to unions. Under its present practice the Board requires an employer to show by a variety of so-called objective considerations that he has reasonable grounds for doubting an incumbent union's majority status. The fact that the certification of that union may be many years old, or that there has been a very considerable turnover of employees, will not be viewed by the NLRB as objective considerations. Further, the employer is prohibited from polling his employees about union preference. He is, for these various reasons, effectively prohibited from exercising a right the act confers upon him. The amendment here corrects the inequity of present Board holdings by authorizing an election on the petition of an employer who is confronted by one or more claims for representation, and where there has not been a valid election in the unit within the preceding 12 months.

The next amendment, which likewise touches upon the bargaining unit, is aimed at stopping the growing practice of directly gerrymandering established and logical units of employees. This is usually done to arrive at a new unit in which a particular union might be expected to win an election. Despite a congressional directive in the Taft-Hartley law that the extent to which employees have been organized shall not be controlling in determining an appropriate bargaining unit, the NLRB has nevertheless diluted that prohibition to the point where it is now almost meaningless. This amendment would stop the various gerrymandering practices under which employees have been denied a fully effective voice in their own collective bargaining affairs.

In the bill's sixth proposal, Mr. President, an additional amendment would prevent the NLRB from fragmentizing an appropriate multiemployer bargaining unit. Until recently, where a multiemployer unit had been established with the consent of the parties, the NLRB held that it was an unfair labor practice for a union to insist then on dealing with individual members of that multiemployer unit. Nevertheless, in recent reversals of that long-established pattern, the NLRB has held that a union might disregard such multiemployer history and negotiate on an individual basis; also, that a union might single out some members of such a group for individual bargaining, but bargain with the rest as a group. Obviously such whipsaw tactics are disruptive of peaceful relationships. Multiemployer units existed long before even the Wagner Act became law. Further, they have been recognized as appropriate bargaining units in NLRB decisions for decades.

The amendment here, as indicated earlier, would make it clear that an appropriate multiemployer unit cannot be fragmented by a union which has been a party to multiemployer negotiations in that unit. At the same time, it makes clear that no employer can

refuse to bargain with a group of unions who are joint representatives of his employees.

Mr. President, all these amendments are necessary to redirect the National Labor Relations Board along lines prescribed for it by the Congress in the Taft-Hartley and Landrum-Griffin Acts. They should be promptly enacted.

By Mr. NELSON:

S. 1781. A bill to amend section 8 of the Federal Water Pollution Control Act, relating to grants for the construction of treatment works, in order to increase the Federal share of construction costs and to authorize the obligation of certain amounts for such grants, and to amend section 10 of the act relating to water quality standards, and for other purposes. Referred to the Committee on Public Works.

CLEAN WATER FINANCING ACT

Mr. NELSON. Mr. President, 5 years ago I introduced a bill providing 90 percent Federal aid for the construction or upgrading of municipal waste treatment plants. Even then the conclusion was inescapable: If the Federal Government did not step in with massive aid to cope with the rapidly mounting wastes of our cities, the ruin of our rivers and lakes from one end of the country to the other was only a matter of time.

Today I am reintroducing this proposal to put the Federal funding of this vital water pollution control program on the same 90–10 basis as our Interstate Highway System and urge adoption of this measure as Congress acts on the future of the national water quality effort.

Adopting the 90–10 formula is the best way to accomplish the objective of protecting our water resources. Furthermore it would be an effective means of relieving the pressure on the property tax system at the local level. The 90–10 aid for water pollution control is also probably as effective a method as could be devised to implement the tax sharing concept now being so widely discussed.

To provide the funds for 90–10 Federal aid for water pollution control, this proposal, the Clean Water Financing Act of 1971, would authorize a total of $25 billion over the next 5 years.

To eliminate the funding gaps that have occurred in the past between authorizations and appropriations in this crucial effort, the clean water measure would also authorize the Administrator of the Environmental Protection Agency to incur obligations up to the full $25 billion during the 5-year period, with Congress liquidating the obligations at the rate of $5 billion a year. A similar approach was used in the Urban Mass Transportation Act amendments last year and has been proposed by the National League of Cities for the water pollution control program.

The case for 90-percent Federal aid to achieve adequate municipal waste treatment plants in this country is even more compelling than in 1966.

For the next 6 years alone, $33 to $37 billion will be necessary to meet State and local water pollution control facility needs, according to a survey by the National League of Cities and U.S. Conference of Mayors.

In my State, the Wisconsin League of Municipalities estimates the total need for the next 5 years at $816.5 million, and the State estimates there will be $300 million in projects eligible for Federal water pollution control aid under the present program for the next 5 years.

All around the country, the tragic story of severe pollution and inadequate treatment continues to unfold. In the New York City area, no less than five of 18 municipal systems are still pumping raw sewage into those already polluted waters. In Boston, five municipal systems dump 400 million gallons a day of primary-treated sewage into the harbor.

On the west coast, Los Angeles and Los Angeles County together pour 700 million gallons a day of sewage into the Pacific, most of it with only primary treatment; San Diego puts in 80 million gallons a day of primary treated sewage. In San Francisco Bay, roughly 700 billion gallons a day of effluent is going in from about 20 industrial and municipal outfalls, with about half of the wastes treated at only primary levels.

In the Mississippi River close to the Gulf of Mexico, the city of New Orleans discharges millions of gallons a day of raw sewage.

Meanwhile, the demand intensifies for every more efficient waste treatment. For many cities, mounting waste loads and the increasing complexity of wastes are already rendering secondary waste treatment facilities obsolete.

Yet already, cities and States are staggering under the burden of gigantic and accelerating demands for all services. And with the continuing squeeze on State and local resources, anything less than massive Federal help on the scale of the Interstate Highway System program would mean we are merely toying with the problem of municipal pollution instead of solving it.

In sum, with the 90–10 Federal aid formula and financing on the scale of the Interstate System, we could take a giant stride in this country toward stopping the devastation of our rivers and lakes and parts of the ocean itself. In the long pull, this would be an investment return for the future well-being of America far greater than that from the Interstate Highway System.

Anything short of a dramatic reordering of priorities for pollution control funding will only insure increasing environmental filth and destruction everywhere, if that is conceivable. The less we spend, the more it costs: Already, according to the U.S. News & World Report, water pollution does an estimated $12 billion in property damage alone each year in the United States.

Also, to achieve the most effective waste treatment levels possible, I have proposed in testimony on S. 192, my ocean pollution control bill, that the EPA Administrator in issuing any permits for disposal of liquid or solid wastes in the ocean would have to require that at the earliest practicable date, the permittee adopt the best available waste treatment or recycling methods. I am introducing an amendment today to S. 192 to clarify this.

Because almost all water pollution ultimately winds up in the ocean it is clear that to protect the fragile marine environment as well as clean up our rivers and lakes, such a requirement is going to have to be set on all waste dischargers inland as well as in coastal areas, and the Clean Water Financing Act includes this requirement by amending the water quality standards program.

And as waste treatment and solid waste management technology improve, the pollution control standard should be upgraded. Under this approach, as the new technology becomes available, the standards would have to be further upgraded and industry and municipalities would have to act to meet the new standard by incorporating the new technology.

I ask unanimous consent that a copy of the Clean Water Financing Act 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. 1781

A bill to amend section 8 of the Federal Water Pollution Control Act, relating to grants for the construction of treatment works, in order to increase the Federal share of construction costs and to authorize the obligation of certain amounts for such grants, and to amend section 10 of the Act relating to water quality standards, and for other purposes

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 "Clean Water Financing Act of 1971".

SEC. 2. (a) Effective for fiscal years beginning after June 1, 1971, subsection (b) of section 8 of the Federal Water Pollution Control Act is amended to read as follows:

"(b) Federal grants under this section shall be subject to the following limitations: (1) no grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator and unless such project is included in a comprehensive program developed pursuant to this Act; (2) no grant shall be made for any project in an amount exceeding 90 per centum of the estimated reasonable cost thereof as determined by the Administrator; (3) no grant shall be made unless the grantee agrees to pay the remaining cost; (4) no grant shall be made for any project under this section until the applicants has made provision satisfactory to the Administrator for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof; (5) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs; and (6) the percentage limitation imposed by clause (2) of this subsection shall be decreased to 50 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if enforceable water quality standards have not been established for the waters into which the project discharges, in accordance with this Act in the case of interstate waters, and

under State law in the case of intrastate waters."

(b) Section 8(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) To finance the program and activities under this section, the Administrator is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $25,000,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $5,000,000,000 prior to July 1, 1972, which amount may be increased not to exceed in aggregate of $10,000,000,000 prior to July 1, 1973, not to exceed an aggregate of $15,000,000,000 prior to July 1, 1974, not to exceed an aggregate of $20,000,000,000 prior to July 1, 1975, and not to exceed an aggregate of $25,000,000,000 prior to July 1, 1976. The total amounts appropriated under this paragraph shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended.

"(B)" The allotment provisions of subsection (c) of this section shall apply to the amount obligated under this paragraph in each fiscal year."

(c) Section 8(f) of such Act is amended by striking out "10 per centum" and inserting in lieu thereof "5 per centum".

SEC. 3. Section 10 of the Federal Water Pollution Control Act is amended by inserting at the end thereof the following: "(1) Within six months after the effective date of this subsection, the Administrator shall issue regulations to insure that the water quality standards established or revised pursuant to this section shall include the requirement that the best available waste treatment or recycling technology shall be adopted at the earliest practicable date."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 10

At the request of Mr. MCCLELLAN, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 10, a bill to establish a national policy relative to the revitalization of rural and other economically distressed areas by providing incentives for a more even and practical geographic distribution of industrial growth and activity and developing manpower training programs to meet the needs of industry, and for other purposes.

S. 523 AND S. 573

At the request of Mr. MUSKIE, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 523, the National Water Quality Standards Act, and S. 573, a bill to amend the Clean Air Act and the Water Pollution Control Act by providing for standards for the manufacture of certain products to protect the quality of the Nation's air and navigable waters.

S. 582

At the request of Mr. HOLLINGS, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 582, a bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

S. 945, S. 946, S. 947, S. 948, AND S. 976

At the request of Mr. HART, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 945, the Uniform Motor Vehicle Insurance Act; S. 946, the Motor Vehicle Group Insurance Act; S. 947, to amend the Internal Revenue Code of 1954 to exclude from gross income contributions by employers to plans providing motor vehicle insurance coverage for employees; S. 948, to amend section 302(c) of the Labor-Management Relations Act of 1947; and S. 976, the Motor Vehicle Information and Cost Savings Act.

S. 1291

At the request of Mr. SCOTT for Mr. CASE, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1291, relating to the preservation and protection of certain lands in Prince George's and Charles Counties in Maryland.

S. 1382

At the request of Mr. MUSKIE, the Senator from Minnesota (Mr. MONDALE) and the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of S. 1382, a bill to provide financing for research and development in aviation and high-speed ground transportation in urban areas.

S. 1408

At the request of Mr. MUSKIE, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1954 so as to permit certain tax-exempt organizations to engage in communications with legislative bodies, and committees and members thereof.

S. 1410

At the request of Mr. HUMPHREY, the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Missouri (Mr. EAGLETON), the Senator from Nevada (Mr. CANNON), the Senator from Tennessee (Mr. BAKER), the Senator from Iowa (Mr. MILLER), the Senator from Utah (Mr. Moss), and the Senator from Illinois (Mr. STEVENSON) were added to S. 1410, a bill to amend the Higher Education Act of 1965 to establish a student internship program to offer students practical, political involvement with elected officials on the local, State and Federal levels of government.

S. 1461

At the request of Mr. MCGOVERN, the Senator from California (Mr. CRANSTON), the Senator from Rhode Island (Mr. PELL), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 1461, the Truth in Advertising Act of 1971.

S. 1485

At the request of Mr. RIBICOFF, the Senator from Illinois (Mr. STEVENSON), was added as a cosponsor of S. 1485, a bill to establish a Department of Education.

S. 1534

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BIBLE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 1534, a bill to amend title 10, United States Code, to prescribe additional health benefits for certain dependents.

S. 1554

At the request of Mr. HUMPHREY, the Senator from Nevada (Mr. BIBLE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Rhode Island (Mr. PELL), the Senator from Hawaii (Mr. FONG), the Senator from Indiana (Mr. BAYH), and the Senator from California (Mr. CRANSTON), were added as cosponsors to S. 1554, a bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 70 years of age or older, and to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 70 years of age or older.

S. 1612

At the request of Mr. MILLER, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1612, the Rural Community Development Revenue Sharing Act of 1971.

SENATE JOINT RESOLUTION 82

At the request of Mr. MILLER, the Senator from Delaware (Mr. BOGGS) was added as a cosponsor of Senate Joint Resolution 82, a joint resolution expressing a proposal by the Congress for securing the safe return of American and allied prisoners of war and the accelerated withdrawal of all American military personnel from South Vietnam.

SENATE RESOLUTION 113—SUBMISSION OF A RESOLUTION TO ESTABLISH A SPECIAL COMMITTEE TO INVESTIGATE ECONOMIC AND FINANCIAL CONCENTRATION

WHO OWNS AMERICA?

Mr. METCALF. Mr. President, no one knows who owns America. The available facts show that concentration of economic and financial power has increased markedly during recent years. Government methods of collection of data on ownership of corporations, and the holding companies which control them, are primitive. The geneology and kinship of the "grandfathers"—the beneficial owners of the holding company conglomerates—is not a matter of public record in many instances.

This administration, like its predecessor, is notably weak regarding law enforcement in the corporate sector. Government and corporations keep a great deal of data—much of it irrelevant and of questionable veracity—about millions of our citizens. But we do not collect and collate the basic data upon which antitrust, rate, pollution control, and equal opportunity law enforcement should be based.

The computers in which the Defense Department stores data on civilians, in-

cluding Members of Congress, need to be declared surplus, and put to use by civilian agencies—including the Congress—in collecting the information upon which meaningful law enforcement in the corporate sector can be based.

For these reasons I am today submitting a Senate resolution to establish a Special Committee To Investigate Economic and Financial Concentration. It would be composed of a chairman plus two members each from the following committees: Agriculture and Forestry; Banking, Housing and Urban Affairs; Commerce; Finance; Government Operations; Interior and Insular Affairs; Judiciary; Labor and Public Welfare.

This committee would be empowered to study and investigate the extent of concentration of economic power in and financial control over the production and distribution of goods and service in the commerce of the United States, and to submit to the Senate by January 31, 1973, for reference to the standing committees, a final report of its study and investigation together with its recommendations.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article by Stephen Aug in the May Washington Evening Star, entitled "Railroads Ownership Mystery Deepening."

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

RAILROADS OWNERSHIP MYSTERY DEEPENING

(By Stephen Aug)

The mystery of who actually owns some of the nation's largest railroads deepened this year as several of the big lines told the Interstate Commerce Commission in their annual report that their major owner was a single holding company, records on file at the ICC showed today.

ICC regulations have required for many years that every railroad list on its annual report to the commission its 30 largest shareholders. For years the requirement was fulfilled by simply listing brokerage firms which held the shares for customers and so-called nominee names which were actually some of the country's biggest banks.

But this year, the records show that nine big railroads listed only a single holding company as their sole owner—and no other list indicated who held the shares of the holding company.

SOLE OWNER LISTED

A spokesman for one of the nine—Starr Thomas, vice-president for law at the Atchison, Topeka & Santa Fe Railway—said his company had even received a request to disclose publicly on ICC records the 30 largest shareholders. As a result other railroad's sole owner is listed as Santa Fe Industries of Wilmington, Del.

Santa Fe Industries was formed about three years ago for the purpose of allowing the railroad to diversify into nontransportation businesses. Through the holding company, Santa Fe can issue stock and bonds without ICC permission.

Normally, the ICC would require the proceeds of any securities issued for transportation purposes. But by forming the holding company, the railroad may issue securities by using normal Securities and Exchange Commission procedures—and SEC doesn't care about the use to which the proceeds are put.

SIMILAR SETUPS

Other railroads listing only their holding companies as their sole owners are:

Chicago & North Western, owned by Northwest Industries Inc.; Denver & Rio Grande Western, owned by Rio Grande Industries; Illinois Central and Illinois Central Industries; Kansas City Southern and Kansas City Southern Industries; Penn Central Transportation Co. and Penn Central Co.; Seaboard Coast Line and Seaboard Canal Line Industries; Southern Pacific Transportation Co. and Southern Pacific Co., and Union Pacific and Union Pacific Corp.

Indications, however, appeared that the ICC—prodded largely by public outcry over the excesses of railroad-based conglomerates—and at least one senator are getting ready to try to force some public disclosure of railroad ownership.

LEGISLATION PROPOSED

The ICC recently sent proposed legislation to Congress which would require, among other things, a listing in its public records of the actual owners of railroads and truck lines. It would go further than the old records which permitted banks and brokers to list themselves as shareholders.

The commission legislation would require banks to identify by name the beneficial owners of the shares they hold and would require brokers to identify customers for whom they hold railroad stock.

And Sen. Lee Metcalf, D-Mont., was expected to introduce today a resolution calling for an investigation of the extent of concentration of economic power in and financial control over production and distribution of goods and services in the United States. The study, which would be completed by Jan. 31, 1973, would be aimed at recommending legislation and establishing national guidelines concerning control of industrial and transportation assets.

Metcalf, who has been critical of the diversification activity of a number of western railroads—in particular the Burlington Northern—was also expected to seek public disclosure of interests by major banks and other financial institutions in the transportation industry.

A number of the railroads contacted by the Star were willing to provide some indications of the identities of the largest shareholders.

Seaboard Coast Line, for example, said its largest shareholder is Mercantile Safe Deposit & Trust Co. of Baltimore. The bank had controlled the old Seaboard Air Line Railroad and the Atlantic Coast Line before they merged to become SCL in 1967.

A spokesman for the Rio Grande said the largest holder of its stock is the Spokane International Railroad, a subsidiary of Union Pacific. While the second largest owner is listed as Merrill Lynch, Pierce, Fenner & Smith, Inc.—the nation's largest broker—the third largest is the St. Louis & Kansas City Land Co., a subsidiary of the Burlington Northern Railroad.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). The resolution will be received and appropriately referred.

The resolution (S. Res. 113), which reads as follows, was referred to the Committee on the Judiciary:

S. RES. 113

Resolution to establish a Special Committee To Investigate Economic and Financial Concentration

Resolved, That (a) there is hereby established a special committee of the Senate which shall be known as the Special Committee To Investigate Economic and Financial Concentration (hereinafter referred to as the "committee") consisting of seventeen Members of the Senate to be designated by the President of the Senate, as follows:

(1) one Senator from the majority party who shall serve as chairman;

(2) two Senators who are members of the Committee on Banking, Housing and Urban Affairs;

(3) two Senators who are members of the Committee on Agriculture and Forestry;

(4) two Senators who are members of the Committee on Commerce;

(5) two Senators who are members of the Committee on Finance;

(6) two Senators who are members of the Committee on Government Operations;

(7) two Senators who are members of the Committee on Interior and Insular Affairs;

(8) two Senators who are members of the Committee on the Judiciary; and

(9) two Senators who are members of the Committee on Labor and Public Welfare.

One Senator appointed from each such committee under clauses (2)–(6) of this subsection shall be a member of the majority party and one shall be a member of the minority party.

(b) Vacancies in the membership of the committee shall not affect the authority of the remaining members to execute the functions of the committee. Vacancies shall be filled in the same manner as original appointments are made.

(c) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony. The committee may establish such subcommittees as it deems necessary and appropriate to carry out the purpose of this resolution.

(d) The committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the committee and shall be kept in the offices of the committee or such other places as the committee may direct. The committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(e) No legislative measure shall be referred to the committee, and it shall have no authority to report any such measure to the Senate.

(f) The committee shall cease to exist on January 31, 1973.

SEC. 2. It shall be the duty of the committee—

(a) to make a full and complete study and investigation of the extent of concentration of economic power in and financial control over the production and distribution of goods and services in the commerce of the United States, and to hear and receive evidence thereon with a view to determining, without limitation, (1) the causes of such concentration and control and their effect on competition, inflation, the level of prices and pricing policies of industry, employment, profits, consumption and the use of resources; and (2) the effect of existing Federal and State laws and policies and the administration thereof upon such concentration and control, including, but not limited to, tax, patent, purchasing, investment and other such laws and policies.

(b) to make recommendations with respect to the foregoing, including proposed legislation, improvements in the administration of existing laws, regulations, and procedures, and the establishment of national guidelines and standards for enterprises engaged in commerce of the United States.

(c) on or before January 31, 1973, the committee shall submit to the Senate for reference to the standing committees a final report of its study and investigation together with its recommendations. The committee may make such interim reports to the standing committees of the Senate prior to such final report as it deems advisable.

SEC. 3. (a) For the purposes of this resolution, the committee is authorized to (1)

make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; and (7) employe and fix the compensation of such technical, clerical, and other assistants and consultants as it deems advisable, except that the compensation so fixed shall not exceed the compensation prescribed, under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, for comparable duties.

(b) The committee may (1) utilize the services, information, and facilities of the General Accounting Office or any department or agency in the executive branch of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the committee determines that such action is necessary and appropriate.

(c) Subpenas may be issued by the committee over the signature of the chairman or any other member designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $——— shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 114—SUBMISSION OF A RESOLUTION REPEALING THE CONNALLY AMENDMENT

REPEAL OF THE CONNALLY AMENDMENT

Mr. HUMPHREY. Mr. President, I wish to speak today on a means of enhancing a rational alternative to the use of force for the resolution of national and international conflict. That alternative already is available in the form of the United Nations organization, but after 25 years of existence the U.N. is still hampered in its realization of the goals which it set out to accomplish due to the benign and not so benign neglect of its Founding Fathers. Its organs can only function effectively when they receive the active support and respect from member countries, most important of whom are the permanent members of the Security Council.

At the crux of the basic idea of a system of world government and the hope of world peace is the observance and application of a world law. The International Court of Justice was intended to be the judicial body which would advance these goals and actually create law based on the precedent of its own decisions for the entire international community. It was conceived as an extension and improvement of the Permanent Court of International Justice, established under the League of Nations. The World Court was made, as specifically set forth in articles 7 and 92 of the Charter, an integral part of the United Nations. Article 93 of the Charter provides that "all Members of the United Nations are ipso facto parties to the International Court of Justice." Therefore, when countries joined the United Nations they automatically accepted the World Court as the "principal judicial organ of the U.N."

Many countries accepted the compulsory jurisdiction of the World Court, according to article 36(2) of the Court's Statute. The United States, who was unfortunately never a member of the League, nor of the Permanent Court, accepted in Senate Resolution 196 the court's compulsory jurisdiction with one seemingly innocuous qualification. An amendment of six words—"as determined by the United States" was tacked onto the resolution.

It is those six words which have prompted me and several other of my distinguished colleagues to waste thousands of words in an effort to have what is commonly referred to as the Connally amendment repealed. My reasons for waging this campaign were and still are that this amendment has hamstrung the effective functioning of the World Court. It created an unfortunate precedent which other countries followed. The net result has been that the World Court's jurisdiction has been accepted by the parties to an international dispute in the rare instance that the parties were prepared to release the case from what it deemed to be its domestic jurisdiction.

Under these circumstances it is amazing to find that the Court has functioned at all. I maintain that the constrains which the Connally amendment have placed the powers of the Court could be removed with the repeal of those haunting six words. In fact, it is incumbent upon the United States, as the principal founder of the United Nations, to set the example for other countries if we are to expect the World Court and the United Nations in general to take on a new, more forceful role for the rest of this century.

Today, few people would deny that the need is even greater than in 1945 to have a judicial organ capable of adjudicating questions which go beyond the confines of national competence and which are not sufficiently accounted for in other international instruments. There are simply many more situations than ever before in world history which would most appropriately fall under the jurisdiction of the International Court of Justice.

Other nations have already recognized the important potential of the World Court and are seeking ways to improve its position. In December 1970, the 25th anniversary of the United Nations, the General Assembly passed a resolution which called for a study of the Court to "facilitate the greatest possible contribution by the Court to the advancement of the rule of law and the promotion of justice among nations."

Our Government has endorsed this resolution and I am greatly encouraged by the recent statements of the President and the Secretary of State which call for breathing new life into the World Court. I regret, however, that the administration has not taken the essential first step of requesting the repeal of the Connally amendment.

We must recognize once and for all that this amendment has hampered the effectiveness of the Court and has rendered little advantage to this country and given us much embarrassment. From the time of President Truman, when the Charter was presented to the Senate for advice and consent, each succeeding administration has favored a complete and unqualified acceptance of article 36(2). In other words, no administration has openly endorsed the Connally amendment.

The irony of all this is that it is now 1971, and I regret to say that those six words still plague our commitment to the World Court and have influenced the position of other countries who have accepted the statute of the Court.

It was August 2, 1946, that the Senate agreed to the amendment by a rollcall vote of yeas 51, nays 12, and 33 who did not vote. The amendment thus permitted the United States, rather than the International Court, to determine whether any dispute to which the United States is a party involves a matter within its domestic jurisdiction which in effect limits the jurisdiction of the Court to hear any case in dispute.

The Senate Committee on Foreign Relations considered the elimination of the Connally amendment reservation in 1950, but no action was taken. Another study was undertaken in 1956, but once again no action was taken.

Disturbed by the harmful ramifications which the amendment unleashed, and the impasse in the Senate, I submitted a resolution—Senate Resolution 94—to repeal Senate Joint Resolution 196—the Connally amendment—on March 24, 1959. Between 1959 and 1960, I put all my energies into the passage of this repeal, by giving speech after speech in the Senate and testifying before the Senate Foreign Relations Committee, which was holding hearings on the question. I made the point then, and I repeat it now, that the words "as determined by the United States" negate the whole intent and purpose of the declaration of adherence. It is no submission to a court's jurisdiction if you reserve to yourself the power to decide, in every case, whether or not the Court has jurisdiction.

I further maintained that the reservation has a double-edged effect. The statute of the Court provides that every party to a dispute may assert each and every right that its opponent has; so whenever we bring suit, our opponent is also entitled to avail itself of this same right to decide, by itself, unilaterally, whether the case is subject to the Court's jurisdiction. We are, therefore, impotent to bring any nation before the tribunal against its will so long as we have this reservation.

The end result is that on the basis of the principal of reciprocity any country who is brought before the court by another country having a self-judging reservation like the Connally amendment may invoke that reservation and thereby cause the case to be dismissed. The classic example is the Norweigian Loans case. Now that the precedent has been set, the court is necessarily weakened since its power to review certain cases is limited to those instances when a self-

judging clause is not invoked by one party or the other.

Aside from the serious constraint which the Connally amendment-type reservation imposes on the court, there is also a fundamental principle underlying the United Nations which is contradicted by the endorsement of such a reservation. Article 1(1) of the Charter states as its purpose the maintenance of international peace and security through a number of peaceful means and "in conformity with the principle of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of peace." Yet the Connally movement weakens whatever machinery we have for the settlement of international disputes and enhances the power of individual States to decide whether or not they should be cooperative and seek an equitable settlement of an international dispute.

I had hoped that my efforts in 1959–60 would convince the skeptics who had three basic arguments, which were all highly tenuous. The weakest arguments were essentially fears of the unknown. The opposition claimed that it would never be clear exactly how the court would decide a close question as to whether a dispute was actually within the domestic jurisdiction of the United States or not. In addition, the court's legal standards would be far too vague and dependent on political considerations to warrant an unqualified submission by the United States to its jurisdiction.

Second, the international makeup of the judges would be such that they might be overly influenced by foreign idealogies alien to our own legal and political philosophy. In this case, judicial decisions would be prejudiced from the outset.

The third objection was that the United States might be forced to exercise its veto power in the Security Council to override the enforcement of an adverse decision. This recourse would, thus, be more damaging to our international image than retaining a domestic jurisdiction reservation.

I think that I, along with my colleagues who supported a repeal of the amendment, answered all these objections. My main point was that in accepting Senate Resolution 94, the Senate was not going to jeopardize our national security, but would be raising our international prestige and hence, furthering our own international interest by providing some solid machinery for the adjudication of international disputes.

I advanced the same arguments in 1961 when I submitted along with Senators JAVITS and MORSE, Senate Resolution 39 to repeal the self-judging reservation which limits our adherence to the court.

Action was postponed and has been ever since that time. I submit today the same resolution I submitted in 1959–60 and 1961 to repeal the Connally amendment. And I urge the President and my colleagues in the Senate to lend their support to this resolution in order to facilitate the achievement of a stronger World Court and, hence, a stronger United Nations.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). The resolution will be received and appropriately referred.

The resolution (S. Res. 114), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 114

A resolution relative to the jurisdiction of the International Court of Justice

Resolved (two-thirds of the Senators present concurring therein), That S. Res. 196 of the Seventy-ninth Congress, second session, agreed to August 2, 1946, is hereby amended to read as follows:

"Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations, of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

"a. the interpretation of a treaty;

"b. any question of international law;

"c. the existence of any fact which, if established, would constitute a breach of an international obligation;

"d. the nature or extent of the reparation to be made for the breach of an international obligation.

Provided, That such declaration shall not apply to—

"a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

"b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States; or

"c. disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States specially agrees to jurisdiction.

Provided further, That such declaration shall remain in force until the expiration of six months after notice may be given to terminate the declaration."

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Frederic L. Knight, Jr., entitled "Nations' Self-Interest Leaves World Court On the Sidelines."

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

NATIONS' SELF-INTEREST LEAVES WORLD COURT ON THE SIDELINES

(By Frederic L. Knight, Jr.)

The World Court, at The Hague, has attained the nirvana so hopelessly out of reach for any court in this country: It has run out of cases to decide. In an era of persistently overpopulated court calendars that sorely tax our judicial resources, it might at first be thought refreshing to find a court that is able to manage its workload.

Unfortunately, the implications for the attainment of any sort of system of world order are less than refreshing. When the only international judicial body having near-global jurisdiction runs out of things to do in a world that has hardly run out of disputes to settle, danger signals are flying.

The court disposed of its current workload earlier this year with its decision in the Barcelona Traction Case between Belgium and Spain, an issue of some delicacy in current international relations. Belgium was claiming reparation on behalf of its shareholders in Barcelona Traction, a Canadian company that Belgium asserted had improperly been declared bankrupt by a Spanish court. The company had consequently lost all its assets in Spain.

The World Court held that because the asserted harm had been done to the Canadian company rather than to the Belgian stockholders, Belgium had no standing to maintain the claim. Only nations, not individuals or corporations, may be parties before the World Court. Since Canada showed no interest in pursuing the claim, the Barcelona Traction Co. stockholders were out of luck.

JUSTICE GRINDS TO HALT

The narrow holding has some significance for stockholders and others interested in a burgeoning new kind of megacorporation, the multinational enterprise. But the real significance lies in what the case tells us about the current stage of evolution (or, perhaps, nonevolution) of the World Court. The history of the case is instructive on this score.

The Barcelona Traction Co. was declared bankrupt in Spain in 1948. Proceedings to contest the bankruptcy crawled through the Spanish courts for several years and diplomatic protests were made. Finally Belgium in frustration, applied to the World Court for relief in 1958. That proceeding was discontinued in 1961 and a new one filed in 1962. In 1964 the court rendered a judgment rejecting two preliminary objections made by Spain, but reserving judgment on two others.

One of the two objections left undecided in 1964 was Spain's assertion that Belgium did not have standing to maintain the claim—the very objection on which the court based its decision six years later. Thus the wheels of international justice in this case have finally ground to a halt 22 years after the alleged violation of international law by Spain, without deciding whether Spain did in fact violate international law.

It must be said that the delay has not been entirely the court's fault, though one might wonder why it was necessary in 1964 to postpone consideration of the preliminary objection that ultimately decided the case. But delay is only one disturbing element here. More disquieting is the court's timidity in grappling with the issues presented. This diffidence must be considered a cause, as well as an effect, of the current disillusionment with international adjudication as a dispute-settling mechanism.

The court in the Barcelona Traction Case used a traditional approach to decide that only the state of incorporation—Canada—could assert the claim. In so doing it rejected other legal theories that seem more in tune with the realities involved.

This diffident approach has been developing since 1962, when the court issued its advisory opinion in the U.N. Expenses Case. The court determined that expenses incurred by the U.N. in the Middle East and the Congo were "expenses of the Organization" within the meaning of the U.N. Charter, which meant that they could be charged to the members.

The aftermath is well known. Several members, notably the Soviet Union and France, declined to pay and a U.N. crisis resulted. It was finally abated when the United States backed off from its position that voting privileges should be withdrawn from the delinquents.

The General Assembly then returned to normality, but it is questionable whether the World Court did. The scars remained from what appeared, in retrospect, to have been judicial overactivism in stepping into a heated political controversy among U.N. members.

SOME UNFORTUNATE CASES

One might expect that the court would react by proceeding more cautiously in the future. That is indeed what has happened. In 1963, the court declined to decide the merits of a case between Cameroon and the United Kingdom, on the ground that the

issue involved was moot. In 1964, it issued its preliminary judgment in the Barcelona Traction Case, in which it postponed decision on the issue that it has now found dispositive.

In 1966, it handed down its opinion in the celebrated and highly unfortunate Southwest Africa Cases. It reversed (while denying that it was doing so) its 1962 decision in the same cases and held that Ethiopia and Liberia did not have standing to challenge South Africa's exercise of its mandate over Southwest Africa. This was followed by the North Sea Continental Shelf Cases, in which the court reached an inconclusive result, calling on the parties to negotiate their differences further. This series of cases has now culminated in the Barcelona Traction decision.

This, of course, is an oversimplified look at the court's work since 1962. One cannot conclude that all these decisions have been wrong. One might, however, discern a pattern that does not lead to optimism about the court's present and future role as a dynamic force in the development of a world order system.

A FRAGILE STATE

The politics of international judicial activism are of a fragile mold. Granted, if the World Court is to retain the confidence of the nation-states that are the potential parties before it, it cannot act like a Warren Supreme Court. Greater caution is required not only because the court's jurisdiction depends on the consent of the suitors but because the effectiveness of its judgments depends on acceptance by those states affected by them. A judicial body in a horizontally structured international system simply cannot survive as a viable institution if it assumes a role beyond the range of consensus among its constituents.

On the other hand if the court is to be more than a bystander to settlements of international dispute, it must be willing to take account of rapidly changing world conditions in shaping the law and must face those issues that are legitimately placed before it. If this results in a fine line between dynamism and caution, it nevertheless does not relieve the court from the necessity to discover that line, and even to be alive to the prospect that nations may from time to time be prepared to see the line inch toward a greater adjudicatory role in the give and take of international intercourse.

In this delicate state of affairs, the World Court is not, at the moment, a constructive participant in the development of what is rather wistfully referred to as a world rule of law. International dispute settlement does not, of course depend entirely or even primarily on judicial decisions, even in those situations in which peaceful settlement is possible.

One would, however, be loathe to conclude from this that the strengthening of the judicial dispute-settling mechanism may safely be neglected. The World Court must be restored at least to the participatory role it occupied before the U.N. Expenses Case, and it must be prepared to grow beyond that point.

Judicial boldness may gradually return in the cyclical nature of things, particularly in view of the recent seating on the court of five judges (there are 15 in all). But a further boost is necessary, and might well be provided in a most timely fashion if the most powerful and influential nation in the world were now, at last, to declare that it trusts the court. This the United States could do simply by repealing the Connally Amendment which permits us to keep controversies involving us out of the court merely by saying that they are our own business.

TILTING AT WINDMILLS

The call for repeal of the Connally Amendment has, of course, been made in years past and has consistently fallen on deaf ears. It is rather unfashionable these days to renew the call, partly because it bears some resemblance to windmill-tilting and partly because of a general decline of faith in international law. One can only reply that all is not lost and that if there ever was an appropriate time for repeal of the Connally Amendment, it is when, for all practical purposes, the World Court is in danger of fading from the scene if nothing is done to boost its stock.

It is high time we stop worrying about wolves in the form of international judges howling at our door trying to get in and devour us while we mind our own business. It is true that a progressive World Court unfettered by the Connally Amendment might narrow the categories of affairs some among us would like to see committed entirely to domestic U.S. discretion.

It might even decide a few cases against us. So be it; the court is not at all likely to be insensitive to our domestic interests, and a willingness on our part to entrust it with a more significant role is clearly worth the minimal risk that our domestic or foreign policy will be in the least bit hedged by its intermeddling.

The case for repeal of the Connally Amendment should not be overstated. Repeal would be no panacea for the world's tensions. It would not even guarantee a new dynamism in the World Court. It just might, however, ease the way toward revitalized World Court participation in the painful process of constructing a framework for world order, and by so doing strengthen the entire United Nations system. That should be case enough for repeal.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the 1947 resolution of the American Bar Association, calling for the repeal of the Connally amendment be inserted in the RECORD. This resolution, which was first passed in 1947, remains the position of the ABA today and should be considered as an authoritative guideline for what action should be taken here today.

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

CONNALLY RESERVATION

Whereas, The Declaration accepting on the part of the United States compulsory jurisdiction of the International Court of Justice and providing that the Declaration should not apply to disputes with regard to matters which are essentially within the domestic jurisdiction of the United States, contains the further limitation that decision as to what matters are essentially within the domestic jurisdiction of the United States shall be "as determined by the United States," and

Whereas, The Statute of the International Court of Justice, Article 36, paragraph 6, provides that in the event of a dispute as to whether the court has jurisdiction, the matter shall be settled by the decision of the court, and

Whereas, This limitation leaves to a party to a dispute, rather than to the court, the right, in certain circumstances, to determine the jurisdiction of the court, and

Whereas, The limitation, furthermore, tends to defeat the purpose it is hoped to achieve by means of the Declaration, and invites similar reservation by other nations, with attendant confusion, doubt, and possible frustration,

Now, therefore, be it resolved, That the Senate of the United States should reconsider the subject of the Declaration of compulsory jurisdiction and should eliminate therefrom the right of determination by the United States as to what constitutes matters essentially within the domestic jurisdiction, and,

Be it further resolved, That a copy of this resolution be sent to the President of the United States, the Secretary of State, and the members of the Senate Committee on Foreign Relations.

SENATE RESOLUTION 115—SUBMISSION OF A RESOLUTION MODIFYING THE CONNALLY AMENDMENT

Mr. JAVITS. Mr. President, I send to the desk an alternative resolution to that of the Senator from Minnesota, which, without repealing the Connally reservation outright, would undo a great deal of the damage which the reservation in its existing form has done to the ability of the United States to promote and utilize the machinery of the World Court and of international law and adjudication.

One of the principal problems of the Connally reservation, as it is presently written, is that it may, under the World Court's "rule of reciprocity" be invoked by an adversary against the United States. Under this rule, any nation before the Court may invoke any limitation on jurisdiction reserved by its adversary. Thus in 1955, when the United States sought to pursue a remedy in damages on behalf of its citizens who had lost relatives in an air crash, the adversary party, Bulgaria, was entitled to invoke the Connally reservation to claim the matter within its own domestic jurisdiction, and thus avoid payment.

By way of a recently prominent example, the dispute over a 200-mile limit for fishing rights claimed by Ecuador was of such a nature as to permit a party claiming such a limit to invoke a "domestic jurisdiction" reservation. Ecuador is not a signatory to the Court's jurisdiction, but had the party asserting its claim been a signatory, the United States would have been unable effectively to pursue a nonviolent judicial remedy in the International Court.

Although I disagree with those who express grave reservations over a complete repeal of the Connally amendment, I am sympathetic to one of their arguments. That argument states that treaties and international agreements notwithstanding, the body of international common law is so vague and amorphous that safeguards must be maintained against having its application to the United States depend upon a broad discretionary grant of jurisdiction to the World Court. The resolution which I introduce today deals with that problem by retaining for the United States the right to decide the question of domestic jurisdiction in all cases which do not arise under a treaty or international agreement to which the United States is a party.

Mr. President, it has become commonplace for every nation to proclaim its dedication to the rule of law in international life. But the tragic persistence of armed conflict in so many parts of the world forces us to recognize that substituting the rule of law for the rule of force is an imperative that must be pursued now even though the achievement of this goal will require a long and difficult struggle. In the meantime, the strengthening of the World Court as an institution, can be, even in the short run, effective in resolving some of the nettling disputes which arise between the United States and other nations.

The Secretary of State, Mr. Rogers, has indicated the desire of the present administration to utilize the World Court in an expanded role in settling international disputes to which the United States is a party. Each of the three previous administrations indicated a desire to see the Connally reservation repealed. I hope that in considering my resolution and the one offered by the Senator from Minnesota, the Senate will join in the effort to build a stronger system of international law.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). The resolution will be received and appropriately referred.

The resolution (S. Res. 115), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 115

A resolution relative to the jurisdiction of the International Court of Justice

Resolved (two-thirds of the Senators present concurring therein), That S. Res. 196 of the Seventy-ninth Congress, second session, agreed to August 2, 1946, is hereby amended to read as follows:

"*Resolved* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations, of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

"a. The interpretation of a treaty;

"b. any question of international law;

"c. the existence of any fact which, if established, would constitute a breach of an international obligation;

"d. the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, That such declaration shall not apply to—

"a. disputes the solution of which the parties shall entrust the other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

"b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States; provided, with regard to disputes other than those arising from the interpretation or application of a treaty or other international agreement to which the United States is a party, the question of whether such disputes are within the domestic jurisdiction of the United States shall be determined by the United States; or

"c. disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States specially agrees to jurisdiction.

Provided further, That such declaration shall remain in force until the expiration of six months after notice may be given to terminate the declaration."

Mr. HUMPHREY. Mr. President, will the Senator yield.

Mr. JAVITS. I yield.

Mr. HUMPHREY. I wish to join with the Senator in his effort. It is very constructive. Our two resolutions do complement and supplement one another. I would be very appreciative of the cosponsorship of the Senator from New York on my resolution to repeal the Connally reservation, as I should be happy to join with him on his resolution.

Mr. JAVITS. I thank my colleague. I ask unanimous consent that I may be made a cosponsor of Senator HUMPHREY's resolution, and he may be made a cosponsor of mine.

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

Mr. HUMPHREY. Mr. President, I also commend the Senator from New York on his resolution on the war powers. I have studied it very carefully. At the time he introduced it, I did not have a chance to give it the careful study I believe a resolution of that importance requires, but I find that it is in the national interest, and I hope there will be favorable action on that resolution by the Committee on Foreign Relations.

Mr. JAVITS. I thank my colleague very much.

SENATE RESOLUTION 116—SUBMISSION OF A RESOLUTION CALLING FOR RELEASE OF HEALTH CARE FUNDS

Mr. HUMPHREY. Mr. President, there is in this Nation a major health-care crisis. The President of the United States recognizes this and has proposed some far-reaching steps for dealing with it. But I must admit he puzzles me. Perhaps if he had not delivered his health message of February 18 I would not be so confused. But he did make that speech. And he did send to the Congress a budget request of nearly $3.6 billion for next year's health activities of the Department of Health, Education, and Welfare.

Specifically, the administration is requesting for fiscal 1972, $95.2 million for the Food and Drug Administration; $1,602.8 million for Health Services Mental Health Administration, and $1,889.5 million for the National Institutes of Health, for a total of $3,587.5 million.

This is $183.8 million more than the Congress appropriated for the current fiscal year 1971, which has but a mere 2 months more to run.

Now let us take a look at the fiscal 1971 appropriation. It amounted to $3,403.7 million. The Nixon administration, which says that was not enough and wants more for next year, has so far refused to spend even that amount. In fact, as of April 12, 1971, the administration had released only $3,177.5 million, while impounding the difference of some $226.2 million.

That $226.2 million is approximately the same amount as our entire spending for the National Cancer Institute; it exceeds Government spending on heart and lung disease research.

It is several million dollars more than combined spending by the National Institutes of Health on biologics standards, dental research, child health and human development, eye research, environmental health sciences, and overseas scientific activities.

The United States ranks 13th among industrialized Nations on infant mortality, 11th in life expectancy for women and 18th in life expectancy for men.

We still are a long way from finding a cure for cancer, which kills on the average of 1,000 Americans every day.

The health of the American people is too important to become part of an economic juggling act staged by a callous administration.

This is not an isolated incident, Mr. President. In all, some $12 billion in funds appropriated by the Congress, after extensive debate and study, for fiscal 1971, have been impounded by this administration.

This deliberate thwarting of expressed will of Congress raises fundamental questions of separation of powers.

The administration cannot be allowed to continue to frustrate the will of Congress if our system of government, with its checks and balances, is to continue as a partnership of three equal branches.

Mr. President, today I submit a sense-of-the-Senate resolution urging the President to quit playing games with the American people and immediately release these urgently needed funds appropriated by this Congress for the health activities of the Department of Health, Education, and Welfare.

I ask unanimous consent that my resolution be printed in the RECORD at this point along with a chart prepared by the Department of Health, Education, and Welfare showing health appropriations for fiscal year 1971 and amounts actually released by the administration, clearly indicating, in its own figures, the extent to which health funds have been impounded.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). The resolution will be received and appropriately referred; and, without objection, the resolution and chart will be printed in the RECORD.

The resolution (S. Res. 116), which reads as follows, was referred to the Committee on Government Operations:

S. RES. 116

Whereas this national Administration has sent to the Congress a budget requesting nearly $3.6 billion for the Health functions of the Department of Health, Education, and Welfare, including the Food and Drug Administration, the Health Services Mental Health Administration and the National Institutes of Health for Fiscal Year 1972; and

Whereas that amount is more than $183 million in excess of the amount appropriated by the Congress for Fiscal Year 1971; and

Whereas this national Administration has impounded more than $226 million of the funds appropriated by the Congress for Fiscal Year 1971 for health; and

Whereas the Administration is asking for more money for next year than appropriated for this year, despite the fact it refuses to release all FY 1971 funds; and

Whereas medical science is yet to conquer cancer, heart disease, birth defects, mental retardation and so many other afflictions that every day kill, cripple, maim and otherwise afflict millions of persons; and

Whereas the United States ranks 13th among industrialized nations in infant mortality, 11th in life expectancy for women and 18th in life expectancy for men; and

Whereas the Congress has taken note of the pain and suffering of the American people and the need and opportunities for relieving them; and

Whereas the Congress, after extensive debate and study, has appropriated $3,403.7 million for Food and Drug Administration, Health Services Mental Health Administration, and National Institutes of Health in

the Department of Health, Education, and Welfare, and the Administration has released only $3,177.5 million as of April 12, 1971, and embargoed the remaining $226.2 million; and

Whereas this impounding of funds constitutes a deliberate thwarting of the expressed will of Congress, and threatens the balance and separation of powers as set forth in the Constitution. Now, therefore, be it

Resolved that it is the sense of the Senate that the President of the United States forthwith release, for immediate usage, all such funds appropriated but not released.

The chart is as follows:

HEALTH APPROPRIATIONS

[In millions of dollars]

Appropriation	Appropriated	Released
Food and Drug Administration:		
Food and drug control	85.5	85.5
Environmental Health Service:		
Environmental control	38.0	38.0
Health Services, Mental Health Administration:		
Mental health	388.1	388.1
St. Elizabeths Hospital	22.0	22.0
Health Services research and development	57.6	57.6
Comprehensive health planning and services	247.6	247.6
Maternal and child health	255.9	255.9
Disease control	45.8	45.8
Medical facilities construction	195.5	20.5
Patient care and special health services	84.1	84.1
Regional medical programs	106.8	72.3
National health statistics	10.1	10.1
Retirement pay and medical benefits for commissioned officers	19.5	19.5
Office of Administrator	10.8	10.8
Indian Health Service	122.8	122.8
Indian health facilities	18.7	17.6
Emergency health	3.9	3.9
HSMA, total	1,712.7	1,502.1
National Institutes of Health:		
Biologics Standards	9.1	9.1
National Cancer Institute	232.2	232.2
National Heart and Lung Institute	194.4	194.4
National Institute of Dental Research	35.6	35.2
National Institute of Arthritis and Metabolic Diseases	139.3	137.5
National Institute of Neurological Diseases and Stroke	106.7	103.0
National Institute of Allergy and Infectious Diseases	103.1	101.9
National Institute of General Medical Sciences	166.3	160.1
National Institute of Child Health and Human Development	95.0	94.5
National Eye Institute	31.1	30.0
National Institute of Environmental Health Sciences	20.8	20.1
Research resources	66.3	66.3
John E. Fogarty International Center for Advanced Study in the Health Sciences	3.6	3.6
Health Manpower	428.7	428.7
National Library of Medicine	21.2	21.2
Office of the Director	8.7	8.7
Scientific Activities Overseas (Special Foreign Currency Program)	28.9	28.9
NIH, total	1,691.0	1,675.4
HEW, total	3,403.7	3,177.5

Source: Department of Health, Education, and Welfare.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. SCOTT for Mr. CASE, the Senator from New York (Mr. JAVITS), and the Senators from Massachusetts (Mr. KENNEDY and Mr. BROOKE) were added as cosponsors of Senate Concurrent Resolution 21, calling for the suspension of military assistance to Pakistan.

THE HEALTH SECURITY ACT—AMENDMENT

AMENDMENT NO. 66

(Ordered to be printed and referred to the Committee on Finance.)

Mr. GRAVEL. Mr. President, I submit an amendment to S. 3. Last January 25, I cosponsored with the distinguished Senator from Massachusetts and other colleagues a far-reaching bill on health security. As noted in the opening statement of that bill:

> The health of the Nation's people is the foundation of their well-being and of our Nation's strength, productivity, and wealth; adequate health care for all of our people must now be recognized as a right.

In the days since that bill was introduced, it has become clear to me that while the bill addresses the physical health care needs of the American people in excellent fashion, it does not make sufficient allowance for the mental health needs of the American people.

For example, it is estimated that at least 1 person in every 10—20 million people in all—has some form of mental or emotional illness, from mild to severe cases, who should and would benefit from treatment.

The most recent available figures indicate that in 1968, an estimated 1,602,000 persons received treatment in public and private mental hospitals, psychiatric services in general hospitals, and Veterans' Administration psychiatric facilities.

At any one time, there are more people in hospitals with mental or emotional illness than with all other diseases combined.

In addition to hospitalized patients, over 1,775,000 people received treatment at outpatient clinics and community mental health centers.

In my amendment, Mr. President, hospitalization for the mentally ill would be extended from 45 days to 90 days of inpatient care. There is no justification for limiting hospital care of psychiatric patients to 45 days, since care for patients with other chronic illnesses, such as rheumatic fever, kidney transplants, or severe burns or trauma, is not similarly limited, and for the same good reasons—adequate care and, hopefully, cure.

The important items in care for any ill person include a treatment plan, qualified personnel, and utilization review. I feel no distinction should be artificially created among daycare services offered in a hospital or community mental health center facility and those offering suitable organized settings.

The mentally ill are equally entitled to skilled nursing home services and home health services as are persons with no more crippling physical illnesses. In this modern age, we should not, I submit, permit one degree of suffering to continue needlessly while we mobilize to remove needless suffering on a general front. It may be considerably less expensive to provide these services to mentally ill persons than to allow them intentionally to become so seriously ill that they require hospitalization.

A comprehensive health service organization cannot truly be termed comprehensive if care and treatment of equal measure is not provided to well over half the individuals requiring hospitalization.

May I point out, Mr. President, that it has often been stated by practicing physicians of internal medicine or of general medicine that as many as one-half of the patients they examine have complaints for which no organic basis can be found.

In years past, a diagnosis of mental illness was a gloomy diagnosis indeed, since we too often had little understanding of the causes or of effective methods of treatment.

In the last 20 years, however, there has been a revolutionary change in the care and treatment available to persons suffering from mental and emotional illness.

New medications such as tranquilizers and lithium have allowed thousands, indeed hundreds of thousands of people to leave mental hospitals and to function successfully with a measure of contentment in their home communities.

New forms of therapy, such as group psychotherapy, family therapy, and behavior therapy, have been added to the armamentarium of the mental health worker. In this manner, treatment has become possible for many for whom little could have been done in the past.

Because there is as great a need for mental health care as for other physical illnesses, and because effective modes of treatment are available and should be available for all those Americans who would benefit from them, I propose that S.3 be so amended to make mental health benefits comparable to those for physical illness.

There is not much to be gained by encouraging close cooperation of workers in the mental health and health fields and say nothing of the need to meet mental health care of the American people through comprehensive prepaid health plans.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT—AMENDMENT

AMENDMENT NO. 67

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. RIBICOFF. Mr. President, today I am submitting an amendment to S. 976, the Motor Vehicle Information and Cost Savings Act.

I am a cosponsor of the bill with the Senator from Michigan (Mr. HART), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Indiana (Mr. HARTKE), and the Senator from Wisconsin (Mr. PROXMIRE).

I am pleased that I am joined on this amendment by Mr. HART and Mr. MAGNUSON.

The purpose of my amendment is to establish a national periodic inspection program for emissions of air pollution from automobiles.

One of the key provisions of S. 976 requires that the Secretary of Transportation, through the National Highway Traffic Safety Administration, amend

highway safety standard No. 1, relating to periodic motor vehicle inspection, to create a national diagnostic auto safety inspection program.

Such a diagnostic test program, according to studies of the Senate Antitrust and Monopoly Subcommittee, could improve the efficiency of vehicles by $7 billion, save consumers as much as $10 billion in unnecessary or unsatisfactory repairs, and reduce the tremendous cost in damage, life and injury associated with automobile accidents each year.

The States would establish the necessary inspection facilities, for which Federal funds up to 100 percent would be available—50 percent under the Highway Safety Act of 1966 and 10 to 50 percent from the highway trust fund under this act.

My amendment would expand the diagnostic inspection for safety by adding an inspection for air pollution for all automobiles currently on the road. There would be a single inspection for both safety and pollution, at the same time, using the same inspection facilities.

The amendment is designed to build upon the Clean Air Act, which already provides standards for new motor vehicles and which authorizes the testing of in-use vehicles by the Administrator of the Environmental Protection Agency. Under the amendment, the Secretary of Transportation and the Administrator of the Environmental Protection Agency would cooperate in establishing and enforcing inspection emission standards for all automobiles.

The inspection would occur first, on a periodic basis, as required under highway safety standard No. 1, in accordance with plans submitted by the States; second, whenever title to the vehicle is transferred; and third, whenever the vehicle is involved in an accident resulting in damage to safety or pollution-control-related parts.

There would be two sets of standards: those applicable to vehicles manufactured in 1972 and thereafter, and those applicable to vehicles manufactured prior to 1972.

With respect to vehicles manufactured beginning in 1972, the amendment requires that the inspection emission standards for the useful life of the vehicle be the same as the emission standards for the new vehicle. The amendment complements section 207 of the Clean Air Act Amendments of 1970, which gives the Administrator of the Environmental Protection Agency the authority to order the recall of any category of noncomplying 1972 vehicles and to require a warranty on emissions performance from the manufacturer on all future new cars as soon as the Administrator determines that adequate testing methods and inspection facilities are available.

My amendment would establish the necessary inspection facilities.

Under the amendment, the inspection emission standards would come into effect at the same time that the Administrator activates the warranty under the Clean Air Act—that is, when an effective quick test for emission has been developed. In this way, the car owner will not have to pay for repairing something for which the manufacturer is properly responsible.

While a quick test is not yet available, a great deal of research is in progress. My amendment should stimulate further work in this area of technology, because this national inspection program would create a large market for a successful device.

For vehicles manufactured prior to 1972, there is no practical way of establishing specific emission standards for the various makes, models, and years. Such standards would be complex, expensive to the car owner, difficult to enforce, and probably unfair to lower income persons.

However, there is one simple, inexpensive, fair, and extremely effective way of achieving substantial reductions in emissions on all vehicles—a properly tuned engine. A tuneup on an older vehicle will reduce emissions by 33 percent or more—a very significant gain to the public health at a very small cost and inconvenience to the owner.

Therefore, the inspection emission standards for all vehicles manufactured prior to 1972 require that the engine shall be tuned according to specifications established by the Secretary in consultation with the Administrator. These specifications, which would be based in part on the manufacturer's original instructions, will call for the engine to be tuned in a manner which results in the lowest level of emissions practicable for that particular vehicle. This level, of course, will vary for different vehicles, depending on age, mileage, and other factors.

Beginning with the 1968 model year, all vehicles—except for California—were covered by Federal exhaust emission standards for hydrocarbons and carbon monoxide under the Clean Air Act. Each vehicle is supposed to meet the standards throughout its useful life, defined as 5 years or 50,000 miles, whichever occurs first, with one tuneup at 25,000 miles.

The Federal Government has never had the capability to test vehicles on the road or the authority to hold the manufacturers responsible for violations. Once a production certificate, based on a test of a few prototypes, was issued, all the American people could rely on was faith that the air was becoming cleaner. The evidence since 1968 has shown that most vehicles are failing to meet the Federal standards a few hundred or a few thousand miles after they leave the new car dealer. A periodic tuneup will help to restore many of these vehicles close to the original Federal standards.

Vehicles manufactured before 1968 are not covered by any Federal standards. They tend to receive less care and service than newer vehicles. Yet, they will show the greatest improvement by volume in emission control when they have a tuneup.

Mr. President, the automobile remains today by far the largest source of air pollution—90 million tons or 60 percent of the total per year—especially in urban areas. At present there are approximately 50 million cars without pollution-control mechanisms, and many of the remaining 30 million are not in full compliance with the existing Federal standards. Meanwhile, the vehicle population continues to soar—there will be 150 million motor vehicles by 1980—and there are no standards for vehicles which have passed their useful life.

Last Friday William Ruckelshaus, the Administrator of the Environmental Protection Agency, announced stringent national air pollution standards for 1975. He said that many cities would have to limit automobile traffic sharply and rely on mass transit, car pooling, staggered work hours, and possibly elimination of the automobile from certain areas of the city. By enacting an inspection program for in-use vehicles in 1971, the Congress can help to ease the air pollution crisis which will exist in 1975 in our metropolitan communities.

My amendment will result in substantial prevention and control of air pollution at its principal source—the vehicle on the road. It sets reasonable standards which are entirely within the scope and purpose of previous air pollution legislation enacted by Congress.

My amendment challenges the private sector, the Government, and the people to cooperate toward a common goal—environmental quality—which can never be achieved by any of the three acting alone. The auto companies must make cars that are as pollution-free as technology permits and exercise more social responsibility. The Government must set and enforce environmental standards which are consistent with the public health and which promote the necessary technological advancements. The people, here the car owners, must do their part to demand greater efforts by Government and the private sector and to keep their vehicles as clean as possible.

Hearings on S. 976 opened on Monday in the Senate Commerce Committee. It is my understanding that my amendment will be considered along with the bill in committee.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 67

On page 14, between lines 13 and 14, insert the following:

"DIAGNOSTIC INSPECTION PROGRAM AUTHORIZED

"SEC. 15. The National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following new title:".

On page 14, strike out line 14 and insert in lieu thereof:

"TITLE V—DIAGNOSTIC INSPECTIONS"

On page 14, line 15, line 17 and line 23 insert quotation marks.

On page 15, line 3, after the period, insert the following: "The standard shall be expressed in terms of motor vehicle safety performance applicable to new or used motor vehicles."

On page 15, between lines 3 and 4, insert the following new paragraph:

"'(2)(A) The emissions of air pollutants, as defined by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act, from the engine of a light-duty motor vehicle shall be inspected periodically at least once per annum; when-

ever title to such vehicle is transferred for purposes other than resale and whenever such vehicle sustains damage if any emission-control mechanism, subsystem, or functional nonoperational part, as defined by the Secretary in consultation with the Administrator, is damaged.

(B) The inspection emission standards applicable to vehicles manufactured prior to model year 1972 shall require that the vehicle be tuned so as to perform in accordance with specifications established by the Secretary in consultation with the Administrator.

(C) The inspection emission standards applicable to the useful life (5 years or 50,000 miles, whichever occurs first) of vehicles manufactured in model year 1972 and each year thereafter shall be the same as the standards established under the authority of Section 202 of the Clean Air Act for new vehicles of model year 1972 and each model year thereafter respectively. The Administrator of the Environmental Protection Agency, in consultation with the Secretary, in accordance with Section 207 of the Clean Air Act, shall prescribe methods and procedures for measuring emissions for purposes of this subparagraph, as soon as he is satisfied that such methods and procedures are available. The inspection emission standards applicable to the years following the expiration of the useful life of such vehicles, and the inspection emission standards applicable to such vehicles until methods and procedures for measuring emissions are prescribed, shall be the inspection emission standards applicable to motor vehicles manufactured prior to model year 1972 under subparagraph (B) of this paragraph.

(D) The Secretary in consultation with the Administrator shall distribute to the general public information on how to reduce emissions in order to compliy with the inspection emission standards prescribed under this paragraph.

On page 15, line 4, strike out "(2)" and insert in lieu thereof beginning quotation marks and the following: "(3)".

On page 15, line 5, after the word "condition", insert the following: ", and a certificate of compliance with the inspection emission standards,".

On page 15, strike out lines 20, 21, and 22.

On page 15, line 23, on page 16, lines 10, 11, and 20, on page 17, lines 5, 12, 13, 16, and 22, on page 18, lines 17, 19, and 23, on page 19, lines 3, 6, 9, 11, and 13, insert beginning quotation marks.

On page 19, line 15, strike out "Act" and insert in lieu thereof "title" and ending quotation marks.

NOTICE OF HEARINGS ON CUTBACKS IN MEDICARE AND MEDICAID PROGRAMS

Mr. MUSKIE. Mr. President, I wish to announce today that the Subcommittee on Health of the Senate Special Committee on Aging will hold a hearing next week concerning "Cutbacks in Medicare and Medi-Cal Coverage."

The hearing is scheduled to be held Monday, May 10 at the Board of Supervisors Hearing Room, room 381, Los Angeles Hall of Administration, 500 West Temple Street, Los Angeles, Calif. at 10 a.m.

As I stated at the organization meeting of the Committee on Aging in February, this hearing will be the first in a series the Subcommittee on Health will hold throughout the Nation examining the standards of health care that elderly Americans receive. We will be exploring the wide range of problems in delivering a decent level of health care to older Americans. The hearings will not only include an exploration of what appears to be inadequate financial assistance to the elderly for medical care, but also the equally serious problem of health manpower and health care delivery systems. Even if the elderly had—which they do not—adequate health insurance, such as that proposed by the Senator from Massachusetts, the elderly still would not receive decent health care; there are simply not enough doctors trained to treat the special problems of the elderly nor are our institutions of health care organized to deliver these special services.

The subcommittee is especially interested in delving into the area of home care health teams which would allow high quality medical services to be delivered to the elderly at home, avoiding the need for expensive hospitalization and the difficult problems of transportation for the elderly. I hope also to investigate the need for creating rehabilitation services for the elderly. Right now, treatment for a stroke or a broken hip, if adequate, is not followed up by that kind of rehabilitation service that would allow the elderly to return to productive and happy lives.

Finally, there is the area of mental health care of the elderly, which needs detailed investigation.

These hearings will complement those being held by the Health Subcommittee of the Committee on Labor and Public Welfare regarding the financing of health insurance. The Health Subcommittee of the Committee on Aging does not intend to explore the areas of health insurance or alternative systems of financing health care.

Mr. President, at the end of these hearings, I hope we can recommend to the Congress specific proposals for modifying our health care systems to raise health care services for our older consumers to a decent level.

NOTICE OF HEARINGS ON FARM CREDIT ACT OF 1971

Mr. McGOVERN. Mr. President, as Chairman of the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture and Forestry, I announce that hearings will will be held on S. 1483, the so-called Farm Credit Act of 1971, on May 17, 18, and 20, beginning at 10 a.m., in room 324 of the Old Senate Office Building.

Anyone wishing to testify should notify the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

THE CAPITOL POLICE FORCE

Mr. GURNEY. Mr. President, I should like to take a few minutes this morning to mention the outstanding job that Chief Powell and his Capitol Police Force have been doing throughout the demonstrations of the last few weeks. Sergeant at Arms Dunphy, a member of the Board of the Capitol Police Force, and Chief Powell have directed their men in such a way as to guarantee our freedom from delay and harassment. During most of the year, these men are given little credit for their exceedingly difficult task. It is only when the pressure is put on, as it has been in recent weeks, that their discipline and cool headedness under pressure becomes apparent.

It is fitting to note that, under circumstances that would severely try the patience of most men, the members of the Capitol Police Force have maintained a calm and reasonable stance. To my knowledge, there has not been even a single accusation of overreaction, brutality, or even rudeness attributed to the Capitol Force. This is an outstanding record.

For my part, I speak of an incident that took place in my office only last week. I would like to publicly thank the men who assisted me and my staff in a situation that required firmness and patience.

But the efforts of this special group are not confined to the handling of demonstrations and protests. Day in and day out, the Capitol Policeman acts as an information service to our constituents, a guard for our staffs, offices, and our vehicles, and as protector of the security of the Capitol itself.

I think it safe to say that without their efforts, we would not be able to meet here today. These few officers and men daily insure that the secure and orderly operation of the Senate and the House can continue. I think that all of us, and all of our staff members, owe a debt of gratitude to these dedicated men.

NEW ENGLAND FUEL OIL PROBLEMS

Mr. PROUTY. Mr. President, with the coming of spring, concern about home heating oil and the problems of the beleaguered New England consumers of this product also fade.

My purpose in speaking today is to warn that, despite the warm weather, despite the fading memories of winter, critical decisions must be made now by the Federal Government to assure adequate supplies of reasonably priced home heating oil for New England consumers next winter. Next fall may be too late; we must act now and we must make changes in our import policy now, if we are to avoid the heating oil problems and crises that have accompanied New England winters for the past 6 years.

I fear that unless we start now and make changes now, New England may well experience a critical shortage of heating oil and a continuing escalation in the price of this critical product next winter. I also fear that the competitive strength of the small independent businessmen, who have been the backbone of the New Engand fuel oil market, will be eroded as a result of Federal policies that favor the major oil companies.

Last June 17, President Nixon signed Proclamation 3990, allowing the importation of 40,000 barrels a day of No. 2 fuel oil into the east coast. At that time the White House announced that the purpose of the new program was to "alleviate the price, the supply and the competitive situation in connection with

No. 2 fuel oil on the east coast particularly New England and the Middle Atlantic States."

I applauded the President's action at the time, and I was equally pleased that the program was extended for the year 1971. The President's action marked the first recognition by any administration, Democrat or Republican, of the particular problems and concerns of New England homeowners.

Unfortunately, only one of the three goals of the program was achieved. Added supplies of home heating oil were made available for New England, thereby averting a major fuel crisis, and for this, we in New England were most grateful. Unfortunately, however, the program failed to alleviate either the price or the competitive situation.

Let us examine for a moment why the program failed to achieve two of its goals.

First, the program could have provided price relief in the amount of $50,000 a day for the oil consumer in the Northeast. This did not occur, however, because the savings of $50,000 a day were diverted from consumer relief into oil company profits. As soon as the new program for New England was announced, the two major companies who dominate the Caribbean, Esso and Shell, moved their prices sharply upward. During the period from August 1 to December 1, 1970, the Caribbean price of home heating oil moved from 6½ cents to 9½ cents per gallon. This unwarranted price escalation prevented consumer price relief while providing a financial bonanza of $50,000 a day for the oil companies involved.

Second, the program failed to alleviate the competitive problems of east coast independent terminal operators. Since they are forced by law to purchase No. 2 fuel oil only in the Western Hemisphere geographic areas, these operators have been seriously affected by the ever escalating costs of oil from this area and are unable by law to seek cheaper oil elsewhere.

My concern is not simply for the past deficiencies in the program. Rather, Mr. President, my concern is that these problems will not only continue but will be far more critical next winter. Not only does it appear that prices will continue to escalate, but it also appears that the supply will be greatly diminished. This pessimistic outlook has its basis in recent developments in the oil market which I should like to briefly review.

First, as a result of the new Venezuelan tax reference values—amounting to an increase tax of nearly 2 cents per gallon on home heating oil—there will be little chance of a reduction in prices; in fact, there is every chance that there will be another increase in retail prices this summer or next fall as a result of the Venezuelan price moves.

It might also be noted that because of the relationship established under the new Venezuelan tax regulations between rates on high and low-sulfur residual fuel oil, refineries in the Caribbean will have a greater incentive to use distillate oil, that is home heating oil, for blending with residual oil to lower the sulfur content of the latter product. In other words, the new Venezuelan tax policies will divert more and more home heating oil away from the residential heating market and into the heavy fuel market as a blend. This does not augur well for the supply picture for next winter. Already, the second largest refinery in the Caribbean has, within the last 2 weeks, begun notifying independent terminal operators that it will have no No. 2 fuel oil to sell in the coming winter. Insofar as independent operators are limited by law to purchasing No. 2 fuel oil only in these markets this action is critical to both supply and competition.

Mr. President, the solution to these problems I have outlined is simple but requires immediate action.

The step which must be taken is to remove the present restriction in the No. 2 fuel import program which forces independent operators to make purchases only in the Western Hemisphere. Removal of this restriction will avert a critical New England fuel crisis next winter and will cause no harm since the problems leading to its enactment no longer exist.

At the time this restriction was put into effect it made sense. The price of Caribbean oil was substantially lower than the American price and there were reasons to give the Venezuelans some preferential access to our market. However, the refineries in the Caribbean have substantially raised their prices. Additionally, the Venezuelans have raised their tax sharply. Therefore, neither the refineries nor the Venezuelans now deserve any special consideration by our Government.

Nor is there any reason for treating east coast independent terminal operators any differently from major oil companies. When you examine the oil import program closely, Mr. President, you discover that there are no geographic limitations on the importation of crude oil; the import licenses which the major oil companies receive for importation of crude oil for their east coast refineries enable them to purchase that oil anywhere in the world. In contrast, the terminal operators who hold tickets under the No. 2 fuel oil program are singled out and forced to purchase in a particular geographic area.

As I have pointed out, this geographic restriction works to the disadvantage of the consumer in the Northeast and to the advantage of the major oil companies and it must be ended.

The removal of this restriction is essential if independent operators on the east coast are to obtain a sufficient supply of home heating oil to meet the expected demand next winter. The realities of the situation necessitates, however, that this action be taken immediately.

Time is a critical factor because of the peculiar nature of the home heating oil business. We are entering what is called the "summer fill" period. It is the time when consumer demand for heating oil is low; wholesale prices have historically taken a downward swing, during this period, and independents have usually been able to fill their storage tanks at more reasonable prices. Unfortunately, the downward swing will probably not take place in the United States or in the Caribbean this summer because of the factors I have already cited. I am informed, however, that home heating oil will be available at more reasonable prices at European refineries in the coming months. One reason is that European refineries have less storage capacity and are less capable of increasing the proportionate yields of gasoline during the summer; hence, there is greater incentive to move heating oil. I am also informed that persons who purchase home heating oil from European refineries during the summer will, through longer term contractual arrangements, be able to secure additional quantities at reasonable prices during the winter as well.

Providing independent purchasers access to European refineries could thus have a favorable impact on heating oil prices in New England; if the independent can secure substantial supply at reasonable prices, I believe that they will be able to hold the line against a heating oil price increase in the coming winter.

The amendments to the oil import proclamation and the regulations which would give New England access to European heating oil can be made quickly and simply. A proposal was submitted by the Independent Fuel Terminal Operators Association to Gen. George A. Lincoln, chairman of the Oil Policy Committee on February 3; again on April 14 the association requested that prompt action be taken on this request. This matter has now been before the Oil Policy Committee for 2½ months; I see no reason why it cannot be decided upon very quickly. If we do not have fast action, prices on home heating oil along the east coast will increase again next winter. Such an increase of 1.3 cents per gallon has just been announced by one of the two major refineries in the Caribbean. As all New Englanders know, each 1 cent a gallon increase costs New Englanders $45 million more in order to keep warm during the winter months. This particular one will cost us $60 million.

Mr. President, the action we are seeking provides a test of the commitment to our Government in the fight against inflation. The oil import program and the level of imports allowed under that program have a direct bearing on oil prices in the Northeastern States. Knowing of the President's strong commitment in this critical fight to bring price stabilization to our Nation, I am sure that he will want to take prompt action to prevent any further price escalation for such an essential product.

My concern for New England home heating oil consumers has been heightened by very disturbing reports that have appeared in the press in the last few days to the effect that an effort is being instituted to completely eliminate the No. 2 fuel oil program next year. I would view this as a tragedy of the greatest magnitude and I am sure that all of us in New England, and in fact throughout the Northeastern States, will do everything we can to assure that it does not happen. In fact, it might be comforting to the homeowners of New England, who may be concerned about prices and supplies for the coming winter, if the White House

could provide assurances as soon as possible that these rumors and reports of an end to the program were false and that the program will be continued—at a much higher level—in 1972.

Mr. President, I hope that the Western Hemisphere limitations for the home heating oil import program will be removed immediately and that the independent businessman who provides much of our heating oil in New England will be able to purchase oil from European refineries. In this way, the program which the President commendably established last year will be able to plan an effective and important role in assuring adequate supplies at reasonable prices of a product so critical to the health, safety, and economic well-being of the New England States.

TENTH ANNIVERSARY OF AMERICA'S FIRST SPACE FLIGHT

Mr. ANDERSON. Mr. President, 10 years ago today Alan Shepard flew the little Freedom 7 capsule on America's first space flight—a breathtaking mission that lasted 15 minutes. This was a historic beginning that led rapidly and directly to the many subsequent steps that took us to the moon. I do not believe many now remember the qualities of steadfastness and courage and faith required to make those early decisions and to fly those first spacecraft that opened a new dimension for the first time to Americans. I would like to pay tribute to our space pioneers, to those like Alan Shepard who took the risks, who understood the possibilities, who succeeded in turning our eyes upward and outward. Few today would look back and say, "that was wrong, we were in error, the United States should never have challenged the barrier and promise of space."

Yet at that time, I recall many hesitant voices—whispers of caution, murmurs of fear, echoes of isolationism. I remember people saying we should stick with monkeys for a generation or so, perhaps because they felt man was too unreliable. Others felt the vehicles were not perfected and told us to wait for another generation of technology. There were even some who said, "leave space to the Russians and we will cultivate our own gardens."

I, for one, am glad we did not listen to the small voices around us at that time. I, for one, am proud to look back and know that one of the great designs of history has come about through hard, dedicated work in which I have had a part. And I know I share this pride with many Senators, Members of the House of Representatives, down the street at NASA, and across the country in every State and township.

But looking back is only one privilege of leadership—we have a duty to look forward and guide the destinies of the generations yet to come as wisely as possible. Decisions that may permanently affect the strength of the Union—its place in the congress of nations, its health and safety in the dynamic, turbulent years that lie ahead—are never easy to make or simple to formulate. Such decisions require both care and courage, an understanding of both risk and returns, and above all, a clear and steadfast vision of the real issues at stake. Such decisions should not be compromised; they should be dealt with in terms of fact, not partisanship or personality.

It was with these thoughts in mind that I read a recent communication from the senior Senator from Wisconsin, printed in the RECORD of April 30 of this year. In that communication he urges, quite simply, that we dismiss our Nation's future in space—apparently because the Senator did not like an answer he received from the space agency.

Mr. President, I deeply respect my colleague from Wisconsin; he is energetic, effective, and intelligent; he is also a very busy man. But in this case, on this issue, I feel he has been misled by his own zeal and restless energy; I feel he has not taken the time necessary—and I can assure you it requires a lot of time—to become fully familiar with our national space program, with its place in our national priorities, with its accomplishments, values, returns, and future promise. He is not a member of the Senate Committee on Aeronautical and Space Sciences; he has not participated in our hearings for the past 3 years while we have been developing and critiquing the concepts for the Nation's next steps in space. It is difficult, therefore, to accept without question the rather summary judgment expressed in his communication.

That judgment, in short, is that the United States of America should quit, now, the exploration and exploitation of space, that we should expressly and purposefully deny ourselves and our descendants the benefits of space science and technology, that we should turn our backs on a dimension of human activity that is as much part of our world today as were the open western lands a century ago. I hasten to point out that these are not the words of the Senator from Wisconsin; these are simply the consequences of following his advice, advice that we should not develop a space shuttle.

What is the space shuttle? To oversimplify, it is a concept that will make space as available—technically and economically—as the airplane has made long distance travel. Like an ocean vessel or an aircraft or a rocket, an economical space transportation system has a role to play in exploration, in science and technology, in civil life, and if necessary, even in defense. The shuttle is, first and foremost, an economical transportation from earth to space—and back to any point on earth. Without a shuttle—a space system that flies like a large transport plane—I do not believe we can afford to take full advantage of the scientific opportunities in space. Such major missions become too expensive. Nor can we capitalize effectively on our scientific and technological investments that have already given us space communications, weather satellites, and geodetic programs. The commercial and social benefits of the next generation of space applications—contributing to such fields as natural resources management, pollution monitoring, weather modification and climate control, television distribution, earthquake prediction and avoidance, education, public health and safety, to name a few—will not be fully realized unless we get costs down, efficiency up, and introduce a flexibility of action not earlier thought possible. That, of course, is what the space shuttle is for, and why without it we will lose a program of promise and value.

And I would remind you, Mr. President, of the strategic position of this Nation as we project the evolution of international affairs; as we anxiously work for peace and stability and the flowering of the human spirit, we must face the real possibilities of turmoil, of conflict, of international instability. Technologies do not politely stand still simply because a single nation chooses to ignore their importance and potentialities ; we have had several lessons in that regard in my lifetime. International interaction now includes space, whether we will it or not; we can no more ignore it than we can the changing roles of oceans and land masses. Would we see the Western World without ships? Without aircraft? Without land mobility? Why should we project a Western World without the technologies in hand that allow us the freedoms of space as well?

Mr. President, I believe the question of the space shuttle should be thoroughly examined by the Senate, not lightly dismissed. I believe the issue stated properly can have but a single answer; the issue is, can America afford all the costs—social, civil, and military—of a decision to deny ourselves ready access to the total environment in which we must live. The questions remaining are ones of technical approach and management structure, of phasing and sizing and development schedules; they are not ones that call into question the basic equations of international power, of national confidence, of social progress.

WITHDRAWAL FROM VIETNAM PUT IN ADMIRABLE PERSPECTIVE

Mrs. SMITH. Mr. President, the lead editorial of the Maine Sunday Telegram of May 2, 1971, certainly puts the matter of "On Getting Out of Vietnam" in admirable perspective. It is brilliant in its "down to earth" commonsense as contrasted to the negative carping against President Nixon on this matter.

I ask unanimous consent that it be printed in the RECORD, and I invite the attention of every Senator to it.

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

ON GETTING OUT OF VIETNAM

Nixon's "silken purse" of massive withdrawal from Vietnam is being made by his opponents into a sow's ear.

A regular hue-and-cry is on across the nation for instant withdrawal, now.

To Richard Nixon, this accusatory outcry for "faster withdrawal" must seem weirdly unjustified.

For the fact is that Nixon has withdrawn some 300,000 U.S. troops already; is bringing more back at the accelerated rate of 4,000 a week; has, through Secretary Laird, promised all ground combat will be turned over to the South Vietnamese by summer—only 60 days hence; has promised that he will withdraw another 100,000 troops by December; and has

let it be known that the troop level will be down to some 45,000 by next July. In less than 48 months he will have withdrawn half of a million troops.

But these facts do not seem to have registered. Perhaps because of Laos, Cambodia, Calley, PX scandals, drug fears—Americans want out of Vietnam now, overnight.

Nixon's political rivals—along with the Congress, the public and the North Vietnamese—are berating him daily for refusing to announce publicly a firm, early withdrawal date. Instead of answering them head-on, the President goes off and tells his withdrawal story to the D.A.R. and the Chamber of Commerce, of all audiences!

We hope that John Scali—that tough minded newsman who is the President's new advisor on the public information aspects of foreign policy—will get the President to quit greeting high school choirs and the D.A.R. and let go with a left hook at the Humphreys, McGoverns and Muskies who lead the wail for instant withdrawal.

"Look, you knuckleheads" Nixon might say "I am the first 'withdrawal' president you've ever had! Ike edged us into that war; your beloved Kennedy got us in deeper; then L.B.J., with Texas guns a-blazing, got us in up to our neck, while Humphrey and Muskie supported him. But in the last 20 months I have pulled out 300,000 men . . . Why, my middle name is 'withdrawal', Richard Milhous 'Withdrawal' Nixon . . . I ran on a promise to get us out of Vietnam, and beat Humphrey-Muskie who ran on the LBJ war plank of keeping us in Vietnam, half a million strong . . . And I've virtually said I won't run for a second term unless I get us out of Vietnam before I finish my first term. . . ."

Nonetheless, a hue-and-cry is on for Nixon to announce a date—New Year's Eve, urge his carping critics—for an end to U.S. involvement.

This President Nixon adamantly refuses to do—publicly. Although naming a date publicly would be easy and popular.

But it could also be disastrous. Disastrous for reasons which the President cannot spell out publicly without needlessly risking American troops.

We will try to state some reasons why Nixon cannot now publicly announce an early withdrawal date—although we feel certain he has privately set that date.

Reason one—Nixon's withdrawal policy hinges upon Vietnamization . . . upon turning the defense of South Vietnam over to a reasonably well equipped and trained South Vietnamese army, navy, air force, which "has a fighting chance to prevent a Communist take-over."

Today there is only one leader in South Vietnam who is wholly committed to achieve this necessary "Vietnamization."

He is President Thieu—like him or not.

And President Thieu is up for re-election this October.

And Nixon must help get Thieu re-elected, if Nixon is to get the Vietnamization he needs in order to safely withdraw all American troops.

This means that Nixon cannot now publicly announce any such early withdrawal date as December 31st.

If he did, that would pull the rug out from under Thieu's re-election in October.

And that in turn could pull the rug out from Vietnamization. And that stymie withdrawal.

In short, if Nixon now announced that all U.S. troops would be withdrawn in a wild rush by December 31—as his critics urge—the whole Vietnamization program might quickly collapse.

Might collapse so quickly that the U.S. troops remaining in Vietnam could be smitten with the heaviest fighting yet seen. They might face an onslaught from the North Vietnamese, coupled with collapse of a demoralized South Vietnamese army, and simultaneously get no support from a forsaken, lame duck South Vietnamese government.

Bluntly, the U.S. troops would be in one hell of a mess.

Thus the President would be horrendously irresponsible to risk collapse of the Vietnamization program merely to make a withdrawal date announcement.

His critics are dangerously naive to urge so risky a course on him.

We believe that President Nixon has firmly and privately set a fixed withdrawal date, and that he has informed President Thieu of that date.

We believe that date is around September or October 1972. That will be 11 months after Thieu's probable re-election and about a month or two before Nixon's probable re-election. If indeed, U.S. troops are out of Vietnam by then, Nixon will surely run again.

Critics will likely seize on such a date to make it sound as though it were chosen solely for political reasons.

If they do so, they expose their ignorance of the basics in the Vietnamese war and the process of military withdrawal.

These basics are logistics of withdrawal; and weather.

Reason two. The logistics . . . As the U.S. forces withdraw down to some 186,000 (by December), our diminishing troops and their millions of tons of valuable weaponry must be withdrawn to safe enclaves. They must pull back from hundreds of U.S. bases scattered now from the DMZ in the North to the lower delta and the Gulf of Siam in the South.

They will pull back—a tricky, major maneuver—to the six or eight major coastal enclaves where the vast U.S. buildup started in 1965 . . . In the North, they must pull back to Quang Tri, the vast U.S. helicopter base; and to Phu Bai, our first big Army headquarters; and to Da Nang, the second city, where we have a major port and huge airbase; and to Chu Lai, where there is a huge U.S. hospital and airbase. The enclaves in the mid coast region will be Nha Trang; and Cam Ranh Bay, Asia's best harbor, which we built so big it dwarfs most U.S. ports; and to Bien Hoa, the airbase and vast depot outside Saigon.

Elementary military sense makes it mandatory these highly valuable bases be kept from falling into enemy hands.

Furthermore, the U.S. must spread its exodus out from a number of separated debarkation points. And should there not be an armistice by the time we withdraw, then safe, major ports may be needed to supply war material to the ARVN. If there is an armistice, ports will be needed to bring in material to rebuild devastated Vietnam.

So much for elementary logistics of safe, sensible withdrawal.

Reason three. Weather, basic to withdrawal, and the entire conduct of war in Vietnam, is weather.

Those who urge total withdrawal by December 31, ignore the paramount fact that December is the driest month. The months between November and April are the dry season down the network of Ho Chi Minh roads (The Trail) from North to South Vietnam. These are the months the enemy moves his men and weapons, the months when attack in force can be staged. Hence it is the most vulnerable of all times for the vulnerable tactic of withdrawal.

Reason four. Because Vietnamization started too late, the ARVN still has a long, long way to go. We believe President Thieu has promised to keep full speed ahead with Vietnamization—provided President Nixon assures him of needed U.S. air cover during the next dry season, when the ARVN may be fighting its toughest ground battles. Nixon, we believe, has promised such air support, if needed, because the South Vietnamese air force does not have interdiction capabilities.

Once that perilous dry season is over in April the monsoon floods will bog down any major enemy movement. And then the final stage of U.S. withdrawal from the enclaves may be accomplished with less risk.

Reason five. If "instant withdrawal" resulted either in massive U.S. casualties, or if a collapse of "Vietnamization" resulted in a walk-over by Communist forces into Saigon, then the public outrage in the United States might rip our nation terribly. There could be outrage which asked "Is this why 40,000 Americans died? Why 300,000 Americans were wounded?"

A violent right-wing reaction under such circumstances might throw America into a torment of division and self-accusation which would dwarf any demonstration yet seen in our land.

This too is a risk no responsible President should take.

For years, this newspaper has deplored and criticized our vast and wasteful and mistaken involvement in Vietnam. We wish the U.S. had been out of Vietnam long ago, and the fighting and peace-making had long ago been left to the Vietnamese themselves.

Now, at long last, massive U.S. withdrawal is underway. Now, at long last, presidential promises are being kept. We favor the fastest withdrawal feasible. But we deplore a panicky, emotional and dangerous rush for the exit—and deplore those who advocate it and employ it as a stick to beat the President.

NATIONAL WARNING SYSTEM

Mr. HUMPHREY. Mr. President, the erroneous message sent out on February 20 from the National Emergency Warning Center announcing a "national emergency" clearly shows that our national alert system needs to be completely reexamined and reevaluated. An error of this magnitude simply cannot be tolerated.

As disturbing as the erroneous message being sent in the first place was the failure of the vast majority of the radio and television stations to comply with standby emergency procedures. The Federal Communications Commission has found that only 452 of some 8,243 stations complied with the procedures to be followed in the event of an alert warning. The vast majority of stations remained on the air because they did not believe the alert warning, wanted to check it further, or failed to see it on the wire.

We need a dependable and efficient national alert system not only in the event of attack from a foreign power, but also to give us prompt warning of domestic disasters such as hurricanes, tornadoes, flash floods, storms, tidal waves, earthquakes, and fires.

In view of the serious questions raised by the erroneous alert message and breakdown in the emergency broadcasting system, Congress has an obligation to give this entire matter top priority consideration.

I wish to commend the distinguishd chairman of the Armed Services Committee (Mr. STENNIS) for promptly directing his committee staff to investigate this matter to determine how such an error could occur and why there was a breakdown in the emergency alert system. I am certain that the Armed Services Committee's study is endorsed by every Member of this body.

I would suggest that it is incumbent

upon us to examine also the equally important link in our alert system between the broadcast stations and the general public. Under our present emergency broadcast system the stations upon receiving the alert notice are to broadcast the appropriate "emergency action notification message" prerecorded tape. However, at least 25 percent of the time each day 95 percent of our country's citizens are not "tied in" to the emergency broadcasting system, since their radio and television sets are turned off. Even during daytime hours many sets are silent.

Mr. President, the country needs an efficient home warning system that would operate around the clock. In this technological age the signaling techniques are available. The necessary transmitting facilities are already in existence in the form of our commercial broadcast system. Every family should be able to purchase a television set or radio that could be either voluntarily turned off or turned to a silent standby state. In time of emergency, receivers in a silent standby state would have their speakers automatically turned on, providing each home with instantaneous warning, 24 hours a day. We have at the present time the technological knowhow to put such a system into every home in the country.

The Office of Civil Defense and the Federal Communications Commission have been conducting studies of such systems since 1963. The Weather Bureau also is studying a third system for weather warning. In the meantime, disasters such as the Palm Sunday tornadoes of 1965, Hurricane Camille, and the Mississippi tornadies strike unwarned victims. These studies should be examined at the highest levels of our Government so that we may proceed toward selection and prompt development of the most effective system attainable. Overall responsibility for a unified public alerting system should be clearly established and implemented as soon as possible.

REVENUE SHARING—RESOLUTION OF CITY OF CHATTANOOGA

Mr. BROCK. Mr. President, one of the most pressing issues facing the 92d Congress is the consideration and passage of the President's revenue-sharing legislation.

The critical situation now facing our cities is accurately outlined in a recent resolution relative to revenue sharing adopted by the city of Chattanooga, Tenn. I ask unanimous consent that the resolution be printed in the RECORD.

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

A RESOLUTION RELATIVE TO REVENUE SHARING

Whereas, state and local governments are reaching the point of fiscal crisis; and,

Whereas, there is an urgent need to correct the imbalance between the ability of the federal government and of state and local governments to raise the revenues required to move toward a solution of domestic problems; and,

Whereas, the time has come to strengthen state and local governments by returning a greater share of responsibility for establishing their own spending priorities to meet these problems and the growing demand for public services; and,

Whereas, the concept of general revenue sharing has been endorsed by an impressive number of national, state and local leaders and organizations as an effective means of helping resolve the complex and crucial situation described above:

Now, therefore, be it resolved by the board of Commissioners of the City of Chattanooga, Tennessee, that they do affirm their support of the proposal for general revenue sharing and strongly urge the continuation of bipartisan efforts in the Congress to promptly enact this vital and long-overdue measure.

I, W. H. Zachry, Auditor of the City of Chattanooga, Tennessee, and, as such, keeper of the records of the Board of Commissioners of said City, do hereby certify that the foregoing is a true, compared and correct copy of Resolution No. 8835, adopted by the Board of Commissioners of the City of Chattanooga, Tennessee on March 30, 1971.

Witness my hand and the Seal of the City of Chattanooga, Tennessee, this 31st day of March, 1971.

W. H. ZACHRY,
Auditor and Clerk of the Board of Commissioners.

AIRPORT DEVELOPMENT AND AIR NAVIGATION FACILITIES SUFFER BY FAILURE TO PROVIDE FUNDS ALREADY PAID IN USER TAXES

Mr. RANDOLPH. Mr. President, the Congress developed and passed the landmark Airport and Airway Development and Revenue Acts of 1970. It was intended that substantial funding be provided for urgent airway modernization and airport development. The purpose of utilizing the system of user tax funds contained in the acts was to insure that moneys were spent for the specific programs and in the specific amounts.

As it now stands, the administration steadfastly maintains that it has no obligation to request, nor to spend, all the funds authorized by Congress under last year's legislation. On the contrary, it appears that the administration intends to hold down spending for needed airport and airway construction, thus depriving aviation taxpayers and the public of urgently needed improvements to our air transportation system. It also appears that user tax revenues will be used to defray operation and maintenance costs of the system—a nonpriority objective—while airway and airport projects continue unfunded.

Those of us in Congress who were active on this issue thought that we had made it amply clear that capital construction for airport runways, air navigation facilities, and air traffic control equipment would have an absolute priority in the use of aviation trust funds, particularly the funds that were derived from taxes on airline passengers, air freight, general aviation fuel, and aircraft. Unfortunately, the administration—specifically, as I understand it the Office of Management and Budget—decided to interpret the law to suit its concept.

By combining all aviation costs and refusing to assign a priority to capital items, it became easy for the administration to reduce appropriation requests—and spending—for capital items, apply user-supported tax revenues to operations and maintenance expenses of the Federal Aviation Administration, and thus reduce the requirement for general Treasury fund appropriations.

The tactics of the administration are clear. By lessening the need for general Treasury funds, although at the expense of the aviation taxpayers and progress in aviation, the administration reduces, dollar for dollar, the amount of the Federal Government's budget deficit.

Reduction in the Federal deficit is, of course, a salutary goal—but the expense of that objective must not be borne by a special group of taxpayers, in this case the users of aviation. Yet this is precisely the result of the administration's action. User taxes, imposed on a special group of taxpayers for a specific purpose, would be used to reduce a general fund obligation.

Mr. President, on March 30, the able Senator from Nevada (Mr. CANNON) introduced S. 1437, a bill to further clarify the intent of Congress as to priorities for airway modernization and airport development. I cosponsor this bill. The Senator from Nevada clearly outlined the objective of his measure: to require the administration to request and the Congress to appropriate not less than $295 million for airport development and planning grants each year, and not less than $250 million for air navigation and traffic control facilities and equipment.

Then and only then—

Said Senator CANNON—

will user charge-derived trust fund revenues be available for the other purposes specified in the act.

Mr. President, I strongly support the provisions of S. 1437 and, in the interest of a better, safer air transportation system in the United States, I urge that it receive early and favorable action by Congress.

FREE WORLD SUPPORT OF PRESIDENT NIXON'S DISENGAGEMENT POLICY

Mr. SCOTT. Mr. President, a recent editorial in the London Daily Telegraph is indicative of the support throughout the free world of President Nixon's disengagement policy in South Vietnam. I commend the editorial to the Senate and ask unanimous consent that it be printed in the RECORD.

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

IS AMERICA STILL CREDIBLE?

Is America so rotted by the Vietnam war, so rent by protest against most of the things that the Nixon Government stands for at home and abroad, as now to be no match, in power or the will to use it, for an imperialist Soviet Russia or a resurgent China? If this were indeed so the European and other democracies, which now take American protection as much for granted as the sun and the rain, should be doing something more constructive than self-righteously deploring the presages of America's decay so eagerly served up by the media.

Has the canker eaten as deep into the American soul as the television pictures suggest? About 300,000 demonstrated against the war in Washington alone over the week-

end. Eight hundred youthful-looking "veterans" from Vietnam discharged their appointed task of reflecting vocally and visually the supposed demoralisation of the American Army. The climax was a well-organised and well-photographed orgy in which the various military decorations so prized in the country's history were dishonoured, thrown away and trampled underfoot. It was a kind of anti-patriotic black mass, calculated to shock in the same way as the shouted obscenities which are now a routine part of demo techniques. Senators KENNEDY, MCGOVERN and MUSKIE were among those anxious to be asociated with such proceedings. In this atmosphere the highest estimates of drug-addiction and officer-murder in Vietnam seemed credible.

And yet President NIXON—contrary to all indications when he took office, despite organised malice of unprecedented scale and intensity at home and all the enemy's efforts to exploit America's self-inflicted wounds—is resolutely achieving his objectives. More than half of the troops have already been withdrawn, and the reverse flow has been increased. The South Vietnamese, growing daily stronger, will soon be carrying the entire burden of the land fighting. The initiatives in Cambodia and Laos, far from bringing China into the war, as Mr. NIXON'S denigrators predicted, must have played some part in bringing China to the contemplation of a settlement that is implied by her overtures. In America the economy is responding to treatment, the racial scene and even campuses seem to be cooling.

Abroad Mr. NIXON—despite isolationists of the Right and Left, and pandering by the Democrat leaders to the pacifist and protest movements—is showing that he is able and determined to discharge America's responsibilities. He sometimes has to trim a bit in dealings with an awkward Senate, but in a show-down it knows that he would have public opinion behind him. He did not withdraw troops from Europe. He stood up to Russia in the Syria-Jordan crisis last October, recently reinforced the Sixth Fleet to compensate for Russian moves, and is evidently not going to allow Russian expansion in the Indian Ocean to go unanswered. While seeking a missile agreement, he is telling Russia firmly that he will not allow her to steal marches or gain advantages, and is taking practical dispositions accordingly. Such things do not make such good television programmes as veterans' protests, but in the present context they are much, much more important.

HOW NONPARTISAN IS COMMON CAUSE?

Mr. BROCK. Mr. President, at its inception, John Gardner's Common Cause was hailed as the people's lobby and a nonpartisan organization for all Americans who want a voice in the rebuilding of this country.

Unfortunately, this has not been the case. An article published in the April 5 issue of Monday takes a look at what is happening with Common Cause today. 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:

In his "Dear Friend" letter to potential members, the Chairman of Common Cause, John Gardner, refers to his organization as a new *"independent, nonpartisan organization* for those Americans who want to help in the rebuilding of this Nation." An investigation of the organization by Monday has shown that behind the nonpartisan rhetoric *there is much more than meets the eye.*

To begin with, there is Gardner. A nominal Republican, he has become a *purveyor of the radical Democratic line* on virtually every major issue. Examples abound: In a 1969 speech to the National Press Club, Gardner *accused the President* of a "failure of leadership" in domestic affairs. The New York Times called the address a "strong indictment" that bore down *"particularly hard on the Presidency."* In May, 1970, Gardner assailed President Nixon on civil rights. In a statement on Laos this February, Gardner *ignored North Vietnamese violations of Laotian neutrality* and accused the Nixon Administration of widening the war in Indochina. He accused President Nixon of playing "Russian roulette" and "a deadly game."

Next, there is *the staff of Common Cause* and *the way the organization is run.* It's Policy Council has approved as President of Common Cause, *Jack Conway.* And *Harold Willens* has become Special Advisor to Gardner. Conway, who will be the *"chief operating officer"* of Common Cause, is a *Democrat* and former chief assistant to the late Walter Reuther, head of the United Auto Worker's union. He was also Deputy Director of the War on Poverty in the *Johnson-Humphrey Administration. Willens, also a Democrat,* is co-founder with *Henry Niles, another Democrat,* of the radical Business Executives Move for Vietnam Peace. Both Willens and the group he helped found have been unremitting critics of the Nixon Administration. Their views are indistinguishable from the democratic party's left-wing. The Washington Post has quoted *Willens* as blaming *"American militarism"* for the war in Vietnam. The Post also reported that Business Executives Move for Peace contributed $8,000 to help bail out the left-wing *Vietnam Moratorium Committee.*

A Monday poll of Common Cause's 19-member Executive Committee, which is responsible for detailed review of both past and future action, shows *Democrats outnumbering Republicans* by 11 to 6. One identified herself as an Independent; another was unreachable. The Common Cause Policy Council is also *loaded with Democrats:* Ga. State Rep. Julian Bond, Tex. State Sen. Joseph Bernal, the wife of Sen. Fred Harris of Okla., Gary, Ind. Mayor, Richard Hatcher, Henry Santiestivan, husband of the editor of the Americans for Democratic Action publication, ADA World, Cleveland Mayor Carl Stokes, Philadelphia Mayor James Tate, UAW President Leonard Woodcock and Andrew Young, Jr.

While President Nixon is fighting to *reverse the flow of power from Washington to the States,* Common Cause is doing precisely the reverse. In a signed message to members last week, Gardner reported that after "consultation with long-established organizations" it had been decided that Common Cause would not adopt the conventional local chapter form of organization. *"Nor do we want members to launch local actions* that are not a part of a national effort that Common Cause is making," he warned. The reason: "Uncoordinated *local initiatives would dissipate the power that Common Cause can exert* when all members act together"

Common Cause's stand on issues also belies the claim to nonpartisanship. Following up on charges by Newsweek columnist *Stewart Alsop* and Washington Post columnist *Kenneth Crawford* that there are no differences on the issues between Common Cause and the Americans for Democratic Action (ADA), Monday put the question to both organizations. The answer was the same: Neither could think of one major issue on which the other differed substantially. "I think there are some," ADA Press Secretary *Sarah Trott* told Monday, "but I can't think of one specifically." Special Assistant to the chairman of Common Cause, Thomas Mathews, said essentially the same thing only a little more colorfully.

Not only do Common Cause's positions follow the *liberal Democrat line,* but they also are even lobbied for on Capitol Hill by Democrats. Four out of five of Common Cause's registered lobbyists are Democrats. They are: *John Lagomarcino,* who wouldn' admit to Monday that he was a Democrat, but said he voted for Humphrey in '68 and Johnson in '64; *Jack Moskowitz,* formerly with a subcommittee of the Senate Judiciary Committee—put there by the Democrat Senator from Michigan, *Philip Hart; Wayne Horvitz;* and *Ed Anderson,* formerly with the Friends Committee on National Legislation. Anderson, when asked if a Democrat, said: "Please don't ask that." But when pressed, he said he was a Democrat. The lone Republican lobbyist is *Lowell Beck.*

How Common Cause got into one issue, the seniority system, has been reported in the New York Times which said the organization took on the controversy after Gardner, Lagomarcino and Pete Edelman, a former staff aide to Sen. Kennedy, "scouted around Capitol Hill talking with such Congressmen as Donald Fraser, Democrat of Minnesota, head of the *liberal Democratic Study Group."*

Seeking a Common Cause member's opinion as to the partisanship or nonpartisanship of the organization, Monday spoke with Mrs. M. E. Herr of Yakima, Washington. Mrs. Herr was chosen at random from material in a Common Cause press kit quoting her on the ineffectiveness of Congress. Mrs. Herr told Monday: "I think *Common Cause does lean toward the liberal Democrats* on the issues. And I think if they are partisan, and I concede it looks as if they are getting that way, I believe they should say so."

In a letter to the Washington Star last month, Common Cause member E. D. Gibson announced his resignation from the group saying: "The bloom is so soon departed . . . *Common Cause . . . is found wanting.* It has taken the easy turn in becoming another anti-government organization opposing the national policy in the Far East."

In recent weeks, other information has come to light which seriously weakens Common Cause's *pretenses to nonpartisanship.* These include:

The revelation that the organization allowed the *Democratic National Committee* to use part of its membership list to raise funds. Gardner later expressed regret over the incident causing *RNC Chmn. Bob Dole* to ask if Gardner was embarrassed *"because he goofed or because he was caught?"*

Reports in the Albuquerque Journal that *Anne Wexler, a veteran of the Eugene McCarthy* and *Joe Duffey campaigns,* is heading a voting rights division for Common Cause. The Journal also reported that she is pushing reforms contained in the report issued by the Democratic Nat'l Committee's convention reform commission headed by *Sen. George McGovern.* David Mixner, also a veteran of the McCarthy campaign and a Vietnam Moratorium Committee organizer, is working for *Common Cause on a pilot project* on the relationship between corporations, regulatory agencies and state legislatures, the Journal reported. Craig Barnes, *a defeated Democratic House candidate,* is working with Mixner.

A report in the leftist New Republic magazine that Common Cause is "serving as *a half-way house for backers of Presidential candidates* who haven't announced, such as Sen. Harold Hughes of Iowa." The magazine also reported that while Common Cause boasts of its nonpartisanship, in the early weeks of its formation "rumors were flying about that Common Cause was laying the *foundation for a third party . . .*" The New Republic reported that Gardner enjoys former Sen. Eugene McCarthy; "He thinks that every time the former Senator opens his mouth, he says something, which is unusual in Washington."

A report in Human Events that the PR firm of Doyle, Bane and Bernbach, which handled

LBJ's campaign in 1964 is providing free services to Common Cause.

To sum up, *the question about Common Cause* is not whether it has the right to employ whoever it wants or take whatever positions it wants. What is at issue is whether the organization should hire partisan individuals in prominent positions and take partisan political positions while at the same time calling itself nonpartisan. As Stewart Alsop put it: "I'm not arguing whether the *dove Democrats and Common Cause* are right or wrong. My point is that a spade really does occasionally need to be called a spade. And John Gardner, who is undoubtedly an admirable fellow, is no more the head of a nonpartisan citizen's lobby than I am. He's the head of a *lobby for liberal Democrats*—which, of course, he has every right to be."

ARIZONA FIRST TO IMPLEMENT THE 1970 CRIMINAL JUSTICE ACT AMENDMENTS

Mr. ERVIN. Mr. President, just a year ago last Friday, on April 30, 1970, the Senate passed S. 1461, a bill to improve the quality of criminal justice in America by improving and expanding the system of public support of defense legal assistance for individuals who are financially unable to obtain counsel in criminal cases. That bill amending the Criminal Justice Act of 1964 was originally introduced on March 10, 1969, by the Senator from Nebraska (Mr. HRUSKA), the Senator from Arizona (Mr. GOLDWATER), the Senator from Massachusetts (Mr. KENNEDY), and myself. The Constitutional Rights Subcommittee held extensive hearings on the bill before the Senate passed it and sent it to the House. It was signed into law on October 14, 1970, after long and deliberate House consideration. It is one of the most carefully scrutinized proposals in the criminal justice field ever to undergo the legislative process.

Among other things. S. 1461 authorized the creation of Federal public defender organizations in areas with a high volume of criminal cases. At a ceremony in Phoenix, Ariz., last Friday afternoon at 4 o'clock, the U.S. District Court for the District of Arizona became the first district to implement that provision of the amended Criminal Justice Act.

Mr. President, this is a noteworthy accomplishment. I believe it is appropriate to commend the many members of the bench and bar in Arizona who have been the first to seize the opportunity presented by the new law to strengthen the meaning and effect of the sixth amendment guarantee of assistance of counsel. I think it is especially fitting to mention two particular gentlemen from Phoenix whose dedication and hard work have made this important step possible in Arizona.

Judge Walter E. Craig, senior judge of the Phoenix division of the U.S. District Court for the District of Arizona, has been a driving force in implementing the Criminal Justice Act of 1964 and in evaluating that act's operation. In addition, he has been particularly helpful in suggesting changes in the act so that it could meet today's increased demands in the field of criminal justice.

Mr. Tom Karas, through his devoted and able service as director of the Maricopa County office of Federal criminal defense in Phoenix, has made it possible for Congress to examine closely a model criminal defender organization which renders effective legal representation to poor criminal suspects. He is eminently well qualified to assume his new role in Arizona as the first Federal public defender under the amended Criminal Justice Act.

By their actions, including a great deal of unselfish service to my Constitutional Rights Subcommittee in its hearings on the Criminal Justice Act, Judge Craig and Mr. Karas have helped to lay a solid foundation for improving the quality of defense services for the poor both in Arizona and in the rest of the country as well.

Mr. President, it is gratifying to see a prompt and affirmative response to this important legislation. That response and others which will soon follow under the new law will do much to enhance the meaning of the right to counsel provided by the sixth amendment and to strengthen one of the most fundamental elements of our criminal justice system.

U.S. INTELLIGENCE ACTIVITIES IN PURSUIT OF NATIONAL SECURITY

Mr. GOLDWATER. Mr. President, in recent months there has developed in this country a growing debate over whether a democracy such as the United States should engage in undercover intelligence activities in pursuit of its own national security. In these days, when all agencies of authority are coming under heavy fire, many critics would like us to believe that effective intelligence work, involving many methods of surveillance, is incompatible with democratic principles.

The great national need for maintaining organizations such as the Federal Bureau of Investigation and the Central Intelligence Agency seems to receive very slight attention from the self-styled critics on the left-hand side of the American political spectrum.

To listen to some of these liberals talk and complain you would think that there was some easy and accessible substitute for law enforcement and for intelligence information concerning the activities of those who would undermine our national security and the maintenance of a free society.

Recently, Director Richard Helms, of the Central Intelligence Agency, dealt with this vital subject in his first public speech since he became Director in 1966. He addressed his remarks to the American Society of Newspaper Editors in Washington and presented a vigorous denial of charges that the CIA constitutes an "invisible government" which is a law unto itself, engaged in provocative covert activities repugnant to a democratic society and subject to no controls.

Mr. President, because of the importance of Mr. Helm's speech I ask unanimous consent that pertinent excerpts from it be printed in the RECORD.

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

SAYS CIA'S DIRECTOR: "WE, TOO, ARE HONORABLE MEN"

(NOTE.—Richard Helms, Director of the Central Intelligence Agency, defended the role of intelligence-gathering in a democracy in his first public speech since he became Director in 1966. Here are excerpts from his address, to the American Society of Newspaper Editors in Washington.)

I welcome this opportunity to speak to you today about the place of an intelligence service in a democratic government. In doing so, I recognize that there is a paradox which I hope can be dispelled:

On the one hand, I can assure you that the quality of foreign intelligence available to the United States Government in 1971 is better than it has ever been before.

On the other hand, at a time when it seems to me to be self-evident that our Government must be kept fully informed on foreign developments, there is a persistent and growing body of criticism which questions the need and the propriety for a democratic society to have a Central Intelligence Agency.

I am not referring to the occasional criticism of CIA's performance—the question of whether we gave advance warning of this coup or that revolt, or how accurately we forecast the outcome of an election or a military operation.

By necessity, intelligence organizations do not publish the extent of their knowledge, and we neither confirm nor deny challenges of this nature. We answer to those we serve in the Government.

What I *am* referring to are the assertions that the Central Intelligence Agency is an "invisible government"—a law unto itself, engaged in provocative covert activities repugnant to a democratic society, and subject to no controls.

This is an outgrowth, I suppose, of an inherent American distaste for the peacetime gathering of intelligence. Our mission, in the eyes of many thoughtful Americans, may appear to be in conflict with some of the traditions and ideals of our free society. It is difficult for me to agree with this view, but I respect it. It is quite another matter when some of our critics—taking advantage of the traditional silence of those engaged in intelligence—say things that are either vicious, or just plain silly. . . .

As a general rule we are silent, because we must maintain the security of our intelligence operations, but we also recognize that the people of the United States have a legitimate interest in every arm of their Government. There is, fortunately, enough fact in the open record, and in the pertinent legislation, to meet that public interest. . . .

Ironically, our efforts to obtain foreign intelligence in this country have generated some of the more virulent criticism of the Central Intelligence Agency. It is a fact that we have, as I said, no domestic security role, but if there is a chance that a private American citizen traveling abroad has acquired foreign information that can be useful to the American policy-maker, we are certainly going to try to interview him. If there is a competent young graduate student who is interested in working for the United States Government, we may well try to hire him.

The trouble is that to those who insist on seeing us as a pernicious and pervasive secret government, our words "interview" and "hire" translate into suborn, subvert, and seduce, or something worse. We use no compulsion. If a possible source of information does not want to talk to us, we go away quietly. . . .

And so I come to the fundamental question of reconciling the security needs of an intelligence service with the basic principles of our democratic society. And the root of the problem is secrecy, because it is axiomatic that an intelligence service—whatever type of government it serves—must wrap itself in

as much secrecy as possible in order to operate effectively.... Nations have vital secrets they are determined to keep secret. They surround them with the greatest possible security, and they play rough in preserving those defenses. Accordingly, the intelligence service which is assigned to obtain this information must begin by looking to its own security.

If, at the outset of our operation, the opposition can identify the agents involved, or the means we propose to use, the enterprise is doomed from the start.

If, at the conclusion, we disclose how much we know, the opposition is handed on a platter highly damaging indications of how and where we obtained the information, in what way his security is vulnerable, and who may have helped us. He can seal off the breach in his defenses, roll up the agents, and shut off the flow of information.

If any significant portion of our secret organization is exposed, it gives the opposition a starting point to work against us. That is why we seek to preserve a secrecy which, I should note, is honored without question in many thoroughly democratic countries.

I cannot, then, give you an easy answer to the objections raised by those who consider intelligence work incompatible with democratic principles. The nation must to a degree take it on faith that we, too, are honorable men devoted to her service....

I can assure you that what I have asked you to take on faith, the elected officials of the United States Government watch over extensively, intensively, and continuously....

In short, the Central Intelligence Agency is not and cannot be its own master. It is the servant of the United States Government, undertaking what the Government asks it to do, under the directives and controls the Government has established. We make no foreign policy.

We are, after all, a part of this democracy, and we believe in it. We would not want to see our work distort its values and its principles. We propose to adapt intelligence to American society, not vice versa.

RELIEF TO PAKISTAN

Mr. MUSKIE. Mr. President, East Pakistan may be on the verge of a famine of shocking proportions unless this country acts immediately to help get international relief operations underway.

These are the facts.

East Pakistan cannot, under the best of circumstances, grow enough food to feed its people. It is dependent on food imports. Those imports have been cut off since the beginning of hostilities there late in March. It is reported that 200,000 tons of wheat sent by the United States have not been unloaded or distributed since the major port of Chittagong was closed down by aerial bombardment and work stoppages. Food stockpiles, never large, are dwindling day by day. Even when and if the food shipments are unloaded, there is no guarantee that they will be moved to the areas which need them most. As a result of the civil disturbances there, rail and road facilities have been seriously disrupted.

In 1943, when the food import requirements of the region were less massive than they are now, a famine occurred in which more than 1 million Bengalis perished when the Japanese invasion of Burma cut off food shipments. The requirement for food from outside the region is now almost three times what it was then. Some observers estimate that 10 to 30 million may starve to death should famine conditions develop there now as a result of barriers to food imports. In addition, medical and other public health service has been radically disrupted by the Pakistan Army campaign in the area.

The cyclones of last year left tragic misery and loss of human life in its wake. The survivors of this natural calamity must now try to survive a manmade disaster.

Last month, representatives of the International Committee of the Red Cross flew to Karachi to request the Pakistani authorities to permit them to enter East Pakistan to conduct a survey of the relief requirements there. They were turned away.

I have therefore joined other Senators, both Democratic and Republican, in urging Secretary of State Rogers to instruct the American Representative at the Pakistan Consortium talks in Paris to refuse further foreign exchange assistance and to ask other donors to do likewise unless the Government of Pakistan first, mounts an immediate emergency relief effort in the East commensurate with potential needs and second, grants the International Committee of the Red Cross observers entry to East Pakistan to plan coordinated international food distribution and medical relief efforts with Pakistani authorities.

We are not suggesting that narrow political pressures be applied to the Pakistani Government. On the contrary, we are urging only that American economic assistance, in all its forms, serve what must always be its essential purpose: helping to preserve and enhance life itself.

The time for deliberation and assessment by the administration is past. The people of East Pakistan are not planting the crops they will need in the months to come. They are not able to. America and other concerned nations must take concerted efforts and apply all appropriate pressures to deal with famine and starvation there. We can do no less if we are to continue to stand for the humanitarian principles we have always espoused. In this area where political crisis has raised the specter of further deprivation and want, business as usual is not an adequate response. Let us act now, before the savage statistics of death and hunger become daily headlines.

ALASKA NATIVE LAND CLAIMS

Mr. GRAVEL. Mr. President, yesterday morning's editoral page of the Washington Post contains a short essay on the Alaska Native land claims issue on which hearings were held again last week in the Senate and are being held this week in the other body.

I commend the editorial to the Senate as an indication of the widespread popular support that the Alaska Natives have for a bountiful settlement. To that end, I ask unanimous censent that the editorial be printed in the RECORD.

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

[From the Washington Post, May 4, 1971]

LAND FOR ALASKA'S NATIVES

Although most Americans no longer live on the land, or even have a feel for it, land is still a precious value for many citizens whose culture and economy depend on it. For some 60,000 natives of Alaska—Indians, Eskimos and Aleuts—both the sacred traditions of their ancestors and their present needs are based on land. Because Congress has never settled the land claims of the natives—going back to the Organic Act of 1884—the issue has, like much of Alaska itself, remained in deep freeze.

A thaw now appears on the way. In early April, President Nixon sent to Congress a bill that would deed the natives 40 million acres of land and authorize cash payment of $500 million over 20 years and a maximum of $500 million in oil and mineral royalties. The administration's proposal is constructive and bountiful. Moreover, it illustrates that federal officials working on the project are open-minded; their earlier land claim proposals, for example, offered only rock bottom fractions of tne 40 million acres.

Although the Alaska Federation of Natives, a statewide organization representing the state's 200 native villages agrees that the administration's bill is a step forward, it insists that a more just settlement would be 60 million acres. This view is shared by Sen. Fred Harris of Oklahoma and 11 other senators who have introduced a bill to that end. The 60 million figure is not a land grab, but comes from a very modest estimate by the natives themselves on what they need for fishing, hunting and bare subsistence. As Senator McGovern points out, although the natives now make up more than 20 per cent of the population, their land claims for 60 million acres is approximately only 16 per cent of Alaskan territory.

As this issue is debated in Congress in the next few weeks, and final legislation is drawn up, it will be easy to get lost in the abstract mathematics and think that that is all. It isn't. Poverty in Alaska is perhaps the most crushing in America; few natives escape the shocking conditions of a high mortality rate, high joblessness and poor education. At a time when national leaders are trying both to find ways to keep people off welfare and to persuade them to stay on the land away from the crowded cities, it would seem fortunate that here is one group—the Alaska natives—who want to do just that: earn their own living on their own land. The administration's proposal and the improvement offered by the Harris bill have this in mind.

FIRST REGULAR GENERAL ASSEMBLY MEETING OF THE OAS IN SAN JOSE, COSTA RICA

Mr. JAVITS. Mr. President, during the Easter recess, I had planned to attend the opening sessions of the first regular general assembly meeting of the OAS in San Jose, Costa Rica following my consultations with Mexican President Luis Echeverria and other Mexican and American officials in Mexico City.

I was unable to attend these opening sessions. I authorized a regular member of my staff who accompanied me to Mexico City, Kenneth A. Guenther to attend these meetings as an observer.

I ask unanimous consent that his report on this important meeting be printed in the RECORD.

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

THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES

Attached is a brief report on the opening three days (April 14–17) of the First Regular Session of the General Assembly of the Organization of American States which you authorized me to attend. These opening sessions were devoted to procedural matters including the adoption of the agenda and to the statements of the President of Costa Rica, Jose Figureres; the Secretary General of the United Nations, U Thant; the Secretary General of the OAS, Galo Plaza; the Secretary of State of the United States, William P. Rogers, and the Foreign Ministers of the assembled American States. The Secretary of State William P. Rogers, the Secretary General of the OAS, Galo Plaza, and other members of the U.S. and Latin American delegations personally expressed their regret that you were unable to attend this meeting in your capacity as the designated representative of the United States Senate.

Per your instruction, I distributed the paper you prepared entitled "Looking Toward a GATT for Private Foreign Investment" to selected delegations. A copy of this paper is appended to my report on the meeting.

The importance of the First Regular Session of the General Assembly of the Organization of American States was signaled by the presence of the Secretary-General of the United Nations, U Thant, and the prestige of the U.S. delegation headed by the Secretary of State, William Rogers.

The adoption of the agenda was not routine as it frequently is at such a meeting. Colombia and Costa Rica proposed an agenda item entitled: "Consideration of measures designed to implement the provisions of Chapter VI of the Declaration of Presidents of America, issued in Punta del Este, Uruguay in 1967 for the elimination of unnecessary military expenditures." The addition of this agenda item was approved by a 21–0 vote with Brazil and Peru abstaining after U Thant condemned as "inexplicable and inexcusabe" the fact that the nations of the world are spending 200 billion dollars a year on defense and weaponry "when so much crying misery is waiting for compassion, concern and correction all over the world." U Thant added that the "alternatives are so exciting and urgent: to alleviate poverty, to enhance the education of all, to provide better health and housing, to preserve and embellish our natural—environment. . . . We see the beginnings of such wisdom embodied in the Strategic Arms Limitation Talks and it is hoped that this may well be the entrance to a new royal road for humanity."

United States trade and aid policies were a matter of intense concern at the meeting. This concern was symbolized in Brazil's effort to have the meeting consider the institutional structure of the OAS as it relates to the consideration of trade matters. This concern was forcefully put forward in the opening statement of the Secretary General of the OAS (Mr. Galo Plaza). He indicated that Latin American countries were increasingly disillusioned with their relations with rich countries and particularly with the United States because of (1) declining levels of financial cooperation, (2) loan conditions that have the net effect of increasing the already heavy debt burden of Latin American nations, (3) marketing restrictions and (4) the difficulties in obtaining and using technology. These criticisms were echoed in the statement of Costa Rican President Figueras and in the statements of other of the Foreign Ministers of other Latin American nations.

The distinguished and large United States delegation headed by the Secretary of State William P. Rogers and included the Assistant Secretary of State Charles A. Meyer and the U.S. Ambassador to the Organization of American States Joseph J. Jova.

In his excellent opening statement of April 15, Secretary Rogers reviewed the progression of our relations with Latin America and announced that consultations would be initiated immediately "with a view to the early introduction of legislation to grant developing countries generalized tariff preferences on a wide range of products, including the 500 items requested by Latin America. The Administration will make a concerted effort to secure enactment of this legislation." Secretary Rogers made this statement in the context of the United States continuing commitment to a policy of freer trade in recognition of the fact that "Latin America particularly needs an open market in the United States."

Secretary Rogers in addressing himself to the foreign assistance outlook stated categorically that "the commitment of the United States to assistance for Latin America is undiminished. Our reorganization or foreign assistance, far from lessening that commitment, is intended to make it possible for us to fulfill it more effectively."

The issue that was not on the formal agenda of the meeting, but which was under considerable discussion in the corridors concerned the eventual effect of the future relations between the Organization of American States and Cuba and between the United States and Cuba. The diplomatic moves between the United States and the Peoples' Republic of China heightened the speculation. However, it must be noted that Fidel Castro's exceedingly hard-line statement of April 19 apparently rejected any move toward normalization of relations at this time.

LOOKING TOWARD A GATT FOR PRIVATE FOREIGN INVESTMENT

(By Senator JACOB K. JAVITS)

In the course of the 1960s, there has been a vast expansion of international production. International production is generally defined as production by companies whose ownership and/or control is located in one country, with production facilities in another. A number of experts have suggested that "international business is now the dominant factor in determining changes in the pattern of world exports as well as capital flows."

As more and more of world trade has become directly related to international production, and thus to the multinational enterprise, there have been various reactions. Some of these have been based on the analysis of Servan-Schreiber's "Le Defi Americain," which suggests the growing importance of the American industrial presence in Europe, and stresses the increasing inability even of highly industrialized nations to compete in the fields of advanced technology.

On the other hand, there have been a number of reactions, chiefly focused in Latin America, which have expressed a concern with the direct investment of American companies in Latin America, as well as with the increasing trend toward foreign direct investment by companies domiciled in Western Europe and in Japan. Suggestions, such as that of Professors Hirschman and Vernon for a "disinvestment corporation" or for a policy of gradual disinvestment, have been made, and these suggestions have found a measure of expression in certain clauses of the recently adopted Andean Code. It is nonetheless clear that increase in productivity which is essential, particularly in view of the problems of unemployment in Latin America which are pointed out by Dr. Prebisch, require more rather than less investment in productivity facilities; and that the resources, financial, managerial and technological, must come largely from the private sector and to a considerable extent, from foreign direct investment.

Latin America is thus to a certain extent caught between the domestic need for increased development and employment on the one side, and the fear of domination of a country's policies and exploitation of its industrial resources by foreign enterprises of great economic size.

It may well be questioned whether this dichotomy is as clear as above stated. The problems are alleviated by many factors. One of these is the increasing generalization of technical skills and knowhow, so that industrial enterprises can be established without necessarily relying upon a technology which is the proprietary possession of a foreign direct investor. In other words, the expertise necessary to build a steel mill is now generally available, and the question of capital investment can be separated from that of the availability of technology.

A second mitigating factor is the increasing internationalization of production with the consequence that new investment from abroad in Latin America comes to a substantial extent from Europe and Japan, rather than solely from the U.S., thus lessening the fear of excessive domination by companies domiciled in the U.S. Moreover, investments are being made by smaller enterprises, as these discover the desirability of geographic diversification. Most important, in a number of instances, the domestic investors in Latin American countries have bought out their former foreign partners, and have in many cases transformed licensing arrangements into wholly-owned and indigenous Latin American enterprises.

Nonetheless, there remain problems which deserve discussion in a calm and regular forum. For example, questions of interpretation of the Andean Code need discussion among the American states.

There have, of course, been a number of discussions of these problems of interpretation as well as of the more basic problem of the relationship between foreign investment, international production and the national objectives, in forums such as the special U.N.-sponsored meeting in Amsterdam in early 1969, the recent meetings in Rome, the preceding Medellin meeting, etc. What is needed, however, is a continuing forum in which these problems can be discussed on an organized and regular basis, free of either a sense of crisis or the discontinuity which arises from special conferences with a shifting group of participants.

I would suggest that it would be of mutual interest to Latin America and the United States to convene a high-level meeting that would look toward the evolution of a continent-wide foreign private investment policy which must safeguard, of course, the sovereign rights of each country.

Perhaps such a meeting could then commission a small group of Americans of unimpeachable integrity and repute who are representatives of the entire Inter-American system thoroughly to review this matter with a view toward defining the foreign capital, technological and managerial inputs required by Latin America over the next decade. These Americans would be free to work without preconceived notions as to what conclusions and policy recommendations should be made. This definition of need could then help determine the type of foreign private investment policy which should be adopted and the type of mechanism that should be established toward the achievement of the desired goals.

Then a small working group might be organized (say under the auspices of the Center of Inter-American Relations) to prepare proposals looking toward a future involvement with the OAS through the CIAP mechanism and with the Inter-American Bank.

Again, the nature and seriousness of the problem does suggest the establishment of a more permanent mechanism than the highly useful ad hoc meetings that have been held in Medellin and Rome where Latin

American investment problems were discussed by public and private representatives of both host and donor nations. It is my view that a multilateral mechanism to set forth and help enforce principles and guidelines of behavior by investor and host has never been more essential if the law of the jungle is not to take over in foreign private investment matters—with all the sad consequences this would entail for international and inter-American relations.

THE MILITARY DRAFT

Mr. McGOVERN. Mr. President, Secretary of Defense Laird has, perhaps unwittingly, revealed the reason that the administration has fought to minimize any increase in the pay of the American GI. He has noted on a number of occasions that since the Congress is unlikely to vote defense appropriations beyond the new $76 billion defense budget, any increase for the GI beyond the minimal sum agreed to by the administration will require funds that the military would like to spend elsewhere. In other words, the administration is saying that since the Congress will not give the Defense Department all the money it could spend, the shortage is going to be taken out of the pay of privates and other low-ranking GI's.

With cost overruns of millions upon millions of dollars on defense contracts, with military white elephant after white elephant exhausting the national treasury, we are told that any attempt at saving must be at the expense of the GI.

The Pentagon has often shown surer sensitivity to its mutuality of interest with defense contractors than to its responsibility for dealing fairly with the American serviceman. But this effort to minimize the proposed increase in pay so that the money can be drained away in the continuing waste, is a new high point in the perversity of Pentagon reasoning.

Mr. President, Tuesday's New York Times contains an editorial which points to this same absurdity and outrage. I ask unanimous consent that the editorial be printed in the RECORD.

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

A TAX ON GI's

If the Administration were to tell Congress that since the nation cannot afford its new $76-billion defense budget, the cost of new arms would be taken out of the pay of privates and other low-ranking G.I.'s, the lawmakers would be rightly indignant.

But such in indirect tax on servicemen is, in effect, what the Secretary of Defense has proposed and the Senate Armed Services Committee has accepted in endorsing the Administration's cut-rate draft bill, calling for military pay raises of only $987 million. Secretary Laird vigorously opposed much larger increases recommended by a Presidential commission and endorsed to a substantial degree by the House because, he said, the money would have to be taken from other defense funds and would have "a very adverse effect on our budget."

The Advisory Commission on an All-Volunteer Armed Forces last year urged increases totaling roughly $3.2 billion as a means of achieving the peacetime goal of an all-volunteer force. In making its recommendations, the commission argued that the pay raises are justified on the grounds of equity alone. Existing pay scales in the lower ranks are so low, the commission noted, that they amount to a "tax in kind" on draftees and draft-induced volunteers who are compelled to serve for wages substantially below what they could expect to command on the civilian job market.

For example, the current monthly salary of recruits is $134. Under the Administration proposal which is now before the Senate, a recruit's pay would be raised to $201 per month. The Presidential commission recommended a figure of $301. The Senate should at least match the increase voted by the House, which would raise recruit pay to $268 per month.

A Government that pays defense contractors billions of dollars in "cost overruns" for weapons can surely afford to pay a living wage to the men it asks to lay down their lives in the nation's defense.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. MILLER. Mr. President, it was necessary for me to be in my home State of Iowa on April 23 and 26, 1971. As a consequence, I missed several rollcall votes in connection with S. 1557, the Emergency School Aid and Quality Integrated Education Act of 1971. I ask that the permanent RECORD show that if present, I would have voted as follows:

Vote No. 47 Leg.—Cook amendment No. 55, requiring State or local educational agencies to pay attorneys' fees in instances where Federal courts rule against such agencies for their failure to comply with this act or for discriminatory practices on the basis of race—Nay.

Vote No. 49 Leg.—Ervin amendment No. 45, barring the use of Federal funds by private nonprofit religious organizations for the purpose of religious training—Nay.

Vote No. 50 Leg.—Ervin amendments Nos. 49 and 51—en bloc—to bar the use of funds to nonprofit private schools which discriminate against teachers and students on the ground of religion—in addition to race, color, or national origin—Nay.

Vote No. 51 Leg.—Ervin amendment No. 41, conferring upon parents the right to choose the public schools which their children will attend—Nay.

Vote No. 52 Leg.—Ervin amendment No. 42, prohibiting the busing of children to change the racial composition of a public school—Nay.

Vote No. 53 Leg.—Ervin amendment No. 37, extending to all schoolchildren the right to attend the public school nearest their home—Nay.

Vote No. 54 Leg.—Final passage of S. 1557—Aye.

BOEING 707's SOLD TO AFRICA

Mr. MUSKIE. Mr. President, I invite the attention of the Senate to an article published in the Washington Post of April 4. The article, entitled "Arms From East, West Used in Africa," was filed from Luanda, Angola, by Mr. Jim Hoagland, a veteran African correspondent for the Post and a recent recipient of the Pulitzer Prize for his series of articles on Africa. Mr. Hoagland treats the question of arms and related items sold by outside countries for use in the wars in Portugal's African colonies.

In spite of our declaration in 1961 embargoing the sales of arms to Portugal for use in that country's African colonies, we continue to supply the planes that fly Portuguese soldiers there.

In his 1971 state of the world message, the President made a protest against policies which serve colonialism in Africa. He said:

Both our statements and our actions have made it patently clear to all concerned that racism is abhorrent to the American people, to my administration, and to me personally.

We cannot be indifferent to apartheid. Nor can we ignore the tensions created in Africa by the denial of political self-determination. We shall do what we can to foster equal opportunity and free political expression instead. We shall do so on both moral and practical grounds, for in our view there is no other so solution.

Mr. President, Mr. Hoagland's article points out some practical steps which have in fact been taken to support, rather than to oppose, the denial of political self-determination in Portuguese colonies. The article notes:

Two or three times every week the [Portuguese] military charters Boeing 727 jetliners from the government-owned airline to transport troops to Mozambique. Charters have also been arranged in Boeing 707's to bring troops from Portugal to the three territories."

These are planes, Mr. President, whose sale was approved by the U.S. Government to Transportes Aeros Portuguese.

Now, Mr. Hoagland continues, the Portuguese Government will not have to charter the planes from its own airlines. In January, the administration approved the direct sale of two Boeing 707's to the government.

This action was defended by the administration in a letter from the State Department to the Senator from New Jersey (Mr. CASE), published in February in the CONGRESSIONAL RECORD. A spokesman described the sale as "deemed not to come within the terms of the 1961 embargo on the export of arms for use by any of the parties to the disputes in Portuguese Africa."

Portugal's foreign minister Rui Patricio—

Mr. Hoagland notes:

Said flatly in a recent interview in Lisbon that Portugal would not give any assurances about the use of the planes.

"If I buy an American car, can America tell me how I can use it?" he asked. "If I want to drive it in Africa, I will drive it in Africa. The Boeing is not an arm," he said with a smile.

Hoagland also reports an American diplomat in Lisbon defending the sale in the same way: The airplane is not an arm, and does not fall under the arms embargo.

What practical meaning is there, Mr. President, in a foreign policy which would condemn colonialism verbally and support it with material goods? Boeing 707 jetliners may not, strictly defined, be arms under the terms of the 1961 embargo. They may fall into that gray area that exists between the intent of a measure and its language.

But the airplanes are clearly used to further repressive policies in Africa, policies the United States is on record as opposing. It will certainly be so regarded by Africans.

In another instance, last September a State Department spokesman indicated that the administration stood ready to approve sales of small, civilian aircraft to South Africa. This amounted to a reversal of the policy of the Johnson administration, which had held that such aircraft could easily be adapted to military purposes, that they thereby fell into the same grey category, and that their sale would not, therefore, be approved.

Similarly, the administration has failed to take a strong stand against Britain's violation if the South African arms embargo in its recent provision of helicopters to the South African Government. As I have said before, I believe we must both maintain the arms embargo ourselves and seek to persuade our allies to do likewise.

Mr. President, if there is to be any strength of purpose to this country's policies, it will be determined by the actions we take, not simply by declarations of high moral purpose.

If we exploit ambiguities, take actions abhorrent to the intent of our declared policies—the world will be aware of the emptiness of our words.

This sale of jets to Portugal is clearly such an action.

Mr. President, I addressed this question in a speech delivered at the opening session of the African-American dialogues in Lagos, Nigeria, last month. I said then that—

> We have an obligation to try to persuade Portugal to see the wisdom and necessity of bringing to a prompt end her military activities in Africa and to grant the right of self-determination to all people in her overseas territories.
>
> If Portugal refuses to end her colonial policies in Africa, we may be confronted with a hard choice between our treaty relations with Portugal and our interests in the peaceful development of self-determined nations in Africa. I hope they change their policies, and we are not faced with that choice. But if we are, then we must not operate on the automatic assumption that these relations with Portugal are more important than our African interests and responsibilities.

Neither our interests in Africa nor our responsibilities are well-served by this sale of jets.

I would hope that the administration would reconsider and reverse its approval of the transaction, before it is completed. But failing that, perhaps the best safeguard against further such action lies in broadened public awareness of such activities by this country in support of colonialism in Africa.

To this end the public is well-served by such articles as Mr. Hoagland's. I commend him on it and 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:

ARMS FROM EAST, WEST USED IN AFRICA

(By Jim Hoagland)

LUANDA, ANGOLA.—Communist and Western countries are supplying increasingly sophisticated arsenals to the opposing sides in three guerrilla wars being fought in Africa.

Portugal appears to need little direct help from her NATO allies in containing the black revolts flaring across her colonies of Angola, Mozambique and Portuguese Guinea. But whatever help Portugal needs, she gets, and the need is growing.

French-made helicopters are becoming more vital to the Portuguese as they switch to more aggressive and mobile tactics. Airplanes manufactured in West Germany drop napalm and crop-killing herbicides over some contested areas. And American jet liners are used routinely for Portuguese troop movements to and within the embattled provinces.

The guerrillas, divided among half a dozen movements, depend on Communist countries for an estimated 80 to 90 per cent of their supplies and training. Some turn to the Soviet Union, China or Cuba out of ideological kinship, others do so out of necessity. An exception to the general pattern is an Angolan exile group that receives Belgian and American weapons.

The source of war materials for the three conflicts is becoming a highly volatile, if confused, issue. Each side attempts to exploit its cold war overtones, while deliberately clouding the question of its own reliance on outside help.

Weapons used by the Portuguese stir more controversy, largely because allies like France West Germany and the United States say they disapprove of Portugal's efforts to hold her colonies, and claim they are not aiding Lisbon's war effort.

Portugal manufactures most of the small arms and ammunition she needs for the three separate but related wars. But she must turn to her allies for big items, especially air transport.

Senior Portuguese officers in Angola believe, for example, that the 10-year-old struggle here may have reached a decisive point last month with the delivery of three large French manufactured SA-330 helicopters for use across this vast territory.

Riding with Portuguese troops on the helicopters' first combat mission in late February were two French mechanics checking for modifications needed on future deliveries. They were sent to Angola by Sud Aviation, the French company that builds the SA-330.

The mission came a few weeks after French President Georges Pompidou pledged in Senegal that France would stop selling to South Africa French helicopters and other weapons that could be used internally against a black uprising.

Paris has not made any commitment on the Portuguese territories, where guerrilla wars are in progress.

The Portuguese already have stationed in three territories a total of about 60 French-made Alouette helicopters, which carry a maximum of six combat soldiers each. The SA-330 can carry four times that number, and will greatly expand Portuguese mobility.

"Three [SA 330s] is enough to enable our patrols to disrupt the guerrillas' supply lines," said a high-ranking intelligence officer in Angola during briefing.

France also supplies Noratlas transport planes and Panhard armored cars for use in Mozambique and perhaps in Angola.

The propaganda debate over weapons turns especially bitter on the guerrilla accusation that Portgual uses American supplied napalm and crop destroyers over contested areas much as U.S. forces do in Vietnam. Portugal has in the past denied using napalm and herbicides.

Observations and interviews during a five-week trip through the three territories indicated strongly that napalm and herbicides have in fact been used in the three areas. The origin of the materials is uncertain.

Napalm bombs were seen stored at several bases in Angola and the commander of the Portuguese forces in Angola, Gen Francisco da Costa Gomes, readily confirmed in an interview that his forces use both substances.

"We use very little of them," he said. "They are not very good for us" because of Angola's terrain. "It is easier for us to destroy crops with a good infantry squad."

General Gomes emphatically disputed the guerrilas on the effects of the herbicides on the population. "They do not affect the people at all. We have tested them."

Observation of scar burns and defoliation in wooded area of all three territories and private conversations with Portuguese military sources suggest that napalm and herbicide use by the Portuguese has almost certainly been on a much smaller scale than the American effort in Vietnam.

Portugal, the United States and Australia were the only countries to oppose an international ban on herbicides considered by the United Nations in 1969.

The markings on the grayish-blue colored, 100-pound napalm bombs seen in Angola—including the words "in end" "napalm", and the letters "RPX" and "MI/65" do not match the official markings placed on equivalent American war material.

General Gomes and other Portuguese officials said they believe Portugal manufactures her own napalm. They were less positive about the origin of the herbicides.

Since 1961 the United States has embargoed the shipment of American arms to the Portuguese African territories, and has received assurances from Portugal that military equipment supplied under the North Atlantic Treaty Organization is not being used in Africa.

Partially as a result of this, the Portuguese have had to extend the operational life of many old American weapons, which are still being used throughout the colonies.

PV-2 Harpoon bombers, built 27 years ago to bomb Nazi submarines, are still flying anti-guerrilla missions in Angola and Mozambique, as are aged Harvard T-6s. The Angola command has a half dozen operational Korea-war vintage F-84 jets, and Mozambique pilots fly the F-84 and a few F-86s.

The biggest need modern U.S. equipment is filling for the Portuguese military in Africa is jet transport. Two or three times every week, the military charters Boeing 727 jetliners from the government-owned airline to transport troops in Mozambique. Charters have also been arranged on Boeing 707s to bring troops from Portugal to the three territories.

This summer, the government will not have to go through the motions of chartering the planes from itself. The U.S. approved a few months ago Boeing's selling two 707s directly to the government.

Portugal's foreign minister, Rui Patricio, said flatly in a recent interview in Lisbon that Portugal would not give any assurances about the use of the planes.

"If I buy an American car, can America tell me how I can use it" he asked. "If I want to drive it in Africa, I will drive it in Africa. The Boeing is not an arm," he said with a smile.

An American diplomat in Lisbon who defended the sale used almost the same words: The 707 is not an arm. He pointed out that the Portuguese already are using Boeings for military transport.

Patricio also dismissed guerrilla claims that NATO support enables Portugal to carry on the costly, widespread wars. "It is not true. We are complaining to our NATO allies that they don't give us any support. They won't even give us political support in Africa."

Portugal has about 140,000 of its 190,000-man army in its African territories. Military experts agree that the infantry division earmarked for mobilization with NATO forces if needed is below 50 per cent of its NATO requirement because of the strain of the wars.

West Germany is playing a key role in providing modern small aircraft—there are a dozen G-91 jet fighters manufactured in

West Germany stationed in Portuguese Guinea, and about eight in Mozambique.

The Portuguese also use widely the German manufactured Dornier DO-27 light aircraft for reconnaissance, strafing and some light bombing.

Most of the guerrilla movements, which operate independently of each other, have been hammering on the theme of NATO aid to Portugal in their propaganda for the past year, apparently in attempts to embarrass the Western countries enough to bring a halt to arms deliveries to Portugal, or perhaps to get Communist countries to increase their aid to the insurgents.

For some guerrilla groups, that aid is already considerable.

The most effective of the guerrilla organizations is one known as PAICC, which is fighting in Portuguese Guinea. The Soviets supply it with sophisticated long-range mortars and even, according to the Portuguese, antiaircraft guns. PAICC seems to be able to obtain as many machine guns, automatic rifles and mines from the Soviet bloc as its 6,000 to 7,000 men can use.

No other group has such a blank check. The Popular Liberation Movement of Angola, known at MPLA, is supplied with both Soviet and Communist Chinese weapons less sophisticated than those that go to PAICC, weapons captured by the Portuguese suggest.

The other major exile group fighting in Angola, known as UPA, has long been rumored to receive covert Western help. A few weeks ago, the Portuguese captured a new American recoilless rifle from UPA guerrillas.

Belgian and Israel weapons, believed to have been channeled through Congo-Kinshasa where UPA is located, are also found on UPA insurgents. UPA is considered to be friendly to the West.

Frelimo, the main Mozambique nationalist group, depends heavily on Chinese weapons as well as some Soviet bloc shipments. The Chinese have recently greatly increased their training role of Frelimo soldiers, based in Tanzania.

The organization of African Unity and, with the exception of Algeria, individual African countries seem to contribute little military material directly to the guerrilla organizations. African states appear to concentrate on financial contributions and providing bases for the guerrillas.

The supply of weapons to the combatants gives East and West a definite stake in the struggles for Portuguese Africa. But it is still uncertain how much influence each side will gain with its clients.

Asked a year ago by an American congressman if PAICC's acceptance of Communist arms indicated Communist sympathies, guerrilla leader Amilcar Cabral snapped:

"Portugal accepts NATO arms . . . but Portugal in spite of that says they don't accept the ideology of NATO. If Portugal doesn't accept foreign ideology why should we."

ADDRESS BY ARIZONA GOVERNOR WILLIAMS

Mr. GOLDWATER. Mr. President, on April 5, before the Republicans gathered at Sun City, Ariz., the Governor of my State of Arizona made one of his usual very provocative speeches.

I have known the Governor all of my life, and I know of his background in the use of the English language, particularly his background in the thought that goes into the preparation of its use.

His speech covers more than just a few points, but covers them so well that I thought the Members of the Senate and the House might enjoy the opportunity of reading them. Therefore, I ask unanimous consent that the speech by Gov. Jack Williams be printed in the RECORD.

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

ADDRESS OF GOV. JACK WILLIAMS

At lunch recently, a liberal managing editor who is remarkably thoughtful and astute, although prejudiced in my opinion; and I, in his I might add hastily . . . suggested that the great difference today from any other time in history is the free flow of information in our country. And I might add, most of it wrong; but I didn't tell him that.

I would be inclined to agree with him, not that I think the free flow is good though. I think it is dangerous. It has the same effect on the human mind that drugs do. News can calm you down, arouse you, confuse you, discourage you, mislead you, sell you and unsell you. There is a story I read some time, some place . . . wherein a man on a rather long trip failed to see a newspaper or hear any news for six months. When he returned home, he was astounded to discover that nothing very much had happened of any real significance. The only news he found was in the vital statistics—deaths, births, and marriages and even the latter proved untrustworthy.

The other evening sitting on the edge of my bed, changing shoes I suddenly was aware that the clock radio which awakens me was pouring out its flood of news, regurgitating facts that I had heard in the morning, and I mused . . . suppose none of this news was available? Suppose I lived in some far rural area where only the seasons made news and what news I did encounter was of a substance that I could understand and really comment on?

Then I thought of the terraced hills around Rome, two thousand or more years ago, where the peasants tilled their crops and trained their grapevines, and little knew of the great happenings in the imperial city of Rome. Caesars came and went. Triumphal processions led captives between rows of condemned victims hanging on crosses along the Appian Way . . . they knew little of the exploits of Hannibal, or Cicero, or Mark Anthony, or Brutus . . . we know more about them today than the great majority living out their lives within a fortnight's journey of the Imperial City.

Once, long ago, flying in a troop carrying helicopter out of Nuremberg across the ancient invasion routes of middle Europe, we thundered over workers in the fields, stooping over to hand sow their land. They didn't even look up, and I thought how many centuries have the workers in the fields and vinyards stooped thusly, as along the trade and invasion routes, the caravans of merchants, mercenaries, and armored men clanked by.

Today, the ubiquitous radio carries news into the farthest hamlet of the most remote province of China and the inhabitants faithfully repeat Mao's words from the little red book, the communistic nations in accordance with their affluence are daily rationed news items that conform to the will of the ruling despots. In every other country behind the iron curtain, to be sure, the news is carefully tailored to fit the ruling cloth.

Only in this country has the dissemination of news been carried to an extent that you are never away from it. In the car, in the bathroom, in the street, in the office, in the home, in the school, a constant barrage of news is volleyed and thundered.

If only it had some semblance or order and unity, it would be better, but it is all contradictory . . . and today, although the conservative Republican philosophy has a better chance of being heard, especially in Arizona, still the great majority of the papers of this Nation are captives of the left, and boil out a continual flow of information that is contradictory to what I have been taught to believe.

Now, basically, one would think that the truth is easily ascertained. But words change meanings, propoganda blasts have their impact upon us, and the young—oh, especially the young, are so easily duped and betrayed.

This latter situation is particularly tragic, because today's educational system, paid for by our generation, is happily engaged in denigrating the beliefs of people who built this country. A governor gets many letters from young people. Their questions are indicative of their concern. Their concerns are inspired by what they are taught. Their teachers are their mentors and their patterns for behavior. When a child writes to me: Governor, I'm going to die because of pollution, do something about it. When a recent youth legislature considered bills relating to abortion, legalized prostitution, and ecology, I know the input came from those who teach them.

And tragically, much of this emotional input is wrong. Johnnie is not going to die from air pollution, he may die in a car wreck but He won't smother to death. At least not right away.

What are some of the erroneous ideas popular today? Some of them you may believe. And I am sorry to disabuse you of some pet ideas. Others are beliefs you have long clung to and are as right as anything is right in this ever changing world. I happen to believe that there are certain verities which never change. But these are matters I shall not discuss tonight. Such things as truth, bravery, loyalty, honor, love, kindness are the stars that hang always in the heavens of history—we never quite reach them, but as with the stars that used to guide a mariner to a safer harbor, they are there for us to guide our conduct by.

But take the population explosion. Tied into environment and ecology. This subject has everyone in a fine sweat today. Scores are making a living from the subject—one cigar smoking former Arizonan who sired six children, is garnering a livelihood preaching the evils of air pollution and the nobility of zero population growth.

Let us examine this matter for a moment. What would be a fair number of people to occupy a space. Would you believe three to an acre would not be too crowded. Essentially, since the average family is three plus, this would be one family per acre—give or take a few strangers.

Now if you and others believe that Southern California is too crowded, and New York—in fact the entire East Coast is one mass of crawling humans—suppose I suggested that we could take all the people off both coasts and resettle them in Arizona. Don't shudder! Let me continue. If we put just three people to an acre in Arizona and spread them out a bit, we could accommodate 216,000,000 people. Two hundred and sixteen million, you say incredulously. Yes, I reply . . . and the population of this Nation is only about 205,000,000 as of the last census.

If this could be done, then the West Coast from Tijuana to the Canadian border would be empty of all human life. And so would the East Coast from Florida to Canada!

All of Texas would be vacant, the great Midwestern States would be empty prairies once again, with deserted towns and cities . . . The South would be vacant. In fact there would be all of the 50 States empty, except one—Arizona. They'd all be here. And they'd only be jammed together three to an acre and you've already indicated that isn't so bad.

But, you say there would be no water, no fuel, no means of economic survival for so

many people. Perhaps! When I came to Phoenix there were thirteen thousand people in the Salt River Valley and there were grave doubts that the valley could support fifty thousand. Or even 25,000 for that matter. But men who didn't have our current defeatist attitude didn't know it couldn't be done, so they went seventy miles up a river to build a dam from the solid rock of the mountainside, and they brought Italian stone masons over to fit that rock together. These men had no modern equipment—horse and mule drawn wagons, fresnos, shovels, backbreaking handwork built that first dam—Theodore Roosevelt Dam. Later more dams were built (this was before the Sierra Club got in its licks) and dams were built on the Verde and the Salt and this despite the dire predictions of a doctor in Tucson, who wrote in 1908 that creating such lakes would change the climate to one of constant rainful, and dense humidity, and putting water on the valley floor would bring about a plague of water-borne diseases, such as malaria and dysentery.

This should sound familiar, because just recently I read another such article in relation to the Aswam Dam, which may or may not be a success—after all we didn't build it, Russia did. But the author had the same dire predictions, and glumly concluded his jeremiad by stating that after all man hasn't lived with dams very long. I wanted to write him and say that we'd live under the Roosevelt Dam for over half a century and were doing very well thank you; and that I had flown over the great artificial lakes in the Ozarks of Missouri and Arkansas, and as near as I can tell, the world is a better place for man having built them.

So, I suppose if we really wanted to, we could take any part of Arizona and make it habitable—from mountain peaks to desert floor. We won't do it, but it gives you a new perspective on this population problem. The truth is that people are moving into cities and towns and leaving the little sod shanty on the farm, because living is easier in the city despite the ghetto miseries. The strange fact today is that over 50 per cent of this Nation's counties lost population in the 1970 census. And there is more open space in this country of ours today than at any other time since the Civil War.

Why do people want to move from the farm to the city, from the share croppers cabin to the streets of the ghetto, from the shanty and shack to the tenement? That's easy! Living is better, regardless of what you say, if it wasn't . . . they wouldn't move.

Why do people move from the open spaces to other places? Again the answer is easy. Living is better. Why do so many come to Arizona now? Because they prefer the climate here to the cold winters in Minnesota or Michigan or the humidity and rain squalls of the Deep South and the Florida Coast?

Why do people move to big cities? Because big cities traditionally and from antiquity have been where the action is. Symphonies, plays, big sporting events, celebrities, libraries, museums—you name it! Big cities have it. Harry Leon Wilson once wrote a very provocative book called "The Wrong Twin" that I read sometime in the thirties or the twenties and while I can't remember the theme of the book, I can remember one cogent sentence: There's always a catch to something, said the hero ruefully. And that's right. There is always a price to pay. The price for all the action in the big city is that it does get on one's nerves at times, and big cities always seem to attract a wide disparity of people. Good, bad, crooked, honest, grifters, and drifters and ne'er-do-wells, and bright young men on their way up! And bright young women on their way up as well.

So, we come to the conclusion that this population thing isn't as easily solved as it would seem to be at first blush.

In fact the distortions of what is fact and what is fancy in the world today is bounded only by the limit of our imagination. And this is no idle critique of the news, of columnists (of which I've been one, may God forgive me) of editorial writers, or any wordsmith. Describing the world is very much like the five blind men trying to describe an elephant. Probably everybody is right, but everybody is wrong, too.

Now there's the youth myth. This is the age of the graduate, the easy rider, the midnight cowboy, the students for a democratic society and the Jefferson airplane, right? Or so writes Og Mandino in his book, "The United States in a Nut Shell".

Actually we're an old doddering group of people compared to the hardy young stock that defeated the British empire and wrought the words of the Declaration of Independence. In the 1800 census, the median age for everyone on our new and free island country was only 16. Half the people there were under the age of 16 and half over that age. Today our median age is 28.

And our birth rate is declining. From a high of 4,300,000 in 1960 to 3,500,000 in 1969. There are three times as many adults roughly aged 25 and over as those in the 14–25 age category.

Now all of our postwar babies are shrieking against the materialism of the older generation. But they had better understand their parents desire for the luxuries we enjoy. They (the modern teeny bopper or teenage rebel) never knew the experience as the older generation did of being evicted for nonpayment of rent, shoveling coal into a furnace all winter, huddling around one small radio, washing clothes by hand, carrying 100 pounds of ice upstairs, walking four miles to work in the middle of winter, going hungry for a day, putting cardboard in shoes, wearing hand-me-downs, kneeling and praying for daddy to get a job.

Why am I going through this exercise? Well, I'd like to put into perspective what some of us fail to take into consideration. In a Democracy, the power is with the people. Public opinion rules. Joseph Kraft in Sundays Republic wrote public opinion is created by the slow unconscious thought of great masses of men. It derives from sources too numerous and obscure to measure. It moves in ways that defy prediction. It is an unknown God, and the best way to deal with it is to show a measure of caution.

Now one last example! The war which is said to be dividing us . . . and it is. Many years ago, I read a learned treatise that no Democracy could wage a limited war. The article went on to prove how the people must be made to hate the enemy—the Hun, the Jap, the Commie, and in their hating they engage in all-out effort. So, the dreaded U-boat sank the Lusitania and we embarked on World War I. So, Pearl Harbor shocked and affronted us as a day that would live in infamy and we literally threw ourselves into World War II. The effort in Korea was short and we withdrew. The long, drawn-out agony of Vietnam, while in a classical sense is the perfect war (if any war can be said to be perfect) is wearing us down. If I read the papers correctly, Congress is losing all idea of support for the Vietnam war. It is an unpopular war. In fact, war is unpopular with our people.

To make my point painfully clear, I doubt if we could declare war today and get anybody to go. Stop and think that one over. If we declared war today, we are so agonized as a Nation and so splintered, we couldn't mount an offensive.

Yet, we know that we have enemies. And we know that they are not above attacking us. In fact, if you look at a map from 1946 until today, the forces against whom we have pitted ourselves are winning. Remember Germany, Russia, and Japan and all had pacts with one another. Measure the success of each of these three nations in the past 25 years. Japan fought for the Asian coprosperity sphere. Today, Japan is winning the war she was thought to have lost twenty-five years ago. Germany has recovered economically and politically, Russia controls the neighboring countries all around her . . . and Russian ships now plough the waters of the Mediterranean and the waters of the Caribbean. In fact, I have stood in that mountain stronghold just outside Colorado Springs and watched a Russian submarine maneuver off the coast of Florida.

I don't want to be an alarmist. I only want to discuss with you some of the facts that get lost in the massive outpouring of news. Which nation is arming itself and which nation is unarming itself?

I need not tell you now.

But, unless we are attacked and attacked as ruthlessly and as cold-bloodedly as at Pearl Harbor, we simply will not fight.

In fact, we are in a national mood to give up. We gave up the Pueblo and ransomed her crew; we gave up on Cuba and ransomed the invaders, we are contemplating withdrawing from South Vietnam and leaving behind thousands of prisoners in the most brutal hands with no assurance they will ever be returned unless, and here is the possibility, we pay reparations and war damages and ransom them.

As long as our enemies are smart and do not openly attack us in force, we will retreat one step after another, until we find our first line of defense is on the golden sands of California, and the rockbound coasts of New England. We are following a familiar pattern of buying off our foes. The ancient tribes of Judea did that. They spent most of their time in captivity, but they survived.

So, now we come to this moment in history. You as Republicans worked to effect a change. You, as Republicans, long ago elected Republican administrations in Arizona, which you gave me the high privilege of heading. As a result, Arizona is in an enviable situation today of being debt-free, of operating without the atmosphere of scandal and rancor that marked another administration of the opposition party earlier. I need not tell you of the great advances made by the Republican administration within the past four years.

But, nationally, the drums are sounding against our president. Now we have an unfortunate situation. The President of our Nation is a political figure and is forced to keep in the political arena, where today, more than ever before, the drums of hate sound out a bitter cacophony of virulence, Republicans come to me today and say, I cannot support the President anymore because he did this, or he didn't do that: I am shocked. But, I am aware that the way the game is played is to divide and conquer, divide Republicans. Get them to give up their support of the President, and the battle is half won, at least.

All right, who would you take in his place from the democratic side? Humphrey, McGovern, McCarthy, Muskie? . . . They add up to mush. You know it, and I know it. Senator Jackson from Oregon is strong only because he is more conservative than the four I mentioned. His only strength is that he is more like us than he is like them. Would you change the patronage, the power, and the thrust of political action to get a pale carbon copy?

Oh, so there's Reagan. . . Well, there's also Rockefeller, who's beginning to sound more and more like Reagan. . . . But Nixon is President. Dump him? Elect someone else? Don't kid yourself.

And what's so wrong with Nixon? He's making the most dramatic efforts in a century to accomplish something. His plan for decentralization is one of the most exciting in history. It charts a new course, after decades of the flow of power to Washington. Revenue

sharing has its chance to make the odious income tax into something meaningful and real.

And speaking of that income tax . . . a Democratic President, Wilson, gave it to us. The Republicans tried to amend it to set a limit of 25 per cent and the Democratic Congress laughed them out of the chamber, saying that only a fool would ever think the income tax would go to 25 per cent . . . So, we got the income tax . . . and Wilson also was President when we went into World War I. Remember? And the next Democratic President was F.D.R.—who promised economy and said that he and Eleanor hated war. Well, we got into another one then. And far from economy, we started the welfare state and amassed the greatest debt in history. The next President, Democrat Truman, got us out of one war and into a police action called Korea. He also recalled MacArthur, who might have ended that exercise in an old-fashioned American way of victory. But instead, we commenced the first of American retreats—the retreat from the Chosen Reservoir. And we have been retreating ever since.

Democrat J.F.K. gave us the Cuban disaster, the escalation of the Vietnam War, and the beginning of a state of euphoria known as "Camelot", that existed only in the dreams of those who fail to face reality. Pragmatist Johnson speeded up South Vietnams' tragedy, putting more than a half-million men into that fray . . . and also presided over the unraveling of civil order and domestic tranquility in our own country.

So, what a mess Richard Milhous Nixon inherited. But he has withdrawn troops from South Vietnam . . . He is not escalating that war, although if you read the Restons and the New York Times, who assured us once that the Chinese were peaceful agrarian reformers and that Castro in Cuba was a fine, friendly sort of fellow, you'd believe we were whooping it up 'gainst the Vietcong.

The domestic economy is certainly not worsening, when you read it in light of the fact that we are scaling down a war economy.

I am an eternal optimist. I know that from the public prints. We should be depressed and gloomy. But, I can remember when things were really tough. Today, we're rich enough to worry about the smoke coming out of smokestacks that indicate men are working. I can remember when the smokestacks were not smoking and men were not working. And the cardboard was in the shoe in fact, and the depression was upon the land. Strangely enough . . . then in extreme poverty, we had virtue; and in extreme depression, we had faith; and in extreme unemployment, we had neighbors. Those who say that poverty is the seedbed of crime, don't know what they're talking about. And those who say that weak America will be a better America fail to understand the lessons of history. I was an admirer of Teddy Roosevelt, who admonished us to walk softly, but carry a big stick. I am a Republican and I hope you are because I honestly think that in a world gone crazy with a false sense of values and a false measure of confidence, the Republican Party has more to offer in the way of sanity and common sense than the party of the opposition, who created a welfare state, we now admit is a disaster, who poured men and material and money into a war they never expected to win, who deliberately allowed this Nation to fall behind in its defense capability on the assumption that everybody loved us; who built up the greatest debt in the history of mankind and expected to accomplish bootstrap miracles against all the laws of fiscal common sense, who promised everything to everybody, and failed to make good on their promises.

Surely it is folly to trust those who delivered us unto our enemy, this mighty Nation bequeathed to us by our forefathers—as conceived in liberty and dedicated to the proposition that all men have a right to be considered equals.

A Republican, Abraham Lincoln gave us our party . . . and I use his words to close in prophecy—that each of us pledge ourselves that this Nation under God, shall have a new birth of freedom, and this Nation of the people, by the people and for the people, shall not perish from the earth.

EARLY RETIREMENT FOR FEDERAL FIREFIGHTERS

Mr. HOLLINGS. Mr. President, earlier this year I was privileged to reintroduce a bill granting early retirement to Federal firefighters due to the hazardous nature of their duties. Although this bill passed both Houses of Congress last year, it was vetoed by the President. As I indicated at the time of introduction, I shall continue to press for the passage of this bill, because I believe it is important and corrects a gross inequity in our Federal retirement system.

I suppose most American boys at one time or another have considered that their adult lives would be that of firemen. Although firemen play an extremely important role in our society, it is far from romantic and is fraught with occupational hazards. On April 29 the New York Times published an article by Dennis Smith, a professional fireman, concerning the hazards of the firefighter. After 8 years as a fireman in South Bronx, N.Y., he is able to review his career in what he terms as "a great sense of accomplishment." On the other hand, he graphically portrays the emotion that a firefighter lives with and the hazards he faces as a daily matter. I commend this article to the Senate and 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:

THE NIGHTMARE OF A FIREFIGHTER

(By Dennis Smith)

Every fourth year or thereabouts the city's Department of Personnel gives notice that the filing period for the fireman's examination is open. I read such a notice recently, and a plethora of remembrances danced through my mind. I have been a firefighter for eight years, but I remember the day I filed for the exam as clearly as a king remembers his coronation, or a cardinal his elevation.

There were no budding trees to see as I walked the seven blocks from the dispossessing tenement I called home to the Lexington Avenue subway, but as I passed the firehouse on East 51st Street I felt an excitement that was once again the excitement a poet would feel upon viewing an acre of exploding crocus. There was a chromed numeral attached to the grill of the fire engine, but I saw William Carlos William's figure 5 in gold, ecstatic that I would soon be a part of the whining sirens and clanging bells.

I would play to the cheers of excited hordes—climbing ladders, pulling hose, and saving children from the waltz of the hot-masked devil. I paused and fed the fires of my ego—tearful mothers would kiss me, editorial writers would extol me in lofty phrases, and mayors would pin ribbons to my breast.

It was a summer Saturday when I took the test. Eight thousand men competed for 2,000 jobs. The fireman's test is traditionally the most difficult of all tests for the uniformed services—more men apply for it than any other, but since there are fewer jobs the examiner makes the test harder to pass.

The day of appointment came, and the swearing-in ceremony was brief. After a few gratuitous and banal remarks by city officials about courage and dedication I was given the 3-inch Maltese cross which is the badge of a firefighter, the majestic shield of the lower-class diligent. I had made it.

Now, eight years later, the romantic visions have faded. I have climbed a thousand ladders, and crawled Indian-fashion down as many halls into a deadly nightshade of smoke, a whirling darkness of black poison, knowing all the while that the ceiling may fall, or the floor collapse, or a hidden explosive ignite. I have watched friends die, and I have carried death in my hands. With good reason have Christians chosen fire as the metaphor of hell. Each fire is an ontological lesson for me, for what could be more fearful than the slow, agonizing crisping of skin, the searing of the lungs until the throat passage closes? There is no excitement, no romance, in being this close to death.

The National Safety Council has told me that firefighting is the most hazardous occupation in the United States—more hazardous than underground mining, or quarrying, or construction. There is nothing glamorous in my profession. I live in a country where the rate of death from fire is twice that of Canada, four times that of the United Kingdom, and six and a half times that of Japan. Twelve thousand persons died by fire in this country last year, over 300 in New York City. An average of eight city firefighters are killed in the line of duty each year. I live with these facts by going to funerals.

After each fire in an apartment, or a business, I sit exhausted on the dark slate of tenement stoops, or at a cobblestoned curb. My nose walls are coated with soot, and I spit the black phlegm of my trade. I am only 31, but I feel 50. Men pass by and ask how I feel, but I just nod to them. I don't feel like speaking. I feel like I have climbed a mountain, and I bask in the silent personal satisfaction of victory. And then I wonder if the price firefighters pay for the victory is worth it. Is this brutal self-flagellation, this constant ingestion of poison, this exhaustion, this aging worth it? Firefighting is a job. It is not a spiritual vocation. Hundreds of years have passed since medieval ascetics whipped themselves for glory. No, it is not worth it. At the end of the year the sanitation man's W–2 form has a higher figure typed into the amount earned space, and prison guards reap the same benefits.

Yet, I know that I could not do anything else with such a great sense of accomplishment. After a fire not long ago I sat in the vestibule of a tenement. A mother and a child were rescued by firefighters, but an 18-month-old girl was lost. A man came down the stairs, and sat next to me, the dead child on his lap. His face was covered with grime and the dark spots of burned paint chips. As we waited for the ambulance to come, he said over and over, "Poor little thing, she never had a chance." I looked up at his eyes, they were almost fully closed, but I could see they were wet, and tearing. The corneas were red from smoke, and light reflected from the watered surfaces, making them sparkle.

I wish now that each man who intends to file for the coming fireman's test could have seen the humanity, the sympathy, and the sadness of those eyes, for they explained why we fight fires. I was a part of that man sitting in a tenement hall, and together we were a part of all firefighters everywhere.

THE LEADERLESS—RABBLE—AN ARTICLE BY JAMES RESTON

Mr. BELLMON. Mr. President, this morning I was pleasantly surprised to

read in the New York Times a most informative and enlightening analysis of the present disruptions in Washington, written by James Reston. This most perceptive article, entitled "The Leaderless Rabble," sums up the feelings of many of us who have watched the events of the past 3 days with sorrow and disgust.

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

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

THE LEADERLESS RABBLE

(By James Reston)

WASHINGTON.—What the latest spring madness in Washington proves, if anything, is that the people are sick of violence—the violence of the war and the mob action of the antiwar demonstrators as well.

It is easy to sympathize with the protests of the pathetic rabble that came here this week, most of whom were ten or eleven years old when the United States got into the Vietnam war, but even this increasingly war-weary capital was against them.

If the people had been with them, all they would have had to do was drive their cars on to the bridges and into the other bottlenecks of the city's innumerable circles and abandon them there. Maj. Pierre Charles l'Enfant designed this capital for traffic jams, and a sullen population, determined to paralyze transportation, could have blocked it stiff.

But this is not the mood of the people here. They are not militant but sad, and most of them love this city, especially when it is flowering in the spring. They do not want to see it humiliated any more than it has been in the last few years, so they went to work through the barricades and ignored the demonstrators as much as they could.

Besides, the cops were much more professional this time, and the young men and women far less militant than they look on the television and in the newspaper pictures. This is not a revolutionary movement in any accurate sense of those words. Their most desperate and aggressive leaders have been jailed or broken down, and what is left is a disillusioned collection of roving bands, without enough public support to shut down anything more vigilant than a university.

It is still possible, of course, that in the desperation of their failure, a few of them can still create some ghastly incident, but the ingredients for a mass uprising against the Government—blazing anger, cadres of skilled, well-armed guerrilla leaders and popular support for spectacular violence—are simply not present.

Last week there was something infinitely ironic and melancholy in the public witness of the veterans against the war, but this week the mob was disorganized by one sudden push by the police, and it never regained its unity or poise.

As an instrument of propaganda, this kind of mass protest is still effective in giving the impression abroad that the United States is on the verge of anarchy. The reports of the television clips and newspaper photographs in European and Asian cities are troubling, not because they convey the truth, but because they distort the truth.

Even in this country the pictures of this week's demonstrations, focusing on the landing helicopters and the struggles around the police vans, tend to make the confrontations seem much more massive and menacing than they actually were, and this sort of thing inevitably arouses opposition to the entire antiwar movement.

The saddest characters in the capital now, outside the kids with cracked ribs and skulls, are the more moderate political leaders who have been working for a political settlement of the war by the end of the year.

They feel that, for the moment, they have lost control of the antiwar movement and are already being condemned by some of their constituents, as if they were to blame for demonstrations many of them actually opposed.

There is no evidence, however, that the Administration is trying this time to identify these antiwar politicians with the demonstrators who were here this week, or that it is changing its policy to take advantage of the opposition to the young militants.

Attorney General Mitchell watched the demonstrations, and was personally involved in directing the defense of the capital. Also, much has been learned since the tragedy at Kent State a year ago about how to handle the demonstrators. Sometimes this leads to rough police action, as was the case in many incidents here this week, but at least the risk of sniping and police gunfire was substantially reduced.

What has not been reduced, however, is the gap between the Administration's war policy and the antiwar sentiment of the rising generation. It is hard to avoid the conclusion that the people of this city, while not sympathetic to mob action to shut down the Government, are still fundamentally against the war and the present pace of withdrawal from the conflict.

President Nixon may have gained some flexibility as a result of this week's struggles, but the longing here is overwhelmingly for peace abroad and a little quiet at home.

SOFT UNDERBELLY OF ADVERTISING

Mr. McGOVERN. Mr. President, I have introduced, together with Senators Moss, HARRIS, GRAVEL, HUMPHREY, HART, CRANSTON, and PELL, the Truth in Advertising Act of 1971, S. 1461.

The purpose of the bill is simple: to insure that advertisers have substantiating documentation available to consumers before they make advertising claims. The requirements of this bill are not burdensome and would, I am sure, be easy to meet for a great number of advertisers.

Senator Moss has said that he expects to hold hearings on this bill before the consumer subcommittee which he chairs. At that time, I am sure that many will step forward to indicate their support of this legislation.

The bill has just been endorsed by the trade publication Advertising Age in an editorial of April 12, 1971.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

SOFT UNDERBELLY OF ADVERTISING

The idea that an advertiser should be prepared to substantiate his advertising claims for any consumer who wants the information strikes us as eminently fair and reasonable, and AA supports legislation to that effect introduced by Sen. George McGovern (D., S.D.) and Sen. Frank Moss (D., Utah).

The bill would require advertisers to make copies of documentation of their ad claims available on request, and the measure even specifies that the advertisers are entitled to be repaid for the cost of printing and sending out copies of survey details or other proof.

As a matter of fact, the latter provision might turn into quite a good way to zero in on potential customers. Some smart advertiser will start offering a copy of his survey results free to anyone who writes in. Not only will consumers get the copy of the survey—written in non-technical, easy-to-understand language—but they'll also receive a coupon toward their next purchase of the product, or maybe even a free sample.

This would seem to be a great way to get consumers who are really interested in the product to give it a try.

AA has always operated under the general premise that what is good for the consumer is good for business, and it was with this philosophy in mind that we have decided to occasionally request substantiation from marketers who make what we consider to be unsupported claims in their print or tv ads.

Among the first such claims to catch our attention was one made by American Home Products' Whitehall Laboratories. A tv commercial currently being aired says that "769 doctors in a national survey preferred the Dristan capsule formula two-to-one over the other cold capsule formula."

We asked Dr. J. M. Shaul, Whitehall's medical director, for the survey details, but Dr. Shaul turned down our request "for competitive reasons." He added that such material is normally made available to the Federal Trade Commission and the Food & Drug Administration.

But that's of little help to the average consumer (and our publication is written by people who consider themselves to be average consumers). We all have a right to know the basis for an advertiser's claims so we can make a wise and intelligent choice of products based on criteria other than just the price of the item.

AA has repeatedly emphasized the need for advertisers to keep their ads as factual, straightforward and honest as possible, because we are convinced that the Federal Trade Commission and others in Washington would love to see advertising reduced to a compendium of price sheets.

FTC has the distinct notion that it can break up industry "concentration," where three of four companies have dominant shares of market, in a roundabout way by attacking advertising claims. Advertising, these FTC people feel, is instrumental in building "product differentiation," which they see as "the distinguishing of similar products from each other by persuasive [non-informative] advertising and other forms of sales promotion."

At the time of FTC's move against Wonder bread and other ITT-Continental Baking products, Robert Pitofsky, chief of FTC's bureau of consumer protection, called the case the "first step" in developing restrictions on the use of "uniqueness" claims for products which are identical.

But some people close to the case view the FTC action against Wonder bread as not so much a move against Continental's ad claims as a wedge to diffuse the company's hold on the bread market by reducing its market share. "They were swimming around in a closed tank," one top agency exec told AA. "The Wonder bread ad claims gave them their opening."

This theory is at least partially supported by an FTC memorandum prepared for congressional hearings on the commission's fiscal 1971 budget. The memorandum, signed by several commissioners no longer at FTC, by some who are still there, and by former chairman Paul Rand Dixon, called for FTC to develop non-traditional ways of getting at concentrated industries with high degrees of product similarity.

The FTC memorandum said, "There seems to be no particular reason for believing that a larger number of cases of the traditional type, or even a larger number of cases against larger firms and larger industries, would make a great deal of difference in the size and cost of this country's monopoly-oligopoly problem. What is needed is not more of the same, but something different in kind."

There is an uneasy feeling among some

corporate attorneys that the commission will go after "uniqueness" claims as a convenient point of entry to break up what FTC people feel are overly concentrated industries.

We don't believe that the commission's theory on uniqueness will hold water, and we think they know it. But FTC will no doubt try to carry forward its anti-trust crusade by again probing for advertising's weakest spots.

Right now, unsupported ad claims represent the soft underbelly of the advertising business.

THE WAR IN VIETNAM—ADDRESS BY SECRETARY LAIRD

Mr. GOLDWATER. Mr. President, for the first time in more than 10 years we have an American President who is doing something to end the war in Vietnam; but to listen to the repeated criticism of the President on the floor of the Senate and to read similar criticisms on the editorial pages of some of our misguided Eastern newspapers, one would think that nothing is happening.

The war in Vietnam is winding down, maybe not as fast as some Americans would like, and this is certainly understandable because this is a war we could have won and won long ago except for the misguiding by two Presidents and a Secretary of Defense. With all of this, however, coming as happy news, there has been a growing trend in the difference in strength between the Soviets and the United States and this has concerned me greatly.

I have discussed with the President the advisability of downgrading the classification placed on this information so that the American people might be made fully aware of just what we face, but to date there has been no overall decision to do this. Nevertheless, thanks to strong men like the Senator from Washington (Mr. JACKSON), who told the American people about the new silos we are beginning to see in Russia, and thanks also to statements that are continuing from Hon. Melvin Laird, Secretary of Defense, I think the American people are being told of the growing advantage that the Soviet is beginning to enjoy over us in nearly every item of the military.

The Secretary recently made a speech before the American Newspaper Publishers Association in New York. In fact, it was on Wednesday, April 21, and while that has been some days ago, we have not been in session often lately, and I have not had a chance to get this into the RECORD before this time. Therefore, I ask unanimous consent that the speech of the Secretary be printed in the RECORD.

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

BEYOND VIETNAM

(Address by the Honorable Melvin R. Laird)

I am particularly pleased to have this opportunity to meet with the American Newspaper Publishers Association and to discuss with its members the serious national security problems we face.

That is, in my view, a particularly timely meeting. I would not want to miss this chance to comment briefly on a matter which is of great mutual concern to the ANPA and to the Department and your profession.

As we look beyond Vietnam to the challenges of the years ahead, rarely before in our history have we needed a closer understanding among those who believe in a strong defense and a strong free press.

A strong, free country and a strong, free press go hand-in-hand. You and I share an obligation—and a unique opportunity—to preserve and strengthen both of those great national imperatives.

What we need is not to shout at one another. Rather, we need to sit down and talk over together the problems of national security news coverage which have arisen in the past decade or so. It is time for improved professional contacts—contacts that candidly recognize past mistakes and seek future understanding.

I welcome the opportunity, as you are giving me here today, to discuss openly with you some of our crucial national security problems. The President's goal of a generation of peace through partnership, strength and meaningful negotiations is a worthy goal. Our national security programs are linked to that goal.

In this month of April, 1971, I am able to report that U.S. objectives in Vietnam are rapidly being achieved and that U.S. military involvement in the war in Southeast Asia is coming to an end.

Successful negotiations in Paris remain the quickest way to resolve the Southeast Asia conflict. But Vietnamization is consistent with the goal of self-determination, should Paris continue to produce no meaningful results. Vietnamization will bring about termination of American involvement upon resolution of the Prisoner of War issue. In my judgment, Vietnamization will continue to succeed. The problems that do remain are not going to thwart the policy of United States withdrawal as announced by our Commander-in-Chief.

Now the time has come for the American people to think about America's role in promoting peace and security after Vietnam.

In 1969, when the Nixon Administration assumed office, it seemed to me that we had to shift public debate and discussion from "Why Vietnam" to "Why Vietnamization." It seemed to me profitless to continue an argument about decisions made in earlier years that had committed American forces to combat in South Vietnam. What we needed to do at that time was shift the focus from what led to increasing levels of American troops in Vietnam to what was needed and what we were doing to reduce American troop levels and terminate our involvement.

It is time now to shift the debate from "Why Vietnamization" to "Beyond Vietnam." It is time to discuss the Strategy of Realistic Deterrence which we have formulated to help achieve the goal of a generation of peace.

The changed conditions in the world today and the demands of world realities called for a new foreign policy, a new national security strategy and a different approach and attitude toward American involvement in the affairs of the world.

The President has provided the new foreign policy and the new approach that emphasize realistic involvement and vigorous negotiation while maintaining adequate strength. And we have formulated a new defense strategy that supports the foreign policy goal and approach of the Nixon Administration.

In the 1950's, you will recall, we had a defense strategy that was widely described as a strategy of massive retaliation. It was a credible or realistic strategy for that decade because we had an overwhelming strategic nuclear superiority.

In the 1960's, massive retaliation gave way to a strategy that became known as assured destruction and flexible response. This also was realistic from the standpoint of deterring nuclear war. In the early sixties, for example, President Kennedy was able to take the stand he did in the Cuban missile crisis to a large extent because we still maintained a four or five to one nuclear superiority. Unfortunately, however, the strategy of flexible response did not prevent us from becoming involved in the longest conflict in our history.

And that is precisely the challenge of the 1970's. We need a strategy for the 1970's that can effectively deter not only nuclear war but all levels of armed conflict. It was that need coupled with an awareness of the realities we face that led to the adoption of what we call the Strategy of Realistic Deterrence.

We call it realistic because it is designed to take account of the major realities facing America and the rest of the world in these difficult times. It recognizes that there cannot be any instant solutions to the problems that simultaneously confront us. And it underscores the fact that the United States by itself cannot provide realistic deterrence on a global scale.

The four basic realities which led to the new strategy are: a strategic reality; a fiscal reality; a manpower reality, and a political reality.

The strategic reality includes most notably the tremendous growth in Soviet military strength from a position of clear inferiority in the early 1960's to near parity today. It also includes an emerging nuclear capability on the part of the Peoples Republic of China.

The fiscal reality involves not only the heavy pressure in Congress for reduced defense spending but the upward pressures of inflation on the cost of everything we need to buy to maintain adequate military forces.

The manpower reality is not yet fully understood. People constitute the single biggest cost in the defense budget. Pay and related costs in FY 1972 will claim some 52 per cent of the total defense budget based on the pay increases we have recommended. It will cost us almost $18 billion more than it did in 1964 for 133,000 fewer people. And in the next year or two, manpower costs will be claiming close to 60c out of every defense dollar as contrasted to the 43c it claimed from the 1964 defense dollar.

The political reality severely complicates the other three:

Whether you look at it from the standpoint of the political and psychological effects of Soviet policy and growing presence around the world, such as in the Mediterranean and the Middle East;

Whether you look at it from the standpoint of political pressures from our allies to maintain forward deployed U.S. forces;

Whether you look at it from the standpoint of Congressional pressure to reduce those forces; or

Whether you look at it from the standpoint of gaining broad political support here at home for doing all the things we have to do to assure our national security interests while continuing to reorder our national priorities.

The most pressing reality remains the strategic reality. The most essential requirement in terms of national survival remains assuring the adequacy of our strategic deterrent.

One year ago yesterday, I spoke to the Annual Luncheon of the Associated Press here in this room. The thrust of my remarks was the deep concern I felt that by the mid-1970's the United States could find itself in a second-rate strategic position.

I regret to report today that nothing has happened in the intervening twelve months to lessen that concern. Quite the opposite is true.

In December and January, it began to look as if the Soviet Union was slowing its rapid rate of ICBM deployments after having reached a level of land-based ICBM's that gave them approximately 400 more than the 1054 possessed by the United States. The situation began to change in February and March, as we reported publicly. More recent

evidence confirms the sobering fact that the Soviet Union is involved in a new—and apparently extensive—ICBM construction program. This new ICBM construction effort, coupled with additional momentum in the strategic defensive area—all clearly planned months ago—must be of major concern. Moreover, while we have an advantage in submarine-based missiles today the USSR is rapidly closing that gap with an energetic construction program that continues.

Last year, I indicated that we could postpone some hard decisions in the FY 1971 transitional budget to give SALT every chance of success. We were forced to face some of those decisions in the FY 1972 budget on which I reported to Congress last month. We felt, in the light of the continuing Soviet momentum, as it was assessed late last year, that prudence dictated accelerated development of a new strategic bomber, the B–1, and a new undersea-launched strategic missile system, the ULMS. We are proceeding at the optimum development rate consistent with sound management, but, of course, no procurement decisions have yet been made.

We sincerely hope for convincing progress in SALT. But failing such progress I must tell you today that the renewed Soviet strategic weapons momentum may confront us with the need for additional offsetting U.S. actions. I would have no choice but to recommend these actions—over and above what has been presented to Congress in the FY 72 Budget—in order to preserve the sufficiency of our strategic forces. We would much prefer success in SALT.

I felt last year and I feel now that the people of America perhaps may be willing to settle for a situation of so-called strategic nuclear parity. But under no circumstances, in my view, would the American people be willing to settle for inferiority.

I can assure you of one thing: so long as I am Secretary of Defense—and no matter the criticism it may evoke—I will never refrain from recommending programs which I believe are essential to the survival of our nation and the safety of our people.

My job is to provide the capabilities necessary to prevent war, and that is what we are seeking to do under the Strategy of Realistic Deterrence. But while we can never neglect the essentials of strategic sufficiency, we have tried to fashion a strategy that will lead to the effective deterrence of all war, not just nuclear war.

If we are to prevent all forms of war, if we are to restore and preserve peace, if we are to make possible a world in which there can be expanding freedom, we must maintain adequate U.S. strength and help improve the strength of our friends and allies. That is what the Strategy of Realistic Deterrence is all about.

In its simplest formulation, Realistic Deterrence is the strategy we have designed to carry out the Nixon Doctrine. It is based on the three principles of partnership, strength, and willingness to negotiate. It seeks to steer a prudent middle course between the policy extremes of world policeman and a new isolationism. It does this by providing the means for effective development and use of the military resources of peace-seeking nations to deter conflict at all levels. Except in the field of nuclear weaponry, it calls on other nations to do more to provide for their own defense—particularly by furnishing manpower. It seeks to foster greater readiness on the part of other nations, individually and in regional cooperation, to increase their ability to defend themselves. It offers U.S. assistance—economic and military—and U.S. support to such nations where our interests are involved. The partnership it proposes means that other nations must do for themselves some of the things we have been doing for them. One of its major goals is to prevent American involvement in future Vietnams.

Realistic Deterrence means a smaller military force for the United States, but one which is more combat-ready than it has been in peacetime in the past. It means modernized equipment. It means a vigorous Research and Development program to assure our continued technological leadership. It means strengthening the National Guard and Reserves and reducing reliance on the draft.

In our FY 1972 budget, the Department of Defense is implementing the President's Strategy for Peace by completing the transition from a military force of 3.5 million men and women involved in war—largely draftees or draft-induced volunteers—to a truly volunteer force of at least one million fewer men and women who will be engaged in preventing war. We have established the goal of zero draft calls by July 1, 1973.

Let me be perfectly frank. Successful implementation of the Strategy of Realistic Deterrence is the most difficult and challenging national security effort we have ever undertaken in this country. It must be accomplished in an environment of strategic nuclear parity—a reality that leaves little margin for error and no room for failure. It must be accomplished in a period of vigorous Soviet military expansion at sea, on the land, in the air and in space. Nor can we ignore their expanding military assistance programs and their demonstrated willingness to deploy Soviet troops and equipment in other countries.

What is required is the maximum utilization of all Free World resources for deterrence—not just those, nor primarily those—that the U.S. can provide. That is why in Asia, we are stressing a greater manpower contribution on the part of our friends and allies. That is why in NATO, a new spirit of burdensharing has evolved.

But that is also why it is so important for us in the Department of Defense to have the trust and confidence of members of the press. For it is through the press that we must seek the understanding and support of the American people. Without that support, and full understanding, the goal of a lasting peace—so elusive to so many generations before us—will have no chance for success.

At the beginning of these remarks, I emphasized how important it is for all of us to begin looking beyond Vietnam. It might be appropriate, therefore, to close by calling to your attention important forthcoming talks in NATO.

As we look ahead to the long-range national security requirements of our nation and the rest of the Free World, the meetings of the Defense Ministers in NATO next month may be the Alliance's most significant substantive discussion in at least a decade. At the Nuclear Planning Group session in the Federal Republic of Germany and then immediately afterwards at the session of the Defense Ministers in Brussels, I will continue the new level of consultations with our NATO Allies which President Nixon initiated shortly after he assumed office.

These meetings will give me an opportunity, both in the formal sessions and in my private meetings with my colleagues, to explain in full detail the new United States National Security Strategy of Realistic Deterrence.

I will speak to my fellow Ministers against a background of two decades in which the partnership, strength and willingness to negotiate among NATO members have provided peace and stability for that Alliance.

I will bring them up to date on the threat assessment as we see it today, and I will want to hear from them their view of the momentum of Soviet activities, such as the stepped-up naval operations in the Mediterranean, and the provision by the Soviet Union of sophisticated new weapons in the Middle East.

I think it is clear that we are past the day when the United States could or should discuss defense problems with our NATO allies or anyone else with a "big brother knows best" attitude. Not only are we trying to face the realities that require adequate free world strength, we are seeking conscientiously and systematically to conduct our relations to fulfill our responsibilities on a full partnership basis.

We are not going to preach platitudes to our own people or to our allies and friends as we seek to implement the Strategy of Realistic Deterrence. We ask only for recognition of the realities we face and the determination to meet them together in a timely and effective manner. In that way, we can achieve our goal of peace.

AWARD TO WILTON C. SCOTT, SAVANNAH STATE COLLEGE

Mr. TALMADGE. Mr. President, I am much pleased to learn that Mr. Wilton C. Scott, director of public relations and continuing education at Savannah State College, has been awarded a gold anniversary medallion in recognition of his outstanding work in the field of journalism education in the South.

This award, presented by the Michigan Interscholastic Press Association, will be accorded Mr. Scott Thursday evening, May 6, at Ann Arbor. Dr. John V. Fields, director of the University of Michigan Press Conference, said Mr. Scott was selected over 100 others from colleges and universities throughout the United States because of his numerous contributions to scholastic journalism and community affairs.

I know Mr. Scott is very proud of this honor and this well-deserved recognition of the splendid work he is doing in Savannah, throughout Georgia, and in the South. I join his many friends and associates in congratulating him on this occasion.

Mr. President, I ask unanimous consent that there be printed in the RECORD a telegram notifying Mr. Scott of this honor, a news article on the award, and his biographical sketch.

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

ANN ARBOR, MICH.

WILTON C. SCOTT,
Savannah State College,
Savannah, Ga.:

You will receive gold anniversary medallion from the Michigan Interscholastic Press Association on the occasion of annual banquet to be held Thursday evening May 6th. This award is for your creative work in the field of journalism education in the Southern States. We very much hope you and Mrs. Scott can be present for that occasion.

JOHN V. FIELDS,
Director.

[From the Savannah Evening Press]

SCOTT TO RECEIVE SERVICE AWARD

Wilton C. Scott, director of public relations and continuing education at Savannah State College, will receive the University of Michigan Medallion, the university's highest journalistic award for meritorous service in community services and journalism. The award will be presented Thursday during the 50th anniversary of the Michigan Interscholastic Press Association.

Dr. John V. Fields, director of the university's Press Conference, said Scott was selected over 100 others from colleges and universities across the U.S. because of his numerous contributions on a national level in school press and community affairs.

Scott organized and directed the SSC Press Institute for 20 years. Fields added that Scott edited several successful community services proposals and directed numerous community service programs.

BIOGRAPHICAL SKETCH

Colonel Wilton C. Scott, Director of Public Relations and Continuing Education at Savannah State College, was born in New Orleans, Louisiana. Colonel Scott is married to the former Lillian Shank and they reside at 1426 Cathy Street, Savannah, Georgia.

Colonel Scott received his B.A. Degree from Xavier University and his Master's Degree and 6th year specialist diploma from New York University. Included in the Colonel's varied experiences are the following: Supply and Property Clerk, U.S. Navy, Program Director of the National Catholic Community Service in Savannah, Employees Relations Officer of Savannah Army Depot, Part-time Director of Alfred E. Beach High School Adult Education Center, Director of Public Relations and Continuing Education, Savannah State College since 1947, and Supervisor of EDUCATIONAL TALENT SEARCH, "Project Seek." Scott is colonel on the staff of Governor of Kentucky.

Colonel Scott's professional memberships and awards include the following: Columbia Scholastic Press Association Gold Key Award, cited by the 85th Congress for services to Scholastic Press, National Alumni Association Gold Key Award, YMCA Distinguished Service and Service to Youth Awards, The Wall Street Journal Award, selected as Colonel on the staff of the Governor of Kentucky, Newspaper Fund Fellowship 1963, received a Duquesne University grant in Journalism in 1964, Chairman, UMCA Public Relations Committee, Executive Secretary of the National Alumni Association of Colleges, 1957–61, State Public Relations Chairman for Georgia Teachers Association, ACPRA, NSPRA, NEA, AASA, Adult Education Association of U.S.A., other associations which have honored Colonel Scott are: The Georgia Teachers Association, YMCA, Adult Education Association of the U.S.A., Phi Beta Sigma, Georgia Cancer Society, Boy Scouts, Boys Club, Mutual Benevolent Association. Colonel Scott is listed in Who's Who in Public Relations, Who's Who in American Education, Outstanding Personalities of the South. The Dictionary of International Biography, and Roll Call.

TREATY DEMANDS BY PEOPLE'S COALITION FOR PEACE AND JUSTICE

Mr. BUCKLEY. Mr. President, we are advised by the leaders of the Peoples' Coalition for Peace and Justice that we are under siege from this day forward until we ratify their "joint treaty of peace between the people of the United States and the people of South Vietnam and North Vietnam."

In recent weeks, a considerable effort has been made to persuade Members of Congress, and the public, as well, that their so-called peoples' peace treaty is a valid document deserving of serious consideration. This document purports to be an agreement entered into—by what authority, we are not told—on behalf of their respective peoples by the U.S. National Student Association, three student subsidiaries of the Communist Party of North Vietnam, and a representative of what is styled the "South Vietnam National Student Union."

Fewer than 25 percent of all U.S. colleges and universities have affiliate membership in the NSA; and fewer than 50 percent of these bother to send delegates to the NSA's national meetings because of their notoriously authoritarian procedures, and few of the delegates who are sent are democratically elected by the student bodies they purport to represent.

As for the South Vietnamese signatory, the "South Vietnamese National Student Union," it simply does not exist, except on paper. On the other hand, I am in receipt of two letters from authentic student groups in South Vietnam which repudiate the "peoples' treaty." One of these, from the Catholic Students Federation which represents 25 percent of all university students in South Vietnam, states in part:

We fervently demand . . . that the North Vietnamese communists should immediately stop the invasion of South Vietnam . . . (W)e object to the unfair claim that they [the South Vietnamese signatory] are representing all the Vietnamese students in signing treaties or making announcements that are contrary to the rights of the people and the point of view of the Vietnamese students.

The second letter, from the Students Association at the Institute of National Administration in Saigon, states:

(I)t is our opinion that the so-called "Peace Treaty" faithfully reflects Hanoi's aspirations, not the aspirations of the South Vietnamese people in general, and of all the students in South Vietnam in particular.

I also have in hand a detailed analysis of the so-called peoples' peace treaty which has been prepared by the American Youth for a Just Peace.

Mr. President, I ask unanimous consent to place the full text of the two letters and the analysis in the RECORD for the benefit of those few who may be so innocent as to take this impertinence at face value.

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

AN OPEN LETTER OF THE CATHOLIC STUDENTS FEDERATION OF SAIGON TO AMERICAN CATHOLIC STUDENTS

SAIGON,
April 14, 1971.

DEAR FRIENDS: More than anyone, we the young people of Vietnam detest the cruel and violent war that has gone on and continues in our beloved homeland for more than a quarter of a century. This war has exhausted our country in every way: economically, politically, culturally, socially and slowly carries the Vietnamese people toward terrible annihilation.

We moderate students have the view that:

The present war of the Vietnamese people is a war of the freedom and justice loving people opposing despotic and dictatorial communist imperialism—A self defense struggle of the South Vietnamese—We struggle principally for our survival and our children—We struggle for the ideal of freedom for mankind.

In this war of self defense, the assistance of the American people and of freedom loving countries all over the world is an essential element for us.

With the sad experience of the 1945 (sic) nationalist/communist coalition in China—and in 1962 in Laos, we are skeptical about every solution that aims at bringing about a coalition between nationalists and communists in South Vietnam.

In the face of the tragic war that has wasted the latent force of our fatherland, the Catholic Students Federation of Saigon earnestly hopes that our American Catholic friends will present our point of view. We fervently demand that:

The North Vietnamese Communists should immediately stop the invasion of South Vietnam.

They should completely and unconditionally withdraw their forces and their auxiliary forces in South Vietnam. Immediately after that, the American Army and the armies of the Allies also must withdraw from the territory of Vietnam.

The people of the world must honor the right of self determination of the peoples of this small nation and we energetically resist all assistance aimed at enslaving our Vietnamese Nation.

Finally, representing the Catholic Students Federation of Saigon, we ask to clarify that: the organization of the General Assembly of Saigon Students of which Huynh-tan-Mam is the chairman, is not the representative for all the students and people of South Vietnam. Consequently, we object to the unfair claim that they are representing all the Vietnamese students in signing treaties or making announcements that are contrary to the rights of the people and the point of view of the Vietnamese students, of which we are a part.

Sincerely,

HUYNH-PHUOC-TOAN,
Central Executive Committee Chairman.

OPEN LETTER TO THE AMERICAN PEOPLE AND TO AMERICAN STUDENTS

SAIGON,
April 16, 1971.

DEAR FRIENDS: From Vietnam—this tiny land immersed into a set of untold suffering—we send you our best wishes in the name of universal love among students and in the name of international solidarity.

For almost twenty years Vietnam has been victim of a war of aggression launched against her by World Communism and waged by its two components: North Vietnam and the NFLSVN. With the support we receive from friendly nations in the Free World—and most particularly from the U.S.—our people have heroically resisted that war of aggression—in the defense of Justice and Freedom and at the price of enormous losses in lives and properties.

In the midst of our misfortune we are, however, excessively glad to know that in the United States you, too, are looking for some solution to bring Peace to Vietnam—and the sooner the better. We are very grateful for your noble intention and your magnificent gesture.

As we personally and directly suffer from war, as our own country is being devastated by war, we are longing for Peace, more than anybody else. But, talking about Peace, we could like to present, here, our own proposition concerning Peace. It is as follows:

The United States should withdraw its armed forces from South Vietnam, as soon as, North Vietnam stops sending its troops into South Vietnam.

As Vietnamese students, we promise we will rebuild South Vietnam in accordance with the principle of Self-Determination, Freedom and Democracy.

And this leads us to discuss briefly about the 'Peace Treaty' signed in December 1970 by the American Students Association, by North Vietnamese students and by a student named Huynh Tan Mam who—according to American newspapers—pretends to be President of the Federation of Students in South Vietnam.

As we are directly affected by Peace and War, and with the view to clearing up all misunderstanding regarding peace activities, we would like to draw your attention on two points:

Huynh Tan Mam represents the students of one faculty only, not of all the seven faculties in South Vietnam. He is not qualified to sign any paper in the name of the whole Federation of Students in South Vietnam.

The 'Peace Treaty' demands an immediate and unconditional withdrawal of all American troops from South Vietnam, and overthrowing of the present government of South Vietnam and its replacement by a Coalition Government. We simply want to remind you that these three demands are exactly those voiced at the Paris Conference by the Hanoi and NFLSVN delegations.

As such, it is our opinion that the so-called 'Peace Treaty' faithfully reflects Hanoi's aspirations, not the aspirations of the South Vietnamese people in general, and of all the students in South Vietnam in particular.

Gratefully yours,

PHAN CHANH TAM,
Chairman of the Students Association at the Institute of National Administration.

THE NSA "PEACE TREATY" VERSUS THE PEOPLE—AN ANALYSIS OF A POLITICAL FRAUD

(Prepared by American Youth for a Just Peace)

The National Student Association (NSA) is asking Americans, especially young Americans, to sign and otherwise endorse a "People's Peace Treaty." The so-called "treaty," they say, can "end the war."

Obviously, ending the war is a good idea. But on what terms does the so-called "treaty" propose that this should be done, and by whose mandate?

BY WHOSE MANDATE?

The "treaty" is called the "Joint Treaty of Peace between the U.S. and the Vietnamese Peoples". Neither the name nor the substance of the "treaty" was decided by representative mandates of either the American people, the North Vietnamese people, or the South Vietnamese people.

The leaders of the National Student Association, in consultation with themselves, with the Communist Party of North Vietnam, its student fronts—North Vietnamese National Student Union and South Vietnamese Liberation Students Union—and with a few representatives of the alleged "South Vietnam National Student Union", announced the "treaty" at a Washington, D.C. press conference upon their return from a two week visit to North Vietnam as guests of the North Vietnamese government.

HOW REPRESENTATIVE IS NSA?

There are some 2,400 colleges in the United States. NSA lists only 535 affiliate memberships—or less than 25% of all U.S. colleges and universities.

Moreover, student government leaders are not elected or polled on the basis of their positions on the war in Southeast Asia. NSA is a miniscule minority within an eight million minority population of college students in a country of 20 million college-age youth and a total population of 210 million people.[1]

HOW REPRESENTATIVE IS THE COMMUNIST PARTY OF NORTH VIETNAM?

In contrast with South Vietnam's 12 major parties and 43 registered parties, the Communist Party of North Vietnam (800,000 members) is the only political party in North Vietnam (20 million people). It has never permitted any opposition parties to exist or allowed competitive elections. Coalition parties which initially shared power with the Communists in 1945 and in 1954 were liquidated.

During the 1954–56 collectivization program and the suppression of intellectuals, the Party assassinated approximately 100,000 peasants and caused the death of some 500,000 through forced labor and imprisonment. (See Bernard Fall's *The Vietminh Regime, The Two Vietnams,* and Hoang Van Chi's *From Colonialism to Communism.*)

The North Vietnamese Communist Party not only monopolized the political process, it monopolizes and exerts control over all other aspects of life in North Vietnam, such as the economy, religion, culture. For example, in January of this year the Hanoi Municipal People's Court sentenced the leader of a pop music group, Phan Thang Toan, to 15 years in jail for strumming a "melancholy, heart-rending, provocative" musical beat that encouraged young people to a "dissolute depraved, and orgy-like way of life". (See Hanoi Moi—Hanoi Today—January 12, 1971.)

The Stalinist nature of the Hanoi government is also pointed up by a 1968 North Vietnamese Presidential Decree on so-called "counter-revolutionary" crimes. It makes it a capital crime to : (1) "disrupt public order and security"; (2) "harbor counter-revolutionary elements"; (3) "defect or flee to foreign countries"; (4) "undermine the solidarity of the Vietnamese people", i.e., the Communist Party. (Radio Hanoi, March 21, 1968.)[2]

HOW REPRESENTATIVE IS THE "SOUTH VIETNAM NATIONAL STUDENT UNION"?

The "South Vietnam National Student Union" does not exist. The claim by NSA that it does is pure fabrication. There are four separate student unions in Vietnam which have never merged into a national student union. They are the student unions at Hue, Dalat, Saigon, and Can Tho. In addition, there is a Buddhist Student Union in Saigon, and a National Catholic Association.

One NSA delegate allegedly contacted a few representatives of the Saigon Student Union. But NSA has produced no evidence that any of these representatives endorsed the "treaty".

THE TERMS OF THE "TREATY"

Article I of the "treaty" states: "The Americans agree to immediate and total withdrawal from Vietnam and to publicly set a date by which all American forces will be removed."

Answer: Why isn't the withdrawal of North Vietnamese forces from South Vietnam on a publicly set date also called for? Some 400,000 North Vietnamese forces have presently crossed internationally recognized frontiers into neutral Laos, Cambodia, and into Vietnam. According to the South Vietnamese government, the North Vietnamese have killed 120,000 South Vietnamese soldiers, wounded 232,000, attacked and bombarded with rockets nearly every town and city in South Vietnam, killed 31,000 civilians (many in deliberately staged massacres such as in Hue and Dak Son), wounded 74,000 and kidnapped 38,000.

How can the people of South Vietnam ever hope to fulfill their nationhood peacefully if divisions of soldiers from a Stalinist state have a free hand in South Vietnam?

Suppose there were divisions of South Vietnamese soldiers in North Vietnam seeking to "liberate" it? Wouldn't it be logical and just to insist on *reciprocal* withdrawals as a condition for ending the warfare?

Article II states: "The Vietnamese pledge that as soon as the U.S. Government publicly sets a date for total withdrawal, they will enter discussions to secure the release of all American prisoners, including pilots captured while bombing North Vietnam."

Answer: In the past the North Vietnamese and the Viet Cong have "pledged to discuss seriously" only if the United States would unilaterally take certain steps. But in each case—the unilateral bombing halt of North Vietnam; the pledge to withdraw large numbers of U.S. forces and the actual withdrawal of over 200,000 U.S. troops—there has not been the slightest reciprocity on the other side. What reason is there to expect it now?

In exchange for the total, unilateral U.S. withdrawal—a major concession which would give to the Communists on a silver platter what they have not been able to achieve on the battlefield or politically in South Vietnam—the "treaty" merely offers to "enter discussions" about POW's without any assurance whatsoever that the POW's will be freed. This is political blackmail.

On strictly humanitarian grounds with no political strings attached, South Vietnam has offered a total exchange of POW's with North Vietnam, which the North has rejected (Paris, December 1970). Indeed, South Vietnam has already released over 1,000 POW's as compared to the North's release of less than a dozen.

Finally, it is important to note, that whereas South Vietnam has abided by the Geneva Convention regarding POW's and has always opened its POW camps to international Red Cross inspection teams, North Vietnam has totally rejected the terms of the Geneva Convention and has never permitted International Red Cross inspection teams.

Article III states: 'There will be an immediate ceasefire between U.S. forces and those led by the Provisional Revolutionary Government of South Vietnam." (PRG[3])

Answer: In the past each of the 15 ceasefires agreed to by the U.S. have been violated by the North Vietnamese and Viet Cong forces. The massive Tet Offensive of 1968 against South Vietnamese population centers was launched during one sueh "ceasefire" proposed by the Communists.

On October 7, 1970 the U.S. and South Vietnamese governments proposed an internationally supervised cease-fire for all of Indochina. This proposal, like all other allied and third party proposals for a cease fire, was rejected by the North Vietnamese and the Viet Cong. Madame Binh in particular used the strongest language in Paris to denounce any cease-fire as a betrayal of the so-called "liberation" war. Thus Communist performance on cease-fire and its proclaimed position on cease-fire bears little resemblance to fact.

Moreover, it should be noted that the "treaty's" proposal appears to apply exclusively to the U.S. forces and not at all to the forces of either North or South Vietnam. What kind of cease-fire will there be if there is no cease-fire between the principal antagonists?

Article IV states: "They" (U.S. and PRG) *"will enter discussions of the procedures to guarantee the safety of all withdrawing troops."*

Answer: All allied proposals for the reciprocal withdrawal of troops have been totally rejected by the Communists. All discussions of international inspection and guarantees for withdrawal have also been rejected by the other side. As with the other "articles" in this "treaty", it is only discussions about the procedures about safety that the "treaty" promises, not the safety itself.

Article V states: "The Americans pledge to end the imposition of Thieu-Ky-Khiem on the people of South Vietnam in order to insure their right to self-determination and so that all political prisoners can be released."

Answer: The South Vietnamese Government was not imposed by America on the Vietnamese people. It came to power in September 1967 as a result of internationally observed competitive elections with all other political parties. The winning ticket, which won 34.8% of the votes, was later joined by many representatives of losing slates, thus increasing the government's mandate.[4]

Since 1967, South Vietnamese have had the opportunity to vote in five major sets of competitive elections from local village officials to representatives in the National Assembly. On October 3 of this year, South Vietnamese will once again have the right to vote in competitive elections for the President and Upper and Lower House. North Vietnam has never tolerated the litmus test of competitive elections.

For America to depose the South Vietnamese Government would amount to a slap in the face and a gross denigration of the constitutional processes and of the right of

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Footnotes at end of article.

millions of South Vietnamese citizens from all walks of life to choose their representatives.

How then can the "right of self-determination" of the South Vietnamese possibly be enhanced by an American coup on behalf of the PRG—a Hanoi puppet organization (see footnote)—which on July 11 was invited by President Thieu to participate in elections, but has rejected the option of being judged by democratic choice?

Article VI states: "The Vietnamese pledge to form a provisional government to organize democratic elections. All parties agree to respect the results of elections in which all South Vietnamese can participate freely without the presence of foreign troops."

Answer: The Vietnamese already have an elected government, and on October 3 the Vietnamese will again have the democratic right to re-elect Thieu-Ky-Khiem or vote for someone else, including the PRG should it accept President Thieu's invitation. Why then is there a need for a provisional government? But even granting this need, which Vietnamese will "pledge to form" (what does that mean?) a provisional government? The PRG led by Hanoi?

In Hue during the Tet offensive of 1968, the PRG cadres carried out mass liquidations of actual or potential political opponents. This is a continuation of the pattern established by the Communists in 1945–46 when they crushed all coalition parties and murdered nationalist leaders, and in 1954–55 when similar policies were carried out by the Communists in North Vietnam during the "consolidation".[5]

In view of this grim record, what hope is there that the South Vietnamese people will place their faith in Communist pledges to respect democratic elections?

Article VII states: "The South Vietnamese pledge to enter discussions of procedures to guarantee the safety and political freedom of those South Vietnamese who have collaborated with the U.S. or with the U.S. supported regime."

Answer: Again, nothing is said about guaranteeing the safety or political freedom of anybody. The treaty only guarantees to enter discussions about procedures.

There are, in any case, several million South Vietnamese who can be classified as "collaborators". In North Vietnam "collaborators" are counter-revolutionaries", and as the Presidential Decree on Insurgency states, are liable to summary execution. In fact, the Viet Cong and North Vietnamese have murdered ("collected blood debts") some 31,000 South Vietnamese as "collaborators".

Should this record be glossed over in exchange for a mere "pledge" about "procedures" to guarantee the "safety and political freedom" of those people the Communists have been trying so hard to liquidate?

What kind of "political freedom" will there be in South Vietnam under a North Vietnamese Communist controlled form of government when there has never been the slightest glimmering of democracy in North Vietnam? Why doesn't the NSA "treaty" demand guarantees for the rights of opponents in North Vietnam?[6]

Article VIII states: "The Americans and Vietnamese agree to respect the independence, peace and neutrality of Laos and Cambodia in accord with the 1954 and 1962 Geneva conventions, and not to interfere in the internal affairs of these two nations."

Answer: In gross violation of the Geneva Accords of 1954 and 1962, the North Vietnamese have consistently and massively violated Laotian and Cambodian peace and neutrality by sending hundreds of thousands of troops into neutral Laos and Cambodia; by constructing roads—Ho Chi Minh and Sihanouk trails—through these two countries; by establishing military base areas for prosecuting the war against South Vietnam; and by launching attacks on the people and governments of these nations.

How can anyone believe that the North Vietnamese will respect Cambodia and Laos as they attempt to conquer them?[7]

Why doesn't the NSA "treaty" require United Nations supervision of both the U.S. and North Vietnamese military presence in Indochina in order to safeguard the sovereignty of these nations? Hanoi has always rejected a United Nations supervisory role.

Article IX states: "Upon these points of agreement we pledge to end the war and resolve all other questions in the spirit of self-determination and mutual respect for the independence and political freedom of Vietnam and the United States."

Answer: The Allied governments have proposed in Paris to resolve the war on the basis of: (1) an internationally supervised cease-fire throughout Indo-China; (2) an Indochina peace conference; (3) an agreed time-table for complete *reciprocal* withdrawals; (4) a fair political settlement involving all of the major forces; (5) the unconditional release of all POW's.[8]

These proposals have been rejected by Hanoi and its PRG who have even refused to discuss them.

As with so much else in this alleged "treaty", it seems the height of hypocrisy for the unrepresentative inventors of this "treaty" to believe that their one-sided proposals would be acceptable to the parties in the conflict or that such proposals could assure self-determination and peace in Southeast Asia.

CONCLUSION

The presence of the American, South Vietnamese, and North Vietnamese delegations at the Paris Peace Talks points up an internationally accepted fact: treaties are negotiated by governments. They are not negotiated by private groups.

Sometimes the negotiating governments are broadly representative of their citizens. In the United States, and in other Western democracies, the electoral process has insured such widespread representation. Sometimes, the governments negotiating treaties are authoritarian, or totalitarian in nature, representing only a tiny elite who rule by force.

The pitiful fact about the NSA "People's Peace Treaty" is that it embodies the double fault of representing a minuscule minority in America bidding for dictatorial power, on behalf of a minuscule minority in North Vietnam which already exercises dictatorial control.

The "People's Peace Treaty" is not a formula for peace. It is a disguised formula for the victory of tyranny, which undercuts the efforts to achieve a just peace.

FOOTNOTES

[1] Less than 50 percent of the NSA member institutions send delegates to the annual NSA Congress, and few of the "representatives" are democratically elected by their respective student bodies. NSA is actually run by its National Supervisory Board (NSB), consisting of a few officers and 12 area representatives who exercise wide powers, including the right to enact "emergency" policies between the meetings of the Annual Congress. See: *USNSA Handbook*, (Washington, D.C., NSA 1967); *NSA Report*, Houston, Stop NSA, 1971).

[2] For scholarly and in-depth reading on North Vietnam see: Buttinger, Joseph A., *Vietnam: A Dragon Embattled* (N.Y. Praeger, 1967); Fall, Barnard, *The Two Vietnams* (N. Y. Praeger, 1967); Hoang, Van Chi, *From Colonialism to Communism* (N.Y. Praeger, 1964); Honey, P. J., *Communism in Vietnam; North Vietnam Today* (N.Y. Praeger, 1962); Spinks, Charles, et al., *The North Vietnamese Regime: Institutions and Problems* (Washington, D.C., Center for Research in Social Systems, 1969).

[3] The Provisional Revolutionary Government was proclaimed on June 8, 1969. It is the product of a merger between the National Liberation Front (NLF) formed in 1960 and the Alliance of National Democratic and Peace Forces (ANDPF) proclaimed by the Communists in 1968 during the Tet Offensive. These organizations publicly supported Hanoi, and there is a great deal of evidence to show that they were controlled by Hanoi, and that the PRG is controlled by Hanoi. Radio pronouncements of the PRG are made only on Radio Hanoi and the Viet Cong's Liberation Radio. The Information Office of the PRG in Paris is at NLF Headquarters. (*Liberation Radio*, 2330 GMT, June 10, 1969).

[4] Nearly all candidates were committed to peace—their differences relating to acceptable conditions for peace. The most "unconditional" candidate, Mr. Truong Dinh Dzu, who received 17% of the vote, was charged with embezzlement and passing bad checks *ten months before the election.* His trial was deliberately postponed in order to allow him to run for the Presidency.

For a detailed on-the-scenes account of these elections see: Dr. Penniman, Howard, *Decision in South Vietnam* (Washington, D.C., The Free Society Association, Inc. 1967).

[5] Harrison, Selig S. (Brookings Institution), "Vietnam Had a Coalition Once", The Washington Post, April 7, 1968; Fall, Bernard, *The Viet-Minh Regime*, (Cornell University, 1956); Buttinger, Joseph, *Vietnam: A Dragon Embattled*, (N.Y. Praeger, 1967).

[6] There are 43 registered political parties in South Vietnam. There is one in the North, and two puppet fronts. There is a free trade union movement in South Vietnam with 600,000 members who have gone on strike and won demands in the midst of the war. There is no free trade union movement in North Vietnam (or in any Communist country). There are 15 opposition newspapers in Saigon. They function with intermittent censorship, but they function. There is no opposition press in the North. There are various religious groups in Vietnam such as the Hoa Hao and Cao Dai (3.5 million), the Catholic (2.5 million), and moderate and militant Buddhists. All organize of their own accord, participate and exercise varying degrees of influence in their country's political and socio-economic life. No such pluralism exists in North Vietnam.

[7] In May, 1967, Prince Norodom Sihanouk asserted:

"After the French troops left Cambodia, the Vietnamese Communists remained in our country in order to conquer it."

Neutralist Prince Souvanna Phouma of Laos stated:

"Should South Vietnam become Communist . . . it would be difficult for Laos to exist. The same goes for Cambodia and other countries."

The 1962 Geneva Accords on Laos incorporated the North Vietnamese and Russian formulation calling for a three party coalition government headed by neutralist Prince Souvanna Phouma. By April 1963 the Pathet Lao and North Vietnamese were attacking the very government which they brought into being. See: *Background Information Relating to Southeast Asia and Vietnam*, Committee on Foreign Relations (Washington, D.C., U.S. Government Printing Office, 1970); Fall, Bernard, *Anatomy of a Crisis*, (N.Y. Doubleday, 1969); Fishel, Wesley, *Vietnam: Anatomy of A Conflict*, (Illinois, Peacock Publishers, Inc., 1968); Leifer, Michael, *Cambodia: The Search for Security* (N.Y. Praeger, 1967); Shaplin, Robert, *Lost Revolution*, (N.Y. Harper and Row, 1966); Swearingen, Roger, *Communism in Vietnam, a Documentary Study*, (Chicago, American Bar Association, 1967).

[8] President Nixon's address to the nation, October 7, 1970.

ENVIRONMENTAL ECONOMICS

Mr. CHURCH. Mr. President, discussion of the environment has largely centered on abuses and the technology devoted to this abuse. Too little attention has been devoted to the costs of a clean environment. Americans still see clean surroundings as being in conflict with full employment, as a luxury only the wealthy can afford. I believe that this is an illusion. Pollution control, rather than being a luxury, is a necessity that none of us can forego.

All too often the chemical plant worker, the steelworker, or the miner is told that pollution control measures will deprive him of employment, that eliminating smoke or dirty water means eliminating jobs. This need not and should not be the case. We have the ability to see that pollution control costs are a normal part of operating costs of an industry and not some special burden placed on one site or one plant. We have the ability to see that pollution control is a normal function of industry, to see that no product imposes hidden pollution costs on the public at the expense of the sales of other products. Our legislative efforts must be devoted to seeing that the costs of pollution control are equally borne in each industry and devoted to seeing that the laboring man knows that pollution control does not conflict with his well-being.

On April 25, 1971, in the Washington Post "Outlook" section, Stewart Udall and Jeff Stansbury authored an article on the environment and the worker. It was entitled "Selling Ecology to the Hardhat." In the article, former Secretary of the Interior Udall and Mr. Stansbury focus on the relation between the environment and the worker and some of the economic problems that must be solved legislatively in order to clean up our Nation. I ask unanimous consent that the article be printed in the RECORD.

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

SELLING ECOLOGY TO THE HARDHATS

(By Stewart Udall and Jeff Stansbury)

(Udall, Secretary of the Interior in the Kennedy and Johnson administrations, now heads an environmental consulting firm called Overview. Stansbury was managing editor for the Population Reference Bureau from 1968 to 1970, when he and Udall began writing a twice-weekly column for the Los Angeles Times Syndicate.)

"The working people of this nation are not at war with ecology," Sen. Henry M. Jackson (D-Wash.) angrily declared after Congress grounded the SST, "but some people are mistakenly attacking them in the place where they work."

There was a certain irony in this, since on the one hand Sen. Jackson's constituency includes the thousands of Boeing aircraft workers in Seattle, and on the other his credentials as an environmentalist are excellent—it was Jackson who authored the landmark National Environmental Policy Act.

Yet the senator put his finger on a problem for the motley coalition of ill-financed conservationists and ecoactivists who dumped the SST: If they are to go on winning battles, they must develop a strategy that will gain support, not hostility, from working men, and to do this they must convince them that they are not destroying their means of livelihood.

This problem for environmentalists is sharpened by what often appears to be a tacit unity between management and labor when faced with an ecological campaign that could conceivably close down a factory. Some corporations and their allies are warning that the fight for clean air and clean water will cost workers their jobs.

As a result, some unionists have unleashed strong attacks on environmentalists. Writing in Clear Creek, a new environmental magazine, labor lawyer Joe McCray asked rhetorically: "Why suddenly are all of the intellectuals, the professionals and the technocrats asking for crash programs to stop pollution? it is obvious. The noxious excretions of production, the chaotic disregard of human needs in our system, are touching and affecting the world of the new ruling class. The professor's hyacinths are dying . . ."

McCray's old boss, longshoremen's chief Harry Bridges, is much more blunt: "The ecology movement is obviously antiworker, first of all because it is a product of the ruling class. It recognizes no obligation to the worker."

INDUSTRY'S WEAPON

Clearly the "ecologists-are-anti-worker" argument has a strong demagogic appeal. It feeds on the growing number of incidents in which companies seek to thwart environmental reforms by closing down or brandishing the Damocles sword of unemployment over workers' heads. Examples:

In January, Union Carbide announced it would lay off 625 workers at its Marietta, Ohio, plant if the Environmental Protection Agency (EPA) imposed strict air pollution controls.

While steelworkers jammed the galleries, the Maryland Senate recently scrapped a bill that would have discouraged the use of no-return beverage cans in favor of returnable bottles. The bill's sponsor attributed its defeat to a "strange marriage of labor and management."

Olin Corp., which employs most of the work force in tiny Saltville, Va., is shutting down its soda ash plant because it apparently cannot meet the state's new water pollution standards. Long a marginal enterprise, it will leave 650 men and women without work.

In Selby, Calif., a notoriously dirty American Smelting and Refining Company (ASARCO) plant has met cleanup orders by shutting down. The corporation is threatening similar action in Tacoma, Wash. For the moment, ASARCO's stance has won the support of its Tacoma workers, but they are growing restive in their role as pollution pawns.

Charging that 6,700 men would lose their jobs, the West Virginia Surface Mine Association recently helped kill legislation to outlaw strip mining throughout the state. The ban was sought by Secretary of State Jay Rockefeller, who was unceremoniously told off by one worker: "You've honestly never had to look for a job."

U.S. Steel, which has major plants in Birmingham and Duluth, has warned Alabama and Minnesota pollution control agencies to ease up if they want the company and its jobs to stay put. In Birmingham the company has won long extensions of its cleanup deadlines; in Duluth it has extracted more modest delays.

Three weeks ago EPA ordered Pfizer Chemical Co., which manufactures nearly half the nation's penicillin at its Groton, Conn. plant, to stop dumping fibrous and nitrogenous wastes into Long Island Sound. Plant manager Stanley Emsminger swiftly put the jobs of his 2,500 workers on the line. "We will not be able to continue to produce under these conditions," he said.

"An industry's first response to environmental orders is often to create a job scare," says Norman Cole, head of the Virginia State Water Pollution Control Board. "It tries to bluff its union and its congressmen into calling off the dogs. If companies spent as much time and ingenuity cleaning up as they do stalling, the whole country would be better off."

Men like Cole, who deal with recalcitrant polluters in the political arena, know the evidence does not support most threats of environmentally caused plant shutdowns. Except for marginal firms which would soon be closed down anyway, cleanup orders almost never provide an economic justification for laying off workers or boarding up whole plants.

"Air pollution controls cost so little it's pathetic," says Ben Linsky, former environmental official in Michigan and California. "They would add only one cent to the price of an automobile tire and tube and less than two dollars to the price of a ton of steel. I see no justification whatsoever for industry's claims that environmentalists are driving it out of business."

One government estimate is that cleaning up air and water pollution would raise industry's capital investments by only about 2 per cent, and the Council on Environmental Quality has calculated that to control all of the major air pollutants would cost U.S. industry less than 1 per cent of the worth of its annual production. Yet business executives often camouflage the real economic and technological facts.

An example of this was Union Carbide's threat to fire 625 workers in Marietta, Ohio. Air pollution cleanup orders from EPA, the company alleged, made such a move necessary because neither the requisite technology nor the requisite low-sulfur, low-ash coal could be found in time to meet EPA's deadlines. Calling Union Carbide's tactics "blackmail," Ralph Nader and four public interest groups charged that plenty of high-grade coal was available but that Union Carbide preferred to use cheap, dirty coal from its own strip mine. Sen. Edmund Muskie then announced his air and pollution subcommittee would investigate this charge. The Oil, Chemical & Atomic Workers (OCAW) sharply rebuked Union Carbide and EPA refused to give ground. Shortly thereafter, Union Carbide backed down and said it never intended to use its workers as hostages.

Union Carbide is a thriving international corporation, not a tottering, underfinanced local industry. Last year its sales totalled $3.03 billion and its profits $157.3 million. Some polluting companies, of course, are not so fortunate, and a few of them are hanging on for dear life. Even so, they cannot fairly claim that environmental controls rank at the top of their list of woes. "Any plant so marginal that a small addition to its costs threatens a shutdown is probably being carried on faith credit and has been sick for a long time," says Linsky. "It is already on the verge of collapse."

Marginal plants that can stay in business only if they pollute—enjoy a hidden subsidy—the public's sacrifice of its health and environmental values. When the owners of such plants finally do close them down, they often blame the loss of jobs on environmentalists as a tactic designed to buy time for dirty plants in other communities.

CALLING THE BLUFF

The relatively low cost of pollution controls is only one reason why industry's job threats are usually a bluff. Most plants have a compelling reason to stay where they are—tax laws are often lenient, prime markets and raw materials are near, or the right kind of work force is available. Thus, though the enforcement of pollution laws varies from state to state, only a few well-heeled companies can afford to seek temporary "pollution shelters" by crossing state lines. They will be even less able to do so as the national standards written into new laws take hold.

Recently, in Ticonderoga, N.Y., the man-

agers of an International Paper Company mill threatened such a move and tacitly won the union's support in resisting a state air pollution order. Pulp and paper workers are highly skilled, however, and not easily replaced. When they realized that International Paper could not move without them, their support waned. International Paper reluctantly stayed in Ticonderoga—and cleaned up.

Similarly, ASARCO has threatened to pull out of Tacoma if forced to meet deadlines set by the Puget Sound Air Pollution Control Agency. But ASCARO gets its copper ore from the Philippines and obviously must remain near the Pacific Coast. Oregon has served notice that it doesn't want a dirty smelter, and neither does California. ASARCO may draw a reprieve from state pollution officials, but even if it doesn't it will probably stay in Tacoma—and clean up.

Economic realities such as these are beginning to get the attention of alert union officials. It takes no little courage for them to call a company's job bluff, especially in a time of high unemployment. But there are already signs that the United Auto Workers, United Steel Workers, Teamsters, and OCAW are withdrawing from industry's coercive embrace on the job issue.

"I don't see how a work force and a community can accept the kind of desolation that results from an operation such as the mine and smelter in Anaconda and Butte, Montana," says Teamster Vice President Einar Mohn. "It seems to me that even if this operation is the only means of making a living, it just isn't worth the resulting barrenness."

The Teamsters, of course, do not work the smelters, but OCAW chief A. F. Grospiron speaks for his own men when he says: "Our members just aren't going to be forced into fighting the EPA." More flatly, OCAW official Robert Palmer declares: "Our union wants to stop pollution with controls even if it means lost jobs. If a plant can't clean up after a reasonable period it should close down. What good are jobs if you can't drink the water and catch fish any more?"

Such labor leaders are buoyed by more than courage or a public relations sixth-sense. They also know that ecological controls and environmentally sound programs create far more jobs than they abolish. Hindsight is always an easy exercise, but if, for example, President Johnson had opted in 1965 *not* to build the SST and to spend the same $800 million designing and subsidizing the air cushion train, he would have promoted a largely pollution-free new industry that today would employ tens of thousands of industrial and construction workers.

Creation of waste-recycling industries would likewise mean more, not fewer, jobs, and so would across-the-board pollution controls on all our manufacturing industries. Clearly, no group has a bigger stake than labor on balancing our priorities—a fact AFL–CIO chief George Meany may have overlooked when he launched his last-ditch campaign to save the SST.

Nevertheless, the environmental job issue has an irreducible hard core and cannot be dismissed. Marginal plans *do* close down under antipollution orders (especially when they are owned by large conglomerates), and small businesses *do* give way to impersonal, multiplant corporations. In these shifts the worker is often caught in a ruthless squeeze between industry's thirst for profits and society's demands for environmental reforms.

Furthermore, many workers *are* intimidated by dishonest job threats. "They tend to believe what the company says," observes Minnesota Air Quality Office engineer Tibor Kosa. "And why not? No one tells them the real economic facts. In Minnesota not even the state government can tell a plant to disclose the economic bases for its shutdown decision."

Small wonder, then, that some workers feel they are being unfairly asked to bear the heaviest burden of environmental reforms. This belief is encouraged by industry spokesmen and demagogic politicians who misrepresent the issues and gloss over the true economics of environmental controls. Of equal weight in the worker's psychology is his basically accurate perception—oversimplified to be sure—that most environmentalists come from a different social climate than his own and do not always understand his predicament.

Yet despite misunderstandings between workers and environmentalists, at bottom their interests and enemies are the same. If the worker thinks he is merely a pawn on somebody else's ecological chess game he is deceiving himself, for he stands to gain immeasurably from the environmental thrust toward more liveable cities, cleaner beaches, purer air, more abundant wildlife and a healthier world for his children.

Just as emphatically, the environmentalist is deceived if he thinks he can control industrial pollution wtihout winning the trust and protecting the health of the men and women who labor at its source. There is some hard truth in McCray's onesided charge that "the style of the ecology movement has time and again demonstrated contempt for the working class and unions." McCray adds: "To the extent that the recent ecology movement is an upper- and middle-class phenomenon—seeking protection for the middle-class environment, avoiding the burdens of pollution control, disregarding the working class—then it cannot enlist the trade unions in its cause, and in fact incurs the enmity of labor."

But this is only a fragment of the truth. Increasingly, younger labor leaders realize that most workers live near their plants in some of the worst urban neighborhoods, and that the very poisons environmentalists hope to remove from the outside community do their greatest damage inside the blue-collar workplace. For these reasons, the industrial worker stands to gain more than anyone else from the ecology movement.

Who, then, is really attacking the worker in his workplace? It is not the environmentalists, as Sen. Jackson charges, but those corporate managers who would prolong industry's license to pollute.

Though most environmental groups and unions do not fully realize it, their paths are slowly converging. Neither can go very much farther in the pollution fight without the other. And if society truly wants a decent environment, it can go nowhere without both of them. "Only through the politics of coalition," says UAW President Leonard Woodcock, "can we solve the desperate social problems this country has."

CONVERGING INTERESTS

The first signs of an emerging community of interest are now visible. The OCAW refused to back the SST. It is educating its workers on inplant pollution, calling upon public interest lawyers and the medical profession for help. With the United Automobile Workers (UAW) and other labor allies, it has joined and sometimes led the fight for pollution controls—though seldom receiving much credit for its efforts. Both the OCAW and UAW have also moved cautiously (and without much early success) to lay such controls on the table at contract negotiating time.

Environmentalists, for their part, helped students in five states support the UAW strike against General Motors last fall. Environmental Action, Inc., while focusing most of its energies on the markup of the 1970 Clean Air Act, also lobbied for the equally important Occupational Health and Safety Act; this young organization remains the most philosophically attuned of all national environmental groups to the needs of workers. A close cousin, Environmental Health Programs, Inc., is now building momentum for an attack on workplace pollution and is bringing together union officials, environmentalists and medical experts for this campaign.

These are small beginnings at best, but they may foreshadow a powerful ideological convergence of workers and environmentalists. In the immediate future, if the jobs-environment crunch is not to generate needless mistrust between the two groups, basic remedies must be applied. We have talked with many people in conservation, public interest law, unions and Congress about the problem. Here are some of their recommendations:

Unions should put pollution controls high on their list of contract negotiation priorities. The legal basis for negotiating occupational health issues is clear, though the subject has elicited widespread union concern only in the last few years. The legal basis for labor negotiations over community pollution is not as clear; but it must be explored because workers normally live within the zone of heaviest pollution surrounding their plants.

Congress should enact uniform national emission standards for all industries and link them to the highest available technology, not to the assimilative capacity of airsheds and watersheds or to the unfortunate state stream classification system. Putting all polluters on equal footing will make it impossible for states such as Maine and Alabama to serve as pollution shelters for companies trying to escape controls elsewhere.

Congress should also pass legislation forcing companies to disclose the full economic data supposedly supporting their shutdown threats or decisions. In Tacoma, ASARCO claims it would have to spend an intolerable $33 million to meet the state's new standards for sulfur oxide emissions. But how much would the company gain in state and federal tax credits, depreciation allowances and the sale of liquid sulfur dioxide from the recovery process? ASARCO doesn't say.

If a company can demonstrate that environmental controls forced it to shut down, the government should compensate its workers for 52 weeks, with the term being extended by 13 weeks for workers over the age of 60 and by 26 weeks for workers enrolled in approved retraining courses. Two strong precedents for such compensation are the Interstate Commerce Act, recently used by Labor Secretary James Hodgson in awarding benefits to workers whose jobs were sacrificed by the shift to the new Railpax passenger system, and the Trade Expansion Act, recently used by President Nixon to compensate, retrain and relocate unemployed shoe industry workers.

Congress should enact the McGovern-Mathias job transition bill and the Nelson and Daniels public works job bills; they would put thousands of people to work on environmentally useful projects.

Finally, environmentalists and unions should launch an all-out attack against the workplace pollution which threatens the health of millions of blue-collar employees. The chronic disease rate among these men and women is tragically high. If they can be protected from further industrial poisoning, the communities near their plants can be protected, too.

The logical and potentially powerful links between the interests of the public, the worker and the environmentalist are rightly viewed by some industrialists as a threat to their own excessive power. Will this new coalition work, though? There are hopeful omens in current and recent controversies. When ASARCO closes down the last wing of its Selby, Calif., plant next month rather than clean up, it will throw the last of 800 men out of work. One of them is Steven Pine,

a 35-year employee who has seen the plant poison its surroundings and sicken its workers. Of the imminent shutdown he says: "They're doing the men a favor."

And in Seattle, a young Boeing worker with six children and unemployment staring him in the face contemplates the Senate defeat of the SST. Vincent Tricola hoped the airplane would be spared, of course, but he concedes: "We need it like a hole in the head."

WHAT CAN ONE MAN DO?

Mr. ROTH. Mr. President, it is with a sense of great pride that I commend the article entitled "What Can One Man Do?" to the Senate. Taken from the National Guardsman, it tells the story of M. Sgt. Joseph J. Pfister, Air National Guardsman and public-spirited citizen, whose love for America has found unique expression in his service to the cause of patriotism.

These are troubled times in which the values and ideals of our American heritage are too often neglected or denied. Sergeant Pfister's devotion to "Operation Patriotism" reminds us that there are still those among us who care deeply for this Nation and are determined to preserve our way of life. His example is truly inspiring to all Americans, not only for his work in behalf of patriotism but for his illustration of the power and influence which a single person, rightly motivated, can have. I feel a special satisfaction in that he is a loyal son of the State of Delaware, the first of the Thirteen Colonies to be admitted to the Union, as a constituent.

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

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

WHAT CAN ONE MAN DO?

Msg. Joseph J. Pfister has been an Air National Guardsman for more than a dozen years. For about the first 10 years of his military career, he was merely another conscientious citizen-airman, devoting some of his "spare" time to his Nation's defense.

Outside his Delaware Air Guard activities, he followed such a crowded schedule of athletic endeavors that, said he, his family was "beginning to wonder what I looked like." But those "outside" activities involved the youth of his community, ranging from the disadvantaged to the outright militant.

Because of his experience in teaching swimming and gymnastics at the Wilmington Central YMCA, he was asked to direct a 10 p.m.-to-midnight program at the "Y". The project was aimed at keeping teenagers off the streets by giving them a constructive way of working-off their energies. And this task was in addition to the many other demands on his time, which included coaching and umpiring in two baseball Little Leagues.

Upon completion of the Air Guard NCO Academy in 1969, Sergeant Pfister "became enthralled" with MG I. G. Brown's project," "Operation Patriotism." He returned home determined to do something—and he did. He began by writing letters to the editors of local papers on Patriotism and wound up with a regular column in "*The New Castle Gazette*", the Base newspaper and, later, two other newspapers.

Sergeant Pfister's enthusiasm for "Operation Patriotism", which was begun by General Brown about a year earlier (*Jan. '69* "GUARDSMAN"), soon found additional outlets. He began a series of presentations to grade and high school pupils on Patriotism and the role of the National Guard. This he followed with a letter-writing contest for the children on "Why I am Proud to be an American."

Result of the contest was a trip to Washington, D.C., for the 21 pupils who had submitted the best entries, judged on originality and spirit. Sergeant Pfister arranged for the trip by Delaware Air Guard bus and accompanied the youngsters on their visit to the Nation's Capital. The pupils, ages 9–13, witnessed the changing of the guard at the Tomb of the Unknown Soldier, toured as many National memorials as time would allow, and sat in the Senate gallery during a vote on a tax bill. Other school visits, writing contests and trips to Washington followed.

A couple of excerpts from the children's letters show the impact of Sergeant Pfister's presentation. An 11-year-old wrote: ". . . I wish I could share some of America with boys and girls in other countries who are homeless and hungry and cold." And a 10-year-old concluded: "If I were old Glory I'd feel very sad because I've flown through all the wars but proud because I won them all."

In addition to his on-going school presentation program, Sergeant Pfister has talked to civic, service and religious groups, as well as to prisoners from whom he received an unexpectedly warm reaction. Asked about his enthusiasm for "Operation Patriotism", he replied: ". . . With the zeal I received from the Academy and the continued support of the Governor, the Adjutant General and my Commander, I hope we can help hold the tide against the many factions that would like to overthrow our Country and especially sway our youth.

"I have nothing to gain except self-satisfaction that finally I am doing something worthwhile instead of thinking of myself—it's really great hearing people agree with me and promote this free enterprise of ours, this wonderful democracy. I don't want to see us go down hill. I feel the National Guard should lead in this effort."

But selfless effort doesn't always go unrewarded. For his "determined and enthusiastic activities under the auspices of the Delaware Air National Guard to promote a spirit of patriotism among youth" and the many attendant efforts he made toward that goal, Sergeant Pfister was singled-out by Freedoms Foundation for a National Recognition Award.

In company with such distinguished Americans as U.S. Rep. John W. McCormack, former Speaker of the U.S. House, and Movie Actor John Wayne, Sergeant Pfister was presented one of the Foundation's top 10 awards—a National Recognition Award—for his distinguished service to the Nation.

Sergeant Pfister has taken as his personal credo an admonition by General Brown to the Elks' National Convention last year when he said: "The spirit that has built America so far can continue the job. And we—you and I—as its citizens have as our greatest duty the preservation of that American spirit and all that it stands for."

By demonstrating the truth of the late Senator Everett Dirksen's remark that "Patriotism is alive and living in the National Guard," Sergeant Pfister has aptly shown what one man can do.

PLIGHT OF SOVIET JEWRY

Mr. BUCKLEY. Mr. President, events in recent months have focused attention on the plight of Soviet Jewry. They have also focused attention on the refusal of the Soviet Union and other Communist states to allow their citizens the basic freedom to seek new lives in other lands.

The Jewish Community Council of Mt. Vernon, N.Y., recently sponsored a workshop on the problems of Jews in the Soviet Union and forwarded to me a copy of the Brussels declaration, passed in Brussels by the World Conference of Jewish Communities on Soviet Jewry. I commend this moving declaration to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

LET MY PEOPLE GO!

(Text of the Brussels Declaration by the World Conference of Jewish Communities on Soviet Jewry)

We, the delegates of this Conference, coming from Jewish communities throughout the world, solemnly declare our solidarity with our Jewish brothers in the Soviet Union.

We want them to know—and they will take encouragement from this knowledge—that we are at one with them, totally identified with their heroic struggle for the safeguarding of their national identity and for their natural and inalienable right to return to their historic homeland, the land of Israel.

Profoundly concerned for their fate and future, we denounce the policy pursued by the government of the Soviet Union of suppressing the historic Jewish cultural and religious heritage. This constitutes a flagrant violation of human rights which the Soviet Constitution pledges to uphold and which is enshrined in the Universal Declaration of Human Rights. To cut them off from the rest of the Jewish people, as the Soviet authorities are attempting to do, is a crime against humanity.

Soviet spokesmen claim that there is no need for Jewish culture and education, that there is no Jewish problem in the Soviet Union and that there is no anti-Semitism. These assertions have been proven false by the Soviet Jews themselves. The entire world has heard their protest.

Tens of thousands of Jews have petitioned the Soviet authorities for the right to settle in Israel and raise their children in the Jewish tradition and culture. Letters, messages and petitions, sent at the signatories' peril from the Soviet Union to individuals, to governments, to the United Nations and other international organizations, all demand recognition of these rights.

The reaction of the Soviet authorities to this Jewish awakening has been to mount a campaign of harassment, arrests and virulent anti-Jewish propaganda. The Leningrad trial, shocking to the world, was but one manifestation of such persecution. Far from being crushed by such intimidation, Soviet Jews today demand their rights with ever greater courage and determination.

This conference urgently calls upon the civilized world to join with us and with the Jews of the USSR in urging the Soviet authorities:

To recognize the right of Jews who so desire to return to their historic homeland in Israel, and to ensure the unhindered exercise of this right.

To enable the Jews in the USSR to exercise fully their right to live in accord with the Jewish cultural and religious heritage and freely to raise their children in this heritage.

To put an end to the defamation of the Jewish people and of Zionism, reminiscent of the evil anti-Semitism which has caused so much suffering to the Jewish people and to the world.

We assembled in this Conference commit ourselves, by unceasing effort, to ensure that the plight of Soviet Jewry is kept before the conscience of the world until the justice of their cause prevails.

We will continue to mobilize the energies

of all Jewish communities. We will work through the United Nations and other international bodies and through every agency of public opinion.

We will not rest until the Jews of the Soviet Union are free to choose their own destiny.

Let my people go!

"THIS CHILD IS RATED X"

Mr. HART. Mr. President, on behalf of the Senator from Indiana (Mr. BAYH), I ask unanimous consent that a statement by him entitled "This Child Is Rated X," and an insertion, be printed in the RECORD.

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

THIS CHILD IS RATED X

(Statement of Senator BAYH)

Mr. President, as Chairman of the Subcommittee on Juvenile Delinquency, I commend to the Senate the recent NBC White Paper entitled "This Child is Rated X," produced by Mr. Martin Carr. This film has been extremely valuable in bringing national attention to bear on the complex problems of juvenile justice, particularly those relating to incarceration. Mr. Carr deserves great credit for his energy, skill, and sensitivity in preparing this documentary. At a time when some people are anxious to attack the motives of the press, Mr. Carr's effort provides an example of the highest kind of public service. His examination of conditions in juvenile detention and correctional facilities in Texas, Illinois, and Indiana has revealed much that is wrong with our present methods of dealing with juveniles. His findings confirm my belief that the entire rationale of institutionalizing young children, many of whom have never committed a criminal act, must be reexamined.

The Subcommittee on Juvenile Delinquency has just completed three days of hearings on the problems of juvenile confinement institutions. Our investigation will continue with additional hearings scheduled to begin May 17, 1971.

During our inquiry, we have been told of the grossly inadequate or non-existent services available in these institutions, of the abuse and neglect of young inmates, and of the startling rate of recidivism at these institutions. One of our witnesses, after years of practice in juvenile courts, has concluded that "the juvenile court, which exists to rehabilitate and save errant minors, has been a complete and disastrous failure." It is not surprising that the system is a failure when children are not given fundamental constitutional protections, and when they are locked up in institutions that brutalize them more terribly than street society ever could.

Our hearings will provide a basis for legislation to improve the ways in which we deal with juvenile offenders. I am especially concerned that we develop effective ways of alleviating the severely damaging psychological and physical impact of incarceration on children. Mr. Carr's excellent documentary has dramatically demonstrated the need to find new approaches to the problems of juvenile delinquency and to implement those approaches at every level of government.

Mr. President, the transcript of Mr. Carr's fine documentary, "This Child is Rated X," follows.

THIS CHILD IS RATED X

(An NBC News white paper on juvenile justice, Broadcast May 2, 1971)

BOY. Sometimes it's, it's slapped in the, the face. And sometimes it's the paddle. Like up in, like up in detention they usually give you the paddle before they slap you.

BOY. When they hit ya, they make sure it hurts. They try their best to knock you cross the table when they hit ya.

LEROY NEU. There's not enough punishment. There are not enough juvenile delinquents being committed.

GIRL. When you're in a institution with all girls, and there's no males around, I mean a lot of girls have lo, high sex.

GIRL. It's nothing to see two girls holding hands going down the hall or something like that.

GIRL. Well, if they're hipped on the drug scene they can get maybe a couple tabs acid or something.

MOORE. You know, the schools have failed. The juvenile authorities have failed. The police have failed. The psychiatrists, the social workers, the preachers, everybody has failed.

GIRL. I landed up in jail. All I did, I cried cuz I was so scared. I stayed back from everybody else.

Dr. MENNINGER. If people have enough money of course they never go to jail, you know that. Jails are for poor people. Jails are for black people. And jails are for children.

BOY. This place don't help you any, just keeps you away from home, that's it.

LEROY NEU. Beyond any question, the youngsters who are there, deserve to be there.

BOY. I ain't planning on going to prison.

CARR. Think it might happen?

BOY. Yeah, it could.

NEWMAN. More of our children are in trouble today than ever before. Twice as many, in fact, as ten years ago. An estimated one million children will be arrested this year and begin a journey through a system of justice from which many will never emerge. A system run by a special set of rules—special because they apply only to children.

There are whole categories of crimes that are crimes only for children. Crimes like running away from home . . . truancy . . . being out too late at night. Children are not given the benefit of a "trial" to deal with these crimes. They get a "hearing" which can send them away to institutions where they remain until the authorities feel they are ready to leave or until enough time has passed so that they are legally no longer children.

Last year 162,000 of our nation's children were locked in institutions that most of us have heard of, but few of us have ever seen.

But recent stories are beginning to force the public to pay attention to these places.

In Iowa, a girl is thrown into jail because she runs away to get married: she hangs herself. She is 16-years-old.

In a Children's detention center in New York, four children attempt suicide within ten days.

In Missouri, a 17-year-old is homosexually assaulted and kicked to death by jail cellmates.

Another 17-year-old is murdered in a Miami jail.

NBC News spent the last seven months investigating our system of juvenile justice. We visited juvenile courts, detention centers, and reform schools across the nation. We chose to let the children in the system tell you their own stories . . . stories we verified with the juvenile authorities. We would like you to remember two facts as you listen to them: half the children in America who are deprived of their liberty and sent to correctional institutions have done nothing that would have been a crime for an adult. And half the children in those institutions will come back to them—having committed a more serious crime. We chose three areas of the country to examine closely. Tonight we present our results.

Chicago will soon boast a building a mile high. Its crime rate is also sky high, rising 14 times faster than its population in the last ten years.

Cook County Jail, copied from a 19th century French prison, was built to hold 1,300 people. It now holds almost twice that number. Three hundred are juveniles—accused of serious crimes. None of them has been convicted. Some have remained behind these bars as long as two years, getting a glimpse of their parents only on infrequent visiting days. Juveniles in Cook County Jail are certain to be poor and almost certain to be black. They are crowded into prison just as they were crowded in Chicago's crime-ridden ghettos. They have in fact exchanged one ghetto for another.

Producer Martin Carr spoke with a 14-year-old prisoner about life in jail.

CARR. How long have you been here.

FIRST BOY. Four months, going on five.

CARR. Five months.

FIRST BOY. Um.

CARR. That's a long time.

FIRST BOY. Up in here it is. Time pass slow.

CARR. Time pass slowly.

FIRST BOY. Uh huh.

CARR. Did you ever get to meet anybody thats committed serious crime?

FIRST BOY. Yes.

CARR. Like what?

FIRST BOY. Johnny Villos.

CARR. Um.

FIRST BOY. I met him.

CARR. What'd you talk about?

FIRST BOY. Well, why he do it, what he do it for. For a reputation he said.

CARR. What does it make you think about?

FIRST BOY. Me. Well I figure if I had a big reputation like that I would be mighty important.

CARR. Do you think he's mighty important?

FIRST BOY. Yes.

CARR. What did he do?

FIRST BOY. Killed a policeman.

CARR. Killed a policeman. And that made him important.

FIRST BOY. Yes. I guess so.

WINSTON MOORE (Executive Director, Cook County Department of Corrections). You know, a lot of people are—and you in particular feel that they see 14 or 15 year olds—in jails, and you say, Oh my, what a shame. They shouldn't be in here. Yet the victims—the victims of the crimes they have committed shouldn't be in the graveyard either. This is the one thing that disturbs me. Nobody is concerned about victims—you know, the hardships that these kids have . . . upon people in the community—you know, you are no less dead whether you are killed by a 14-year-old or by a 40-year-old, and this is mostly what they're in here for—murder.

CARR. Nonetheless, Mr. Moore, I think you're making a pre-judgment. I have found over and over and over again in kids that I've talked to, that they are awaiting trial.

MOORE. For murder.

CARR. In some instances, for murder.

MOORE. In most instances, you found.

CARR. Isn't this punishment before conviction?

MOORE. No, the law states that there are some crimes that there are no bail for. Would you let them out to go out and kill again?

CARR. I was talking to a young man here in the jail yesterday, not incidentally charged with murder, and he said while he was here he had the chance to meet and get to know somebody who was charged, with murder. Don't you think that this young man who was talking to me, has been hurt?

MOORE. If he's a 14-year-old and he's in jail he's in here for charge being of raping a white woman. You don't come to jail at 14 for being charged with raping a black woman.

CARR. Mr. Moore, how does this make you feel?

MOORE. Well, if he's here for about, you know somebody was raped. They had prob-

able cause. Now I think that what happens in this situation that he should have been—I didn't bring him here, as I said before, I'm just a custodian of men. But had he raped somebody related to me, I would want him here.

CARR. Nonetheless, he is only charged with rape and you run this institution, Mr. Moore. Are you pleased?

MOORE. I have 1,700 men, out of 2,000 charged with something. I haven't, I don't make the laws. I don't enforce them. I'm just here as a custodian of men.

NEWMAN. Our investigation of the juvenile justice system led us, surprisingly, to a mental institution, Elgin State Mental Hospital in a suburb of Chicago. About 5 percent of the children handled by Cook County's juvenile courts land in mental institutions.

Elgin State Hospital has set up a special unit to handle some of these children. They are not described by the Hospital as emotionally disturbed or mentally ill. They are called socially deprived.

Producer Martin Carr asked the Clinical Director of the Hospital's Adolescent Division, Dr. Enrique Vicioso, what kind of children are assigned to this special unit.

VICIOSO. In the definition of mental illness, you make a definition. They are not mentally ill. They are social deprived individuals.

CARR. Socially deprived.

VICIOSO. Socially deprived who can be handled elsewhere.

CARR. What does socially deprived mean?

VICIOSO. Socially deprived is that individual who doesn't have the opportunity to have a father or a mother or a person that more or less is an authority figure. That he may be able to learn some kind of values, social and moral value.

NEWMAN. Legal Aid Attorney Patrick Murphy represents some of the children in this hospital.

MURPHY. I can think of two cases for instance involving two children, one from an area called Uptown here in Chicago, which is primarily a white Appalachian area and another from the West Side ghetto . . . black ghetto. They both ended up at the Elgin State Hospital. Recently they were both caught in consenting homosexual conduct, they both being about 13 now. Now it may be wrong to do this, it may not be. I'm just a lawyer, I can't make moral judgments, however, the people at the hospital did and they bound them to their beds for a period of 77 and ½ hours. And they tied their hands and their feet to the bedposts and spreadeagled them to the beds, in such position that the boys could only move their hands about 3 or 4 inches in each direction. They were allowed up only to shower. In 77½ hours.

VICIOSO. We're not using punishment over here. We are using a multiplicity of treatment in order to change the behavior of the person.

CARR. Nonetheless, tying a child to a bed for 77 hours sounds to me like punishment.

VICIOSO. Okay, well this is a matter of opinion. We are trying to provide here in this institution to some of the kids some kind of therapeutical um uh behavior modification and some kind of disciplinary approach to the patient.

CARR. In other words, tying a child to a bed for 77 hours does not create any physical pain?

VICIOSO. This kind of kid, no.

NEWMAN. Dr. Marvin Schwartz, Consultant in Child Psychiatry to the Cook County Court system, disagrees with this kind of treatment. He feels it hurts children.

SCHWARTZ. When you tie someone to a bed like, like one wouldn't tie a dog, but, you know, like a dog, you see—for 72 hours without any, you know, real reasons—and put that person in the middle of a room to display, this person of limited abilities, this person with terrible difficulties of adjustment who has confused ideas of himself, who has confused self concepts to begin with, ends up feeling more self depreciated, more confused. More lost and more of a nothing in our world.

CARR. In addition I understand to tying these boys to the bed for 77 hours they received intramuscular injections of some medication. And intramuscular injections is particularly painful. So that added to the punishment.

VICIOSO. Not necessarily. Not necessarily intramuscular injections is painful. You may say for instance when the needle going inside all right, it can create some kind of painful sensation, but our goal when you give medication with a patient, especially intramuscular, is because we want the medication to work as fast as possible so the behavior can be modified.

SCHWARTZ. The concern of the attorneys in this case and my concern is that we see, don't see any evidence that these drugs were being used to treat an acute situation. It was being used to quiet people down totally. Namely as a means of control.

CARR. So could there be a reason to give it intramuscularly?

SCHWARTZ. Yes, it hurts.

MURPHY. Once we got involved in the case we found out we were, the 77½ hours was, was child's play. One of, the third plaintiff, a girl, was tied to her bed for 7 consecutive days for slapping a matron. Certainly if the girl had slapped her mother and her mother had tied her to her bed as these people did for 7 consecutive days, we would be prosecuting that mother for criminal neglect and she would be on the front page of every newspaper in the state.

VICIOSO. Well in the case of this girl tying her for 7 day, I repeat again, I don't feel this is a matter of really punishment.

Everybody tried to really help this girl to modify that behavor, but unfortunately this girl has not been kept enough in a place long enough so she may be able to learn about that. As a matter of fact . . .

CARR. That's not her fault.

VICIOSO. It's not her fault.

SCHWARTZ. The community sets up institutions with limited budgets, with poorly trained staff, with poorly trained supervision—places upon these institutions the problems which are really the problems of the community which the community does not want to deal with, places into these institutions people who are—in a way are victims because we have made them what they are and then says to this institution not only does it say now hold these people in so that the rest of us can pretend they don't exist and are not here, but it says relieve our guilt and pretend you're treating them.

The shocking thing is—is not these children and not Elgin State. The shocking thing is that this is how our society deals with these things universally.

NEWMAN. Many juvenile institutions refused to open their doors to NBC News. They claimed they were protecting the children. But Indiana Corrections Commissioner Robert Heyne allowed us to film in Indiana Boys School and Indiana Girls School, hoping that public awareness of their problems might stimulate change.

Indiana Boys School, alma mater of Charles Manson, is the sixth largest in the nation. To send a boy there costs the state and local governments $8,000 a year, twice as much as it costs to send a boy to Harvard.

More than half the children in the Indiana Schools have been committed for specifically juvenile crimes. Crimes like running away from home, breaking curfew, or being hard to handle. A major study by two New York criminologists tells us that if present laws were strictly enforced, 99 percent of all children would be locked away.

The next six children *are* serving time for *juvenile* crimes. The accuracy of their statements has been checked with Indiana authorities.

CARR. Why are you here in Indiana State Boys School?

BOY. I snuck into a drive-in in the trunk of a car and there were X rated movies, you know, for 18 or over—and so they—they, I guess they just kind of got me for that mostly and put me down here. Because when I was at the police station my ma said, you know, she was mad. She said well just, just keep him, do what you want with him. And that's what started it. Then I—and then they just put me down here for that really.

CARR. How long have you been here, this time?

GIRL. Four months.

CARR. Four months at Indiana Girls School.

GIRL. Right.

CARR. How did you get here?

GIRL. I was in the orphanage.

CARR. Umm.

GIRL. In 68. At first I wasn't too sure of why I was here, because you know, they gave me a couple of reasons, because truancy and then they said my parents didn't want me. Then later on when I found out that it was because my parents didn't want me, and they just sign, you know, signed me over to the state, I felt terrible. Well, I couldn't stay there and that's why I ran twice.

CARR. After you ran away from the orphanage the second time, you ended up in jail, you were telling me. What was it like in jail?

GIRL. There were prostitutes, and then . . .

CARR. Did you know about that?

GIRL. Yeah, they had talked about it. And then there were two, I think, that was in there for murder.

And it, it really was a scary feeling to be around such people.

BOY. Well when I was four was when I got taken away from my parents and then some Williamses adopted me. And I lived with them until I was 11. Then I went to some other people and I lived there for five years and then I went to another family and lived with them for awhile and then another family and lived with them for awhile and then I got sent up here.

CARR. Where did you like it the best?

BOY. Where I lived in Greensburg. That was the best place I was in.

CARR. Why did you like it there?

BOY. I could, I could talk to them and they really cared about me. They, they'd get me out of trouble if I'd, if it wasn't my fault. I mean, I was good at getting in trouble. And, when I didn't do something and I told them that I didn't do it—and they'd believe me. They'd do their best to get me out of it. It's—I mean, they just really cared.

CARR. This is a school for . . . what?

BOY. Juveniles.

CARR. What kind of juveniles?

BOY. Delinquents.

CARR. Delinquents.

BOY. Delinquents.

CARR. Do you think you're a juvenile delinquent?

BOY. I guess so or I wouldn't be up here right now.

CARR. Do you know what Indiana Boys School is for—what kind of boys are here?

BOY. It's supposedly for juvenile delinquents.

CARR. For juvenile delinquents.

BOY. Yes sir.

CARR. You were sent up here because you broke curfew?

BOY. Yes.

CARR. What time is curfew where you live?

BOY. 11 o'clock.

CARR. 11 o'clock. And you were out later than that?

BOY. Yes, sir.

CARR. Do you think you'll ever get into trouble again?

BOY. Not after being up here.

CARR. Not after being up here.

BOY. No.

CARR. Why?

BOY. When you get out, people's going be knowing that you was sentenced to boys school and they aren't going to be wanting their children around you, figuring that it might be a bad influence on them.

GIRL. They can't love you in a place like this. I mean, they're, they're just here what, 8 hours a day, just to tell you what to do, and then they go home. I mean, you know, they may care for you, but not the way a mother and a father would.

CARR. How about your friends your age here? Do you have any?

GIRL. Up here when you get too close to a girl they automatically think you're casing.

CARR. Casing?

GIRL. That's when two girls go together.

CARR. Is there much of this here?

GIRL. There's a lot of it.

CARR. Does it hurt any girls?

GIRL. In a way yes. Well, you can get hurt, I mean not just emotionally or mentally, physically also. I mean they beat up on you and beat you over the head, and slam your head up against the wall, and everything but . . .

CARR. If you resist. Is that it?

GIRL. Yes.

CARR. Do the counselors know about this?

GIRL. Yes, but there's nothing they can really do.

CARR. So what happens to a girl who comes in here kind of innocent and inexperienced?

GIRL. She doesn't go out so innocent and inexperienced. Cuz she learns a lot of things up here.

CARR. What do you think causes a problem like homosexuality in an institution like this?

BURKES. Well, I think for the fact is you've got all girls, or boys, or what have you. And then the fact that we have adolescents, or the period of 13 through 18, where they're naturally curious about these kind of things.

CARR. What happens to a young girl who comes here?

GIRL. I think they know a lot more about the bad things when they go out.

CARR. Did you learn things you didn't know before?

GIRL. Yes, sir.

CARR. I understand that you ran away a little while ago. What happened?

GIRL. I got put in cottage 8 when I came back.

CARR. What's cottage 8?

GIRL. It's maximum security.

CARR. What's that like?

GIRL. Well, it's it's a small room and you're locked in there about 23 hours a day. I'ts real drabby and it's got writings all over the wall and you sleep on a mattress on the floor.

CARR. What does it feel like after you've been there a week?

GIRL. Like you sort of withdraw from the rest of the world. Like some of the other girls and I, I didn't even care after I was there a week. It was like you're there and you're never going to get out.

CARR. Why are you in here in a room with a thick door. no bed, no furniture . . .

GIRL. Because I ran.

CARR. What does it feel like to be in a room like this?

GIRL. I don't know. At times it just seems like the whole place is gonna fall in on me, and the only thing that I can do to protect myself would be get out and take off again.

CARR. How about drugs. Drugs is one of your problems.

Maybe it's a good idea for you to be in a place like this—keep you away from em—do you think it does?

GIRL. I had some H here.

CARR. Some heroin?

GIRL. Yes, sir.

CARR. Did you shoot it up here?

GIRL. Yes.

CARR. Which is easier to get around here? Heroin or acid?

GIRL. Well, I don't know with the other girls, but to me, I think I could get anything I wanted. And I mean in the drug line.

CARR. Why the paper plates and the paper cups and wooden spoon?

GIRL. They could file, maybe their spoons or something down and make a sharp object and kind of hurt the housemothers or hurt ourselves by breaking or maybe slashing our wrists or something like this.

CARR. Did you ever hear of that happening?

GIRL. Yeah.

CARR. Girls attempting suicide.

GIRL. Yeah. There's been only one girl that I know of that has died here in Cottage 8.

CARR. You knew her?

GIRL. I didn't know her personally, no.

CARR. You just heard about her?

GIRL. Yes. She hung herself.

NEWMAN. Charles Manson ran from Indiana Boys School five times. At least thirty boys run from here every month. Most of them run home.

(Martin Carr interviews fifth boy.)

CARR. Why did you run away?

BOY. Well, I just didn't like it up here.

CARR. Where did you run to?

BOY. I ran to home.

CARR. To your mother?

BOY. Yes.

CARR. What happened to you when you got back?

BOY. I was sent to the detention.

CARR. What's that?

BOY. It's a small room, about 12 foot long and about 6 foot, or about 8 foot wide, it's got a bed in it, a toilet and a sink, off to the side of it, a little window in the back of the room, with a big metal door.

CARR. Is that what they mean by the cage?

BOY. Yes, sir.

CARR. Why do you think they call it the cage?

BOY. Well it's like one.

CARR. How long were you in the cage?

BOY. For eleven days.

CARR. What's it like being in the cage for eleven days?

BOY. Well, after you get done climbing the walls, you just lay down for the rest of the day.

CARR. What do you mean after you get done climbing the walls?

BOY. Well, I just—trying to get out, I reckon you . . . I get claustrophobia and I can't stand to be put in one of them rooms for too long, but . . .

CARR. But you were there for a long time.

BOY. Yeh.

(Martin Carr interviews Alfred Bennett, supt. Indiana Boys School.)

BENNETT. We feel that there is a need for a kid to be placed in a unit like this simply to have control of the institution or control of the situation. It is not ideal. But it's the same old numbers game—too many boys for too short a time.

CARR. Why is it necessary to put shackles on a boy and I refer to a sign saying there is no screen around, do not use without shackles. How should I understand something like that?

BENNETT. The only time a, a shackle is used on a boy is that if there is a malfunction in the facility where he could escape. Or if a boy has a claustrophobia problem, and the psychologist recommends that the door to the unit be left open. And so a shackle is used.

CARR. Do you always get enough to eat here?

BOY. Not all the time.

CARR. What happens when you get on the end of the line?

BOY. Well, you get about half of what every one else gets, sometimes not even half.

CARR. Sometimes not even half. So you walk around hungry.

BOY. That's what you have to do and just hope you can get up towards the middle of the line next meal.

CARR. And if you were at the end?

BOY. Then you didn't get nothing.

CARR. I've heard from several boys I talked to here that there's sometimes an Oliver Twist situation. That they don't get enough to eat or they don't get any food at all. How can you explain that?

BENNETT. Well, this is a problem that does exist in a, say, a cottage that has a large number of boys. If the supervisor does not supervise adequately, it could be that the boy at the end of the line will become—will come up with less food than the one to begin.

CARR. Um. Who might this cottage supervisor be?

BENNETT. The cottage supervisors may have worked in industry, may have worked in a factory, may have been truck drivers, may have been—people from all forms of life. They may have been former salesmen, people like this. And, of course, their work before they came to us was totally different. So we are shackled with the problem of training them to handle and remold lives. Young lives.

CARR. A while ago, you were telling me that you ought to be on your knees now.

BOY. Yes, sir.

CARR. What do you mean?

BOY. Well, you get on your hands and knees with a shine rag, a little rag and shine the floor——

CARR. How long?

BOY. Well, sometimes you stay on there for a couple of days; it's according to how bad the supervisor thinks it is of what you did.

CARR. What did you do?

BOY. I was sitting right beside a bench that was supposed to be off-limits.

CARR. You were sitting next to an off-limits bench. What happens to your knees when you stay on the floor that long?

BOY. Well, you get big blisters on them.

CARR. You had other kinds of punishment too, haven't you? How about the board?

BOY. No, I never had that, except over at the school, once, and that was for when I spilt some varnish on the floor.

CARR. You got the board once.

BOY. Yes.

CARR. What does getting the board once mean?

BOY. Well, they hit you three times but it's only one time. You get . . .

CARR. Who hit you?

BOY. The principal—Mr. Kramer.

CARR. For spilling varnish. What does it feel like to be hit three times with the board?

BOY. Well, it hurts. It's not real bad, you know, but . . .

CARR. Can you sit down that evening?

BOY. Yeah. That's—Mr. Kramer's sort of an old man. He—can't hit quite as hard as some of the other security men that regularly give it to you in the company.

CARR. That regularly give it to you in the company. What's the worst punishment you've seen, really seen with your own eyes around here?

BOY. Where you get three with the board and if you cry . . .

CARR. You get three with the board. In other words you get whacked three times.

BOY. If you cry or anything you get three more and well, you're doing 75 pushups if you mess up one time.

CARR. In addition to being whacked with the board, you have to do 75 pushups?

BOY. 75 pushups. And if you mess up with 75 pushups on any of them then you have to get the board again.

CARR. You have got to get the board again.

BOY. And do your 75 over.

BENNETT. The paddle that is used is kept in this office and only approved by me as superintendent.

CARR. Do you think it's possible that cottage supervisors often resort to discipline, may enforce certain disciplinary measures just to make their job easier?

BENNETT. Yes. And this is part of the problem of a large institution. We find that the supervision of staff is very difficult.

CARR. Uh huh. I understand that in the past flogging was an official disciplinary measure here.

BENNETT. I would say that it has been many, many, many years since they've had what most people in the field call flogging. There was a leather strap used to spank boys. We have taken that out of our program.

CARR. How long ago?

BENNETT. It's been more than a year ago.

CARR. Why might corporal punishment be necessary at an institution like this?

BENNETT. It's necessary here. Simply because we have boys a short time and we have too many boys.

CARR. About how many boys that are here now really don't belong here?

BENNETT. I think the number is quite high. 55 to 70 percent could be handled in, in other settings.

CARR. How many boys return here? What's the rate of return?

BENNETT. Our return rate runs between 40 and 50 percent.

CARR. About half the boys that are here now will return here. Doesn't that give you a sense of failure, that you're not accomplishing what you'd like to accomplish?

BENNETT. Very much so.

CARR. Do you think you're doing any harm?

BENNETT. We're doing a lot of harm.

NEWMAN. Authorities across the nation agree. Harm is being done. Yet judges across the nation continue to sentence the majority of children to juvenile training schools similar to the ones in Indiana. Judge Horace B. Holmes is one exception. As the presiding juvenile court judge of Boulder, Colorado, he tells us why whenever possible he prefers to keep a child within the community.

(Martin Carr interviews Judge Horace B. Holmes.)

CARR. You feel it is your duty or mission or object to keep children out of the institutions. Even good institutions are bad.

HOLMES. The best place a youngster can be is at home. There is no place better than home for a youngster.

CARR. Your motto is attention, not detention.

HOLMES. That's right.

CARR. What does that really mean?

HOLMES. Means that we've got to look at kids and try to figure out what's going on and what's bothering them and what we can do to correct their activities, what we can do to correct the situation that has caused them to be this way and—you don't get it by locking them up someplace. Either in jail here or in a state institution because this isn't going to solve it.

CARR. Why not?

HOLMES. Because when they come out of a state institution no matter how good it is, they come, strangely enough, kids come home again.

CARR. Why are walls and bars necessarily bad for a child who may be in trouble?

HOLMES. Maybe for some youngsters it's not bad. Maybe the youngster that can't live except confined, but I think many of them are, don't need this. That this is a way of getting rid of our problems. We've done it in the mental health. We've, we've housed our, our mental health patients in, in sort of dungeons and now we're getting better and getting them out, and back into the community. Where they should be. The mental health patients should be with us. Everybody we don't like we can't get rid of—we have to live with them. And this—this is what the kids are saying too. They say we've got to live with one another. If we listen to them, maybe we'll learn something.

NEWMAN. El Paso, Texas likes to call itself the "All-America" city. The motto is on police cars, hotel doors, phone booths, almost everywhere you look. But where the rights of children are concerned, El Paso is hardly all-American. Rights guaranteed all Americans by state and federal laws have systematically been denied.

After careful investigation, NBC News was able to document many instances of children sent away to state correctional schools without the advice of a lawyer or a hearing before a judge.

We talked to Ira Workman and his son Philip who had spent 9 months at the Gatesville School for Boys.

(Martin Carr interviews Mr. Workman and Philip.)

CARR. Philip, you were up at Gatesville, right?

PHILIP. Right.

CARR. How come? What'd you do?

PHILIP. Problems at home and couldn't get along, ran away from home quite a few times.

CARR. Uh huh. Mr. Workman, why did you think that Gatesville would be a good idea for Philip, your son?

WORKMAN. As I understood it, I thought it was like a regular school. That they would have people up there that would put the boy on the right track and that was their sole responsibility. I did not, approve of the type of disciplinary action that was given there.

CARR. Philip, you were there, tell me about it.

PHILIP. They would, uh, maybe wanna get us on our feet, you know, sit us down, take our shoes and socks off—and they'd have leather straps mostly, or sometimes a stick.

CARR. Um huh. And you'd be sitting on the floor with bare feet?

PHILIP. Uh huh, with bare feet.

CARR. And then what happened?

PHILIP. And he'd hit you on the arch of your foot, cause they say that's the tenderest part.

CARR. How many times would he hit you there?

PHILIP. Well, sometimes up to ten times.

CARR. Did it hurt?

PHILIP. Yes, it really hurts. It's hard to stand really when you, they get done.

CARR. Did you ever cry?

PHILIP. Oh, I cried the first time.

CARR. You didn't have to send him in front of a judge in order to send him to Gatesville, is that it?

WORKMAN. No, all I had to do was sign a paper, that, that I understand that the paper of it I signed, went before a judge. Now that's the best of my knowledge.

CARR. Did you try talking to a lawyer? Did a lawyer come down and discuss this with you?

WORKMAN. No, I didn't talk to any lawyer.

CARR. Nobody suggested that you ought to talk to a lawyer or anything?

WORKMAN. I cannot remember any suggestion as to talking to a lawyer.

CARR. How about you, Philip, did you talk to a lawyer at that time?

PHILIP. No.

STEVEN BERCU (attorney, El Paso Legal Assistance Society). I was told by a number of the juveniles that I spoke to that they in fact had been sent to the Texas Youth Council facilities without having had a hearing. They were now returned and I had been speaking to them.

CARR. Is that what an agreed judgment means?

BERCU. An agreed judgment is an agreement by the parents with the chief probation officer of El Paso County, the man who runs the detention home, agreeing to the fact that the child is a delinquent, without any sort of consent by the child, and then it is then taken to the judge, and without a hearing the child is sent to one of the Texas Youth Council facilities.

CARR. I take it that this is against the law, both here in Texas and against the law of the nation.

BERCU. I find it completely against the law, I can find no justification in any law in the United States for this procedure.

CARR. About how many cases of agreed judgments have come to your attention directly or indirectly?

BERCU. About 50.

CARR. As a lawyer funded by the OEO, is there anything that you can do to get these children out?

BERCU. For the majority of them, there's nothing I can do.

CARR. Why is this the case?

BERCU. Because, apparently, these agreed judgments are cases where the parents wanted their children sent away to some sort of prison.

(Martin Carr interviews Mrs. Garrison.)

CARR. Where is Emily right now?

GARRISON. Brownwood.

CARR. Emily's at Brownwood—what is Brownwood, Mrs. Garrison?

GARRISON. The state home and school for girls.

CARR. Did anybody explain to you at the time that your daughter was entitled to a hearing and to a lawyer?

GARRISON. I don't think it was mentioned. But I at least got the impression that if we did go before a judge she may be put away for a definite and longer time than if I just signed the papers and let her go, and left it open for a while.

CARR. In other words you were frightened that if she had a hearing it would be worse?

GARRISON. Yes.

CARR. So you decided against the hearing and you signed an agreed judgment?

GARRISON. I don't know what I signed.

NEWMAN. Concerned about agreed judgments, Frank Walker, Assistant County Attorney during our investigation, discussed the matter with the juvenile judge.

(Martin Carr interviews Frank Walker.)

CARR. Have you ever discussed this with the judge from this point of view?

WALKER. I told him that I didn't know they existed, I didn't believe they existed, and I found that they did exist. And that was being done.

CARR. When, you mean the agreed judgment, you found . . .

WALKER. Yes, we discussed it no further than that.

CARR. And the judge admitted to the agreed judgments.

WALKER. Yes, he did admit to it.

NEWMAN. NBC News requested an interview with Juvenile Judge Edwin Berliner but Judge Berliner refused to be interviewed. Nor were we permitted to talk to any of the children held in Gatesville or Gainsville on agreed judgments. In fact, the Texas Youth Council refused to let NBC film in any of its facilities. We were however, able to talk with 15-year-old Ricky Reid the night he returned home after spending 8½ months at the Gatesville School for Boys.

CARR. Did you get anything out of your 8½ months at Gatesville?

REID. Yeah. Talked to a lot of people who'd been up there for armed robbery and burglary and car theft and—all different kinds of things.

CARR. Did you learn very much?

REID. I learned—yeah, I learned quite a bit.

CARR. Did you like it?

REID. Naw.

CARR. What bothered you?

REID. The supervisor. He'd come by, you know, and he'd jump on you if you were looking at him wrong or for—getting up.

CARR. What do you mean he'd jump on you?

REID. He'd beat the hell out of you. I seen a boy get picked up by a man weighing close to 300 pounds, thrown against a wall and the man just sit there stepping on his stomach, kicking him in the legs and head and everywhere. I seen that happen, I seen

a man pull a table leg off a table and beat a boy with it.

CARR. Before you were sent to Gatesville, you were in the detention home for 2 weeks. What was that like?

REID. It was just—you're locked up. I didn't have nobody to talk to, was in a room by myself. Didn't have—I didn't have anything to do. Sat on my bunk. No mattresses on the bunk, rats running around and spiders and everything else. Place smells. Well, after about 4 or 5 days, I thought I was losing my mind. (Laugh) Nobody to talk to or anything. It was pretty bad.

I cut my wrist and man, he come by the door, he looked down, he saw me, so he walked back down the end of the hall and it started bleeding pretty bad, then—and then he walked back in and he said, he said something like, you—he said, you dirty, he said, you dirty gringo and all this stuff. He said I ought to let you bleed to death.

CARR. I've heard complaints from people here in El Paso, you've probably heard them yourself, they would rather be in Gatesville or Gainsville than in the detention home. They described it as pure hell. What do you have to say about that?

MORRIS RALEY (Chief Probation Officer, El Paso County). It isn't intended as a resort hotel.

CARR. What am I to think if a child says to me, "I was in there for about 3 weeks and I was let out only 3 times during the day for meals. I had nobody to talk to in between. I had nothing to do, I had nothing to read. I had to sit on a bunk with no mattress on it." Should I believe him? Is he telling me the truth?

RALEY. I'm not going to say. I'm going to say, draw your own conclusions.

Many times a child is booked in for protective custody which is not a legal charge, but is for their protection. Later we find that the child is completely incorrigible, by their own admission and by a statement from the parents. They exhibit that incorrigible behavior here too, believe you me.

CARR. How do they do that, Mr. Raley?

RALEY. I might bring this in at this time. That originally was a tee shirt which one of the boys was wearing in a room. In a few hours time this boy removed that shirt, started unraveling and rolling the twine. That is the tee shirt in its present form.

CARR. Why do you think he did that, Mr. Raley?

RALEY. More to trying to strike back at anyone, especially his parents.

CARR. Isn't it possible that the child made that ball of twine because he was bored? Because he had nothing better to do?

Not necessarily. Many of them will take any action to—as they see it—get even with their parents or the guards.

CARR. How would you account for this behavior on the part of the children?

RALEY. I would say a lot of it is due to the coddling, permissiveness of parents—permissiveness of law enforcement, of everyone concerned.

CARR. Are you able to overcome this permissiveness?

RALEY. Some of it.

CARR. I've heard again and again from different people in town that many times a parent in cooperation with you has sent off children to either Gainsville or Gatesville or one of the other homes in Texas without the benefit of either a hearing or a—lawyer which they are entitled to under the law.

This isn't true virtually. These children, these well these parents, first—are—cautioned of their rights, of the child's rights and many times there is an attorney in the background that the child is not aware of. Later the parents get guilt feelings, the child is resentful and you get the answer you have had. Many of them through this sense of guilt will change their story to the point where they try to clear themselves.

CARR. Isn't it always an advantage for a child to have a hearing and to have a lawyer.

RALEY. Uh—again, I'm not going to go into that.

(Martin Carr interviews Mrs. Brown.)

CARR. Why is your son in Gatesville, Mrs. Brown?

BROWN. Because he wanted to get married and he keep on running away from home. And they sent him over there because at the time, you know, we thought that was best for the boy, that he wouldn't get married. They told me that was a very nice school and very good place for the boy.

CARR. Who is this? Who told you that?

BROWN. Mr. Raley. I went to talk to him and he told me that the best thing for the boy there would be that school because it's a good school. They have a swimming pool. They have good teachers. They have freedom.

When I first sent him over there, Mr. Raley told me that I could get him out any time I wanted to. And I got very sick and I wanted to get him furlough and he say not a chance.

CARR. You're sick now, aren't you ma'am?

BROWN. Yes, I've been sick for the past 2 years, I think—2 or 3 years.

CARR. What is the matter with you. Do you know?

BROWN. I saw the doctor yesterday. He said I got a tumor, and two of them say that I got cancer.

CARR. But they wouldn't let you bring him home?

BROWN. They wouldn't let me bring him home, they say no.

You know, when they sent him away I figure well I go see him once or twice a week. And then I find out that it was miles away and then I didn't even know, I didn't even—well, as you can see, people in our position, I didn't figure that I'd ever see him at all til he come home.

CARR. How far away is Gatesville?

BROWN. Well, we make 14 hours on a bus. We borrowed some money, you know, from a finance company to go see him on Christmas . . .

CARR. Uh uh.

BROWN. . . . But since he was coming . . .

CARR. How much money did it cost you to go and see him?

BROWN. Well, so far, on back and forth these two times $250.

CARR. Two hundred and fifty dollars?

BROWN. What we spent.

CARR. Do you still owe this money to the finance company?

BROWN. Yes.

CARR. You're working too aren't you?

BROWN. Yes, I'm working. My husband working and I have, I have to, I have to find another job to help me to pay this money.

CARR. You went over to Gatesville?

BROWN. I went to Gatesville and I found him beat up.

CARR. You found your son beat up.

BROWN. Beat up. He got a big bruise on his head and he was terrified. He wasn't afraid. He—oh when anybody talk to him or get near him, he just bend his head and stay like that and he don't answer.

CARR. What are you going to say to your son when he comes home?

BROWN. I want to tell him I'm sorry. I'm going to—I don't know, I'm going to try to explain to him what did I done, and try to make up for what I done——

CARR. Do you think you can make up?

BROWN. He's a good boy—he got a good heart. And we raised them as, you know, as good as we can. We, we got a big family you know, we fight and we made up right away. We never stay mad at each other and we raised the boys that way. I think he'll forgive me, I hope at least. Because it's a lot to forgive you know. Send a boy, a 15-year-old boy to hell like that, I don't think—is if I were him, you know on my side, I think it take me a long time to forgive my family.

NEWMAN. In El Paso, Juvenile Judge Edwin Berliner has stopped the practice of agreed judgments. Since we filmed, several of the children sent to Texas Youth Council facilities in this way have been released. Nonetheless, many of the remain, sent away by a court which clearly feels that children, simply because they are children, are not entitled to full protection under the law.

The Texas Youth Council, when it learned of our investigation, refused NBC News access to any of its institutions with or without a camera. It was therefore impossible to document the many reports of brutality given to us by parents and children. However, State Senator Donald Kennard tells us that physical mistreatment is a fact of life for children in these institutions. State Representative Curtis M. Graves tells us that nearly 200 parents and juveniles have complained to him of brutality at the Gatesville School for Boys. He has personally verified this brutality, in one case by finding blood on the wall of a cell where a child had recently been beaten.

Brutality of this sort goes on every day in children's institutions across the Nation, and will go on unless we as Americans see that it is stopped.

Solitary confinement also must be stopped. No child should be forced to remain days on end in a locked room. It can only be an act of cruel and unnecessary punishment.

But more basic than this, we must stop the practice of sending children away to these institutions, where any child is condemned to be a faceless individual surrounded by a staff unable to help him, however real the desire.

Alternatives to large institutions are succeeding in several communities, such as Boulder, Colorado. Children in trouble now remain within these communities, in foster homes and small residences.

Some children must be locked away because of the seriousness of their crimes. But most children are sent away to the wrong places for the wrong reasons. They have broken laws which do not exist for adults. These laws, as they are now written, should not exist for children, either. For under these laws, children are treated as criminals for acts that should not be considered crimes at all.

We can expect children to respect the law only if we show them the respect and care that law and common sense require. This is not the case now. What is the case now cannot be permitted to continue.

CIVIL SERVICE RETIREMENT

The ACTING PRESIDENT pro tempore (Mr. METCALF). The time for the transaction of routine morning business having expired, under the previous order, the Chair now lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1204) to amend section 8332 of title 5, United States Code, to allow certain service to be credited for purposes of civil service retirement.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1204) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1204

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

tion 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and";

(3) by inserting after paragraph (8) the following new paragraph:

"(9) subject to sections 8334(c) and 8339 (h) of this title, (A) service performed for either House of Congress or as a Member of Congress before July 17, 1947, in making disk, film, or tape recordings, or in performing such other functions and duties as may be necessary in making the recordings, and (B) service performed before October 2, 1962, as a photographer for the Democratic or Republican Senatorial Campaign Committee."; and

(4) by adding at the end thereof the following new paragraph:

"The Commission shall accept the certification of the Speaker of the House of Representatives or the President of the Senate, or their designees, concerning service and the amount of compensation received for the service for the purpose of this subchapter of the types performed by an employee named by paragraph (9) of this subsection.".

SEC. 2. The amendments made by the first section of this Act shall only apply to an individual retiring under subchapter III of chapter 83 of title 5, United States Code, on or after the date of the enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–91), explaining the purposes of the measure.

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

PURPOSE

This legislation would permit five employees of the Senate to receive credit for retirement purposes for periods of time they rendered service to the Democratic and Republican Senatorial Campaign Committee prior to being assigned similar duties as employees of the Senate authorized to participate in the civil service retirement system. Those covered are the photographers for the Democratic and Republican Policy Committees and employees of the Senate recording studio. For the former, the period made creditable includes any time prior to October 2, 1962; for the latter service prior to July 17, 1947.

JUSTIFICATION

There are five employees entitled to benefit under this legislation. The persons affected have continued to perform the same functions as employees as they performed prior to their being employed by the U.S. Senate. Their situation is analogous to that of members of the Capitol Guide Service, who were extended the benefits of retirement credit under provisions of the Legislative Reorganization Act of 1970. An affected employee electing to acquire credit for retirement purposes under this legislation would be required to make deposit, with interest, to the Civil Service Retirement and Disability Fund an amount equal to the amount which would have been withheld from their pay at the time had they been covered by the retirement program, or be subject to a permanently reduced annuity upon retirement.

COST

There is no direct cost if this legislation is enacted. The requirement for a deposit or a reduced annuity will eliminate any actuarial cost to the Civil Service Retirement and Disability Fund.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 12 o'clock noon on Monday next.

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

AMENDMENT OF THE SELECTIVE SERVICE ACT OF 1967

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate H.R. 6531.

The ACTING PRESIDENT. The bill will be read by title.

The legislative clerk read as follows:

A bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes, reported with an amendment.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mrs. SMITH. Mr. President, would the distinguished majority leader advise the Senate if he has discussed this matter with the chairman of the committee, the Senator from Mississippi (Mr. STENNIS)?

Mr. MANSFIELD. Yes, I have, and with the distinguished minority leader as well.

Mrs. SMITH. With agreement to take it up this afternoon?

Mr. MANSFIELD. No, not today. To take it up tomorrow.

Mrs. SMITH. To be pending?

Mr. MANSFIELD. Yes.

Mrs. SMITH. Mr. President, as the ranking minority member of the Armed Services Committee, I have just reported the bill to the Senate. It is a controversial bill, and if I were chairman, I would ask that it be made the pending business tomorrow night and taken up Monday, thus giving the Senate a longer time to study the report.

Of course, if the majority leader has discussed it with the chairman, I would not press for that.

Mr. MANSFIELD. If the Senator desires that, I would be glad to accede to the Senator's wishes.

Mrs. SMITH. I have no word from the chairman. If the majority leader has word from him, I would leave it in his discretion.

Mr. MANSFIELD. Mr. President, I withdraw the request. That will take care of that.

The ACTING PRESIDENT pro tempore. The request is withdrawn.

QUORUM CALL

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MILITARY SELECTIVE SERVICE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the morning business tomorrow, H.R. 6531 be laid before the Senate and made the pending business. I do so because there is nothing else on the Calendar to take up.

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

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there again be an additional period for the transaction of routine morning business at this time, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

THE WORK OF COMMITTEES

Mr. SCOTT. Mr. President, may I seize this occasion again to urge the chairmen of committees and ranking minority members, with all due respect, to exert their maximum efforts to hold hearings if need be and to report matters of legislation as soon as possible. The distinguished majority leader and I, I am sure, are of one mind that anything that can be handled early in the session does not have to be handled late. That is the kind of procedure we have been advocating, through our best arts of gentle persuasion, in the 92d Congress.

This Congress is proceeding well. It has proceeded better, in my opinion, than recent Congresses, thanks to the recommendations of certain new Members of the Senate which have been adopted and put into effect; thanks particularly, I think, to the zeal of the two assistant floor leaders, who have required that all of us proceed decently and in order. We are getting along all right on procedure, but we are a little short on substance.

It is certainly not said in any attempt to blame committees at all. I know the problems the committees have, but I would hope that they would really look over the grist and see whether they can find matters that are at least able to pass through, if not the eye of a needle, the inspection of the collective and respective committees.

So that I would hope that we can be presented with more matters, I am sure the draft bill will take up some time. But while we are being drafted to discuss the draft, this provides an excellent time for other matters to be prepared and given birth to, so that we may carry them to maturity on the floor of the Senate.

DEMONSTRATIONS IN THE CAPITAL

Mr. HART. Mr. President, very briefly, I wish to address a sensitive nerve. Permit me to say that on a national television network some 3 weeks ago, I debated with Rennie Davis and Mr. Kunts-

ler the question of whether nonviolent civil disobedience would be useful or appropriate in connection with the then planned events here in Washington. I took the position then—and I think events may have indicated it was right—that it would be, to use the now popular expression, counterproductive.

I do not change my view with respect to the unacceptability, under these circumstances, of civil disorder. But we should be equally troubled to realize that, apparently, the niceties of our procedures, evolved over a long history, with respect to arrest and detention, on occasions at least got lost in the shuffle. If we are going to suspend constitutional rights in order that Government employees get to work on time, let us say so; and the way you do that is by declaring martial law.

I am absolutely sympathetic with the problem of the police, given the situation with which they were confronted, that, to paraphrase the ad, "What is a poor policeman to do?" Well, the book tells him what he has to do; and if the book will not work under the circumstances, then why fudge it? Let the authorities clearly state that they are dispensing with legal procedures, and spell out their precise justification.

Should we be critical of anybody? Not until all the facts are in as to specific abuses and until we can review all the preparations made and the procedures employed in proper perspective. But let us insist that we learn from this lesson something which is more important than occasional disruption and that, in the long haul, will probably affect our survival as a free people.

I am advised that before I arrived in the Chamber, the able senior Senator from New York (Mr. JAVITS) addressed himself to the same problem, and I am delighted.

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

Mr. HART. I yield.

Mr. JAVITS. I am pleased that the Senator has, without any concert with me, picked precisely the same point. I think it is critically important that we be understood.

The PRESIDING OFFICER (Mr. ROTH). The time of the Senator has expired.

Mr. JAVITS. Mr. President, may I be recognized in my own right?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. It is not just criticism of the police. They had a very tough time. Obviously, the courts have sustained the view that the Senator from Michigan and I have expressed, that it was possible either to give notice in advance whether you had an injunction or martial law or some other legal proceeding, or to obey the legal forms if you simply had to act on the spot.

That is the point we are trying to make. It can easily be misconstrued as being out of sympathy with law enforcement or something like that. Nonetheless, it must be said—because this may not be the end of it—the idea that civil liberties are compatible with law enforcement needs to be constantly affirmed, because it can easily get lost in the shuffle, and then we really have lost everything and gained nothing.

Mr. HART. Amen.

Mr. NELSON. Mr. President, I did not realize that there was going to be a dialog on this point, but I should like to associate myself with the remarks of the distinguished Senator from Michigan and the distinguished Senator from New York.

Mr. METCALF. Mr. President, just as did the distinguished Senator from Wisconsin (Mr. NELSON), I did not realize there was going to be a dialog on this subject, either; but I feel that these mass arrests—this mass sweeping up of people—have violated the civil liberties of many Americans. I agree and concur with my friend from New York and my friend from Michigan that Judge Greene acted judiciously and properly in insisting that the arrests be enumerated and that the names of those arrested and the charges placed be presented to him.

Mr. President, I have sat on a court myself and I feel that, at times, during a pressing urgency, people insist on matters that, upon reflection, they feel they have taken away some of the liberties of individuals.

So, although I have nothing but praise for the police, and I feel that they have done an outstanding job in these days of demonstrations, I think that when the Attorney General of the United States sends out a decree that "We shall arrest everybody on the streets," the Attorney General of the United States is not acting in a lawyerlike manner.

Mr. SCOTT. Mr. President, I, too, join in praise of the restraint of the police. In periods of mass protestations and mass confusion, mass arrests sometimes result, because of the deliberate confusion created by the protesters who, when the police are trying to secure the names of those who have just been arrested for violating the law, also take part in the colloquy and interrupt and interfere, and so it is, therefore, rather natural—possibly it has its unfortunate connotations—that the police say to them, "You get in the van, too." It is very difficult to tell.

Of course, the courts will move to redress any injustices but I think we should not lose sight of the fact that even mass arrests are better, in many respects, than imposing martial law.

It so happens that the civil rights of everyone in Washington, practically, were being interfered with—and are still now being interfered with—this week. They have civil rights, too. Every citizen in this area has civil rights and they were being completely ignored; they were being completely subverted by people who deliberately set themselves out to do it.

Accordingly, I personally am not afraid to say that I am not going to waste too much sympathy on a small number of people who may have been caught in this maelstrom. I regret it, and it is unfortunate. The courts exist to give them their rights. But let us never forget the greater right of all the people in this city, as well as the rest of the people in the country, to go to work and to pursue their daily lives free from molestation and interference with their civil rights.

Mr. BYRD of West Virginia. Mr. President, public safety has to be the main consideration in any assessment of the policy of mass arrests set by the Justice Department and carried out by the police in the May Day demonstrations. The mass arrests successfully thwarted the announced intention of the disrupters to stop the Government.

There seems to be no doubt that mass arrests lead inevitably to the temporary confinement of innocent persons and, undoubtedly, there are some who were appropriately arrested but who now proclaim their innocence. Such mass arrest tactics should be condemned in normal times or during a peaceful and lawful protest. But, what was the alternative in this instance?

This was not a normal situation. This has been an abnormal week in Washington—a week in which the Government of the United States and the citizens of the metropolitan area have been confronted, not with a legitimate, reasonable, lawful, and peaceful protest, but rather with a demonstration designed from the outset, and announced from the outset, to break the law and close down the Government.

In this instance, I applaud the action taken by the District of Columbia police force, the U.S. Justice Department, the National Guard, and the military units involved in thwarting this disruptive band of lawbreakers.

Mr. President, we should consider the alternatives to a mass arrest before we condemn its use in this instance. These demonstrators wanted to expand their civil rights, apparently, to the point where the civil rights of innocent people would have been severely violated.

In such a situation, Mr. President, the civil rights of a mob must give way to the civil rights of innocent, law-abiding citizens—and no mob has ever protected any liberty, not even its own.

The Government is under no obligation to let itself be destroyed by any group, but it does have a duty to protect itself, to protect innocent citizens, and to preserve order.

Protecting the lives and property of citizens is as important as protecting the rights of demonstrators. Confronted by thousands of angry demonstrators, whose leaders publicly stated that their avowed intention was to stop the Government and the operation of the city, security forces charged with public safety would have followed a weak and stupid course, indeed, had they just stood by and permitted the blocking of traffic and the tying up of the city. The actions of police in making mass arrests almost certainly prevented mass violence, bloodshed, destruction of property, and loss of life. Angered citizens, agitated by lawless demonstrators, could easily have resorted to force for self-protection in Washington Monday and Tuesday. A few individuals may have had their civil rights briefly infringed upon by the mass arrests. But which is more important: the civil rights of a relative handful of persons who have threatened to close down the Government, or the civil rights of all of the law-abiding people of a city and surrounding suburbs?

What possible good has been accomplished by this so-called demonstration?

The answer is that no good has been accomplished. The demonstrators have done a disservice to their country and to the cause they allegedly espouse.

The discussion on the relative merits of the mass arrests employed in this case will continue for some time to come—and there will certainly be cries from some corners that such a tactic is never justified.

However, Mr. President, it is noteworthy, I believe, to remember a line from the 1921 Supreme Court decision in the case of Brown against the United States. That line reads:

Detached reflection cannot be demanded in the presence of an uplifted knife.

Mr. President, the police were forced by emergency circumstances to temporarily abandon procedures by which they should be guided in normal and less extenuating situations.

I commend the police for acting to protect the Nation's Capital and for protecting the civil rights of law-abiding citizens against those who, in the name of liberty, would threaten life and property and even liberty itself.

CHANGE OF REFERENCE

Mr. METCALF. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be discharged from the further consideration of the bill (S. 1734), the Forest Lands Restoration and Protection Act of 1971, which I introduced on April 30; and, in accordance with the action taken on the bill of the Senator from Wyoming, that my bill, S. 1734, be referred to the Committee on Interior and Insular Affairs.

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

QUORUM CALL

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

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

"MEET THE PRESS"

Mr. MANSFIELD. Mr. President, on March 28, 1971, I was a guest on the program "Meet the Press." The interrogators at that time were John L. Steele, Time and Life; Kenneth Crawford, the Washington Post; John W. Finney, the New York Times; and Paul Duke, NBC News. The moderator was Lawrence E. Spivak.

I ask unanimous consent that a transcript of this program be printed in the RECORD.

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

MEET THE PRESS—AMERICA'S PRESS CONFERENCE OF THE AIR

Guest: Senator Mike Mansfield, Majority Leader, United States Senate.

Panel: John L. Steele, Time & Life; Kenneth Crawford, The Washington Post; John W. Finney, The New York Times; Paul Duke, NBC News.

Moderator: Lawrence E. Spivak.

Mr. SPIVAK. Our guest today on Meet the Press is the Majority Leader of the U.S. Senate, Mike Mansfield of Montana. He has been a member of the Senate Foreign Relations Committee for 18 years, and for several years he has been Chairman of the Subcommittee on Far Eastern Affairs.

Mr. DUKE. Senator Mansfield, the Democrats as a party now seem to be moving strongly toward support for a deadline to get out of Vietnam and Indochina by the end of 1971. Do you support that?

Senator MANSFIELD. I do.

Mr. DUKE. Would you tell us why you now support this when Senate Democrats recently approved a resolution, which I believe you suggested, calling for getting out by the end of 1972?

Senator MANSFIELD. Yes, indeed. May I say first I voted for the McGovern-Hatfield amendment last year, which also had a termination date. The purpose in bringing before the Democratic caucus a more flexible proposal was to try to get much of the party together, in line with a certain, common policy. Furthermore, the purpose behind it was to give indirect assurances to the President that if he speeded up his efforts to get out of Vietnam and Indochina, as it is now, that he would be subject to a minimum of criticism as far as the party was concerned.

Mr. DUKE. But doesn't all this talk of deadlines make it more difficult for the President to deal with Hanoi and to try to guarantee the security of South Vietnam?

Senator MANSFIELD. It does, but I think things have reached a place where we have spent $115 billion, where we have suffered 350,000 casualties, with no end in sight, and that the time is here for drastic action.

Mr. DUKE. A resolution approved just a few days ago by the National Democratic Policy Council, also calling for getting out by the end of 1971, suggested that such a deadline would facilitate the Paris peace talks, but isn't it more likely that it would have the opposite effect by encouraging Hanoi to continue to drag its heels at Paris?

Senator MANSFIELD. That is a possibility, but you have to keep in mind that Hanoi has said not once but many times that before they would consider the release of the American prisoners of war held by them there would have to be some such date set up.

Mr. DUKE. Isn't there also a danger in all this that the Democratic Party will become what Senator Henry Jackson warned against on Friday, namely, the party of weakness and retreat?

Senator MANSFIELD. No, I wouldn't say that. We have to face up to the realities. I think we are in an area where we have no business. We have paid too high a price. They (the South Vietnamese) have had their elections. They will have more elections next October. It is time for them to take over. It's their country, their future, and they have got to make the decision in South Vietnam.

Mr. DUKE. Don't you think, Senator Mansfield, that the President is fulfilling his pledge to wind down the war and to bring home Americans?

Mr. MANSFIELD. Yes, I do, but I am disturbed at reports of probably a residual force of 50,000 to 60,000 at the end of a two-year period remaining there, because I think as long as they remain, they will be pigeons and we will be bound.

Mr. FINNEY. Senator Mansfield, I would like to pursue the line of questioning that Mr. Duke was advancing, particularly as it relates to the President's authority to conduct the war in Vietnam.

Now that the Gulf of Tonkin Resolution has been repealed, what Constitutional or Congressional authority do you see the President having for retaining troops in Vietnam?

Senator MANSFIELD. I think he said on the basis of his responsibilities as Commander in Chief. The Gulf of Tonkin Resolution is out; it is not a valid document, never was in my opinion. As far as the Southeast Asia Treaty Organization was concerned, there was no connection between that and what was done in Southeast Asia.

Mr. FINNEY. The President, as you suggest, talked about his right to protect the troops as they are withdrawn. Does that mean, in your opinion, that he has the authority as Commander in Chief to maintain a residual force in Vietnam?

Senator MANSFIELD. I would suppose that would depend on the point of view. I dare say that he has good arguments to back up his position, based on what his advisors have told him, but I do not think we ought to have any kind of a residual force left there. I think we ought to withdraw out of all of Southeast Asia, all of Southeast Asia, lock, stock, and barrel.

Mr. FINNEY. I appreciate that, but I wondered what your view is of the President's authority to retain troops there.

Senator MANSFIELD. I think it is questionable, but as I say, he probably has a point of view which would substantiate what he is doing.

Mr. FINNEY. The other day the President in a television interview talked about how Congress was playing games with the Chief Executive, in somewhat the same manner that he played when he was in Congress. I wonder what your response is to that?

Senator MANSFIELD. We are not playing games. This is too serious a matter. There is no politics involved, but policies are involved, and I think it is about time—the time is long overdue—that the Congress restore to itself the powers which it voluntarily gave to the Chief Executive over the past four decades.

Mr. FINNEY. You see a rather historic tug of war here going on, rather than just a political game?

Senator MANSFIELD. It is no game. I think the National Commitments Resolution is a sign of how serious we feel, and the Cooper-Church Amendment likewise.

Mr. CRAWFORD. Senator, you have been quoted recently in the press as judging the campaign in Laos as a total loss. Isn't it a little soon to make a judgment of that kind? What if it develops that this did have the effect of slowing down the North Vietnamese and securing the country for another six or eight months or a year?

Senator MANSFIELD. Mr. Crawford, you are attributing to me something I didn't say, and I would like to see the source of your information. I have never indicated it was a total loss. I certainly question its success. I do realize that there have been a lot of killings on both sides, that the trails had been disrupted temporarily, but the trails are again in operation, and on the basis of reports just today, it is my understanding something on the order of 1,500 trucks are passing down those trails, which have been intersected or interdicted on a temporary basis.

Mr. CRAWFORD. Do you feel that in the brief time between now and the rainy season, which is approximately May 1, they will be able to restore these trails?

Senator MANSFIELD. I do. As a matter of fact, I think most of them are restored right now.

Mr. STEELE. Senator Mansfield, I believe you have introduced in the Senate a proposal for a Constitutional amendment that would

limit the President to one term of six years. What is your thinking behind this? Why do you think this kind of rewriting of the Constitution is desirable?

Senator MANSFIELD. I think it is in the interests of the Presidency that that be done, because it removes a President from party responsibility, from politics and from playing his cards in a certain fashion. In this way if he is not looking forward to a second term, he can think of the people and the nation, exclusively.

Mr. STEELE. But isn't it part of our practice over hundreds of years that the President [be] chief of the political party as well as chief of state?

Senator MANSFIELD. That is right, but I think it should be subordinated considerably once he assumes the office of Chief Executive.

Mr. STEELE. A moment ago you called for a resurgence of Congressional prerogatives. Many observers feel that this actually is already under way, as witness the vote on the SST, and the war commitments resolution, and consideration of the President's war powers.

How far would you go in this? Why do you think this is desirable? Some people are a little afraid of it, actually.

Senator MANSFIELD. I think that the Executive and the Legislative Branches of the government ought to work in tandem, ought to work together, ought to do what we can exclusive of politics, or as much out of politics as possible for the common good, because I think parties are subordinate to the welfare of the people and the nation as a whole.

Mr. STEELE. We have had, I think, in my judgment a long slide-off of Congressional powers ever since World War II, and an emphasis on Presidential powers. How far would you like to see the trend reversed in the other direction?

Senator MANSFIELD. The slide-off that you refer to started in Roosevelt's time, so it goes beyond World War II as such. It preceded that war, as I recall it, but I would like to see some sort of a solution found whereby the Congress will be brought in on the take-off, rather than in on the landing, that a good sort of liaison group could be developed between the Executive and the Legislative Branches to the end that we wouldn't be at each other's throats but would be working together.

Mr. STEELE. Would you like to see a weak President?

Senator MANSFIELD. No, but I don't want to see a President too strong or with too much power. any more than I want to see a Congress too strong or with too much power. Equality, balance.

Mr. SPIVAK. Senator, am I to understand that you are now for cutting off all funds for military operations, American military operations in Indochina, after December 31, 1971?

Senator MANSFIELD. No, but that is a matter which I have been giving a good deal of consideration because I want to see this war brought to a close, and I want to see us face up to our problems at home, and I want to get away from these worldwide commitments which we have, which incidentally doesn't mean that I am an isolationist, neo or otherwise.

Mr. SPIVAK. What legislation, then, do you think Congress could pass that would induce the President to take action of the kind you want him to?

Senator MANSFIELD. I think we ought to get together with the President and his advisers and talk out some sort of a solution to this difficulty which confronts both of us. I don't blame the President for hanging onto the powers which he has, because of the fact that I blame the Congress for giving to the President the powers which were ours under the Constitution and which we should have retained.

Mr. DUKE. You say you are not an isolationist, Senator, but some people are concerned about what they feel is an isolationist spirit that is beginning to spread throughout the Democratic Party. Does this concern you at all?

Senator MANSFIELD. Not in the least, because it is an impossibility to be an isolationist in this day and age in which we live. With a shrinking globe, with increase in rapid communication and transportation, we can't live apart one from the other, regardless of how we feel about it, and I think we ought to live together, get along as best we can, recognize the problems of other countries, but by the same taken recognize that as far as we are concerned our people are limited in number and our resources are not unlimited.

Mr. DUKE. Do you then support the Nixon doctrine as it would apply to Southeast Asia?

Senator MANSFIELD. I do, as it was originally introduced and defined and put into operation, but I think that it is shifting lately in a direction away from the original concepts of the Guam Declaration.

Mr. DUKE. What do you mean, shifting away from what?

Senator MANSFIELD. Shifting away from the low profile, for example, which was supposed to be applied on a worldwide basis. There had been withdrawals, there had been reductions in bases, especially in the Far East, but we still have too many bases scattered throughout the world, too many people overseas, and too much responsibility for other people's affairs.

Mr. FINNEY. That is rather interesting, Senator, since you helped define the Nixon Doctrine for the President. When you see the President, do you talk as forcefully and as frankly to him as you are now talking?

Senator MANSFIELD. No, because I am not given the opportunity. He is a courteous man, and he briefs me on the affairs of the nation both domestic and in the field of foreign affairs, and I feel it would be impertinent for me to break in unless I am asked a question or an opportunity arises.

Mr. FINNEY. I don't quite understand that. Since the Senate is insisting that it should have an advisory role in the area of foreign policy, it seems to me that you then have a right to talk to him.

Senator MANSFIELD. Oh, I have a right, and I dare say he would listen to me, but I do not like to push myself personally.

Mr. FINNEY. Let me pose the big question to you, then: If you were the President, how would you end this war?

Senator MANSFIELD. I am not the President.

Mr. CRAWFORD. Senator, you have had for some time—you have sponsored for some time—a resolution calling for withdrawal of troops from Europe. As I remember it, at the last session you had a majority of senators as co-sponsors. Yet this resolution has never come up for a vote in the Senate. Why is that?

Senator MANSFIELD. According to all the reports I read and the information which was available to me, the Administration seemed to stop at the date of June 30, 1970, before they made a decision as to what they would do in Europe. The implication was there would be a reduction. But June 30, 1970 passed, and since that time statements have been made which indicate that we intend to maintain our full force levels in Europe, a quarter of a century after the end of the Second War at a cost of $14 billion out of the Defense budget each year. I think it is about time for our allies to take over their share of the responsibilities.

May I make it very plain that what I am seeking to do is to bring about a substantial reduction, not a total reduction, and that I believe implicitly in NATO and feel we should remain in it and live up to our obligations.

Mr. CRAWFORD. Senator, have you been influenced in holding this up somewhat by Senator Muskie and Senator Javits who, each after a trip to Europe, have come out against your proposition?

Senator MANSFIELD. No, not in the least. I was a little surprised at Ed Muskie, but as I recall his statement, it was not too definite. He indicated he was rethinking his position. As far as Senator Javits is concerned, he was always against the proposal.

Mr. CRAWFORD. Senator, have you a majority of the Senate as co-sponsors in this session?

Senator MANSFIELD. No; I haven't introduced the resolution as yet, but I intend to, and I intend to bring it up for action.

Mr. STEELE. I would like to turn to domestic affairs for the moment. The President has sent Congress quite an array of proposals, including revenue sharing and family assistance. What about his record on the domestic front? How do you view it, being past the half-way mark?

Senator MANSFIELD. Not too bad. He doesn't want to go as far as the Democrats want. He has given us a program which is impossible to pass in any Congress but which is laying the groundwork, I think, for future reforms. But on the whole, not too bad. He could have done much better, but he could have done much worse.

Mr. STEELE. What would you like to see him do that he isn't doing?

Senator MANSFIELD. I would like to see him take a more active interest in the field of the economy of the nation. I wish he had done more jaw-boning so that in that way we could react more firmly against inflation.

I would like to see him do more in the field of whittling down the unemployment statistics. I am disturbed at the fact that just a day or so ago, six more cities were added to the unemployment areas, making a total of 50 which are in critical condition at the present time. Those are things which I think could have been done.

Mr. STEELE. Would you characterize his record on the domestic front as good, bad or indifferent?

Senator MANSFIELD. Fair.

Mr. SPIVAK. Senator, a few minutes ago in answer to a question of Mr. Finney's you said, "I am not the President." But since you feel so strongly that the President should end the war, you must have some idea of how he should do it. How would you end the war?

Senator MANSFIELD. I gave my answers I think to Mr. Duke earlier. I would bring about a gradual withdrawal. I would give some consideration to a proposal made by the President of the Ripon Society about putting into effect a proposal by George Aiken: at the conclusion of the elections next year, withdraw. The South Vietnamese people supposedly will have had a chance to arrive at a decision. They will be well equipped, well supplied. They will have had experience in government; they will be out from under our skirts; and they will be able to go their own way.

Mr. SPIVAK. Will you be for or against sending military equipment to South Vietnam and helping to train their soldiers once we get out?

Senator MANSFIELD. With an advisory commission of 300 or 400 I wouldn't mind going through with it, but I would do it with my fingers crossed, because I think we have done more than enough to take care of the needs of the people in that nation.

Mr. DUKE. Is it true, Senator Mansfield, that you, Senator Fulbright, Senator Aiken and some others informally agreed to hold up on some of your criticism of President Nixon because you were concerned about a lack of public confidence?

Senator MANSFIELD. No.

Mr. DUKE. That is not true?

Senator MANSFIELD. No.

Mr. DUKE. Do you feel that any Demo-

crats have gone too far in criticizing the President?

Senator MANSFIELD. I can't speak for the other Democrats. All I can speak for is myself.

Mr. FINNEY. Senator, some weeks ago on a program, you said that Senator Muskie was the frontrunner among the Democratic Presidential candidates. Would that still be your appraisal?

Senator MANSFIELD. Yes, but he seems to have lost some ground in the meantime, with the others coming up.

Mr. FINNEY. Who are the others, in your opinion, that are coming up?

Senator MANSFIELD. Oh, I think that Senator McGovern is achieving additional strength at the present time. I think that Senator Hughes of Iowa is achieving a tremendous impression throughout the country. I think that Hubert Humphrey, now that he has a platform again, is a factor to be contended with.

Mr. FINNEY. How about Wilbur Mills? You had lunch with him recently. Do you think his hat's in the ring?

Senator MANSFIELD. I have read reports, but I doubt it.

Mr. CRAWFORD. Senator, I assume that you feel as most Democrats seem to, that you have an even chance, if not better than even chance of retiring President Nixon at the end of his first term. Do you feel that way?

Senator MANSFIELD. Yes, I feel that with the economy in the shape it is and the war still going on, with no end in sight, even though there will be a diminution as far as American manpower is concerned, the prospects look reasonably good for the Democrats.

Mr. CRAWFORD. Do you feel we are entering an era, as some people do, of one-term Presidents?

Senator MANSFIELD. It could be. It depends on the circumstances. That is one reason I would like to see one six-year term rather than the present system of two terms.

Mr. CRAWFORD. I wonder if I could ask you a hypothetical question.

Senator MANSFIELD. Surely.

Mr. CRAWFORD. Do you think that President Johnson could have won reelection had he run last time?

Senator MANSFIELD. No.

Mr. SPIVAK. We have less than four minutes.

Mr. STEELE. Senator, you have told us today you are very skeptical about the advisability of leaving a sizeable residual U.S. force in South Vietnam once combat is concluded. How do you feel on the other side of the world about United States' participation in a Middle East peace-keeping force?

Senator MANSFIELD. I am opposed to that, too. One Vietnam is one Vietnam too many.

Mr. STEELE. Why are you opposed to participation in the Middle East?

Senator MANSFIELD. Because the possibilities would be there for a possible confrontation, and I want to avoid one unless it is in the interest of this country.

Mr. STEELE. You had, in a very unusual move, Secretary of State Rogers this week appear in a secret session before the Senate. Could you tell us (a) why he appeared, and (b) whether it satisfied you as to the thrust of American policy in the Middle East?

Senator MANSFIELD. First, because his people requested that he appear, and I thought he should have the opportunity, just as Mr. Rusk had in 1967 at the time of the Six-Day War. I think the impression he made was excellent. He was frank and candid. He answered all the questions, and to the best of my knowledge all the members who were there, and there were 67 of them out of 80 in town, were very satisfied and pleased with the meeting.

Mr. STEELE. Does this mean that you are approving of the Rogers so-called initiative in the Middle East and that you approve of the thrust of our policy there?

Senator MANSFIELD. I always have.

Mr. SPIVAK. Senator, if the United States is unwilling to guarantee Israel's security, or to send troops for peace-keeping, do you think we should pressure Israel into giving up borders she considers necessary for her security?

Senator MANSFIELD. I don't think we should exert any pressure whatsoever, but we should do our best to try and get as a first step the Israelis and the Egyptians together, and then as a second step to get the Jordanians and the Israelis together, and then as a third step, try and get the Syrians and the Israelis together.

Mr. SPIVAK. Suppose we fail, what then?

Senator MANSFIELD. We can only go so far. We should make our best efforts, but we should not become involved physically.

Mr. SPIVAK. We have less than two minutes.

Mr. DUKE. Senator Mansfield, in answer just a moment ago to the Democratic presidential possibilities, you advertently or inadvertently left out some names. I would like to ask you about some of these. Senator Humphrey, do you see him in the picture?

Senator MANSFIELD. Yes, I mentioned Senator Humphrey because now he has a platform which he was lacking when he was out of the Senate.

Mr. DUKE. How about Senator Kennedy?

Senator MANSFIELD. Senator Kennedy I have always felt is not interested in 1972, but I forgot to mention such people as Birch Bayh, Mondale and others. We won't lack for candidates.

Mr. DUKE. How about Senator Jackson of Washington.

Senator MANSFIELD. He would be a formidable candidate. He is a man with a good record. There are differences in the party. We have to recognize that and do the best we can in line with them.

Mr. FINNEY. Senator, you met last week over lunch with Wilbur Mills and the House leaders to discuss welfare reform. Can you tell us the general outlines of the welfare reform package that is being developed by the Democratic leadership?

Senator MANSFIELD. No, I can't because the discussion was in general. A tentative proposal has been made in the Ways and Means Committee, as I recall it; nothing definite has come out of it. Nothing can be, as far as we are concerned, until they make a decision over there.

Mr. SPIVAK. We have less than 30 seconds.

Mr. CRAWFORD. Senator, do you have any prediction to make about the outcome of the Vietnamese election? I know that you are a student of Vietnamese politics.

Senator MANSFIELD. No. All I hope is they allow all the South Vietnamese to participate.

Mr. STEELE. Senator, whom do you favor in our own elections?

Senator MANSFIELD. Anyone who is nominated.

Mr. STEELE. Who is going to be nominated?

Senator MANSFIELD. I can't say. It is too early.

Mr. SPIVAK. I am sorry to interrupt, but our time is up. Thank you, Senator Mansfield, for being with us today on Meet the Press.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon. Following the recognition of the two leaders under the standing order, the following Senators will be recognized for not to exceed 15 minutes each and in the order named: the Senator from New Mexico (Mr. MONTOYA) and the Senator from Virginia (Mr. BYRD).

Following the recognition of the Senators under the orders previously stated, there will be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes. At the conclusion of the period for the transaction of routine morning business, the Chair, under the previous order, will lay before the Senate H.R. 6531, a bill to amend the Military Selective Service Act of 1967, and for other purposes.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

QUORUM CALL

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

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

ADJOURNMENT

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move, under the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and (at 2 o'clock and 16 minutes p.m.) the Senate adjourned until tomorrow, Thursday, May 6, 1971, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 5, 1971:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Norman Vickers Watson, of Florida, to be an Assistant Secretary of Housing and Urban Development, vice Lawrence M. Cox, resigned.

DISTRICT COURT OF THE VIRGIN ISLANDS

Warren H. Young, of the Virgin Islands, to be a judge of the District Court of the Virgin Islands for a term of 8 years, vice a new position created by Public Law 91–272, approved June 2, 1970.

IN THE MARINE CORPS

The following named officers of the Marine Corps for permanent appointment to the grade of first lieutenant:

Garth L. Adams	Grey C. Axtell
Larry G. Adkins	Peter T. Bahry, Jr.
Richard L. Akin	Robert L. Bailey
Burt E. Alexander	Steven D. Bailey
Robert C. Allen	George H. Baldwin
Steve N. Allen	George W. Ball
Charles R. Allison	John D. Bank
James H. Amos	Richard E. Barber
Gordon E. Anderson	Dale E. Barnes
Joseph T. Anderson	Charles J. Barnhart
Robert D. Anderson	Michael E. Barnhart
David A. Andriacco	Charles J. Barone
Michael J. Arent	John L. Barry
Willard P. Armes	Douglas L. Bash
Michael L. Aslaksen	Gary W. Basham

Clarence E. Bates
William W. Baumann
David C. Beard
Robert M. Beasley
Donald A. Beaufait
Donald B. Beaver
Larry R. Beeson
Stephen E. Beiser
Roy S. Belcher
James D. Bell
Bruce R. Belrose
Edward A. Benes
Gerald B. Benes
John R. Benesh, Jr.
James H. Benson
James R. Benson
Ralph L. Bertelson
Donald R. Bibb
Archie J. Biggers
Donald R. Bishop
Wm. B. Blackshear, Jr.
John P. Bland
Michael P. Boak
Frederick M. Bobbitt
John A. Bohn
Charles F. Bolden, Jr.
Donald R. Bolger
Craig P. Boulton
Tillman S. Boxell
Joseph M. Boyle
Gary L. Brandt
Stephen C. Brandt
William J. Brennan
Lawrence J. Brent, Jr.
Christopher W. Brindle
William W. Broadaway
Robert A. Brooks
Homer W. Brookshire
Michael O. Brosee
Gary W. Bross
Edward R. Browder
David Brown
Jack P. Brown
Kenneth J. Brown
Paul E. Brown
Richard A. Brown
Thomas F. Brunk
Charles P. Brust
Fred B. Bryant
M. L. Buchanan
Robert R. Buckley
Roger D. Bullard
William N. Bullock
Gregory J Burcham
James D. Burke
Michael W. Burkhart
Dwight E. Burns
Patrick M. Burress
Lynn A. Burrill
Michael A. Burrous
Bruce B. Byrum
Conrad H. Cadman
Robert E. Cahill
Carl F. Cain, Jr.
Charles F. Caldwell
Thomas P. Callahan
Edgar M. Campbell
Roland E. Carey, Jr.
Thomas M. Carlin
Reid O. Carlock
Ronald B. Carter
Roy L. Carter
John T. Caselli
Richard P. Cassidy
Blake J. Cate
David W. Causey
Lee A. Cerovac
Joseph M. Chaisson
Andrew L. Charlson
Robert A. Cheever
Louis E. Cimaglia
John E. Clancy
James L. Clark
Michael A. Clark
William A. Clark
Larry B. Coffman
George S. Coker
Robert L. Collins
William T. Collins
Richard A. Combs
Paul R. Conner
Donald L. Conover
George S. Converse
Stephen P. Cook
Gary R. Corn
Walter O. Cottrell
Wayne L. Courtney
John W. Cox
James R. Coyle
Norman B. Crawford
John A. Crites
Michael J. Crow
Clarence S. Crowe
Michael J. Cummings
William C. Curtis
William C. Cuseo
Louis H. Dailey
John F. Dalton
John H. Daly
Stephen J. Danaher
Wiliam L. Daugherty
Jack A. Davis
James H. Davis
William P. Davis
William R. Davis
James L. Dawson
Charles G. Dean, Jr.
Thomas C. Dean
Leonard E. Dechant
Samuel C. Decoteau
Peter M. Degnan
Robert R. Degolian
John F. Demars, Jr.
David K. Denson
Albert A. Desantis
Melvin L. Dilday
Charles L. Dismore
Charles A. Dittmar
Ronald B. Dobie
Conrad Dogil
Raymond S. Dolgert
Walter L. Domina
William I. Donaldson, Jr.
Thomas P. Donnelly, Jr.
Charles R. Donofrio
David T. Dotson
Edward J. Doyne, Jr.
James H. Dubose, Jr.
Larry W. Dudley
Georgory W. Duesing
Brendan Duff
Dennis E. Dugan
James W. Duthie
Donald L. Dziggel
Samuel G. Easterbrook
Jerry D. Edwards
Gordon L. Eisert
Milton J. Eisiminger
Donald E. Elkins
Arthur H. Ellis, Jr.
Patrick N. Ellis
Carl H. Ertwin
Gordon E. Evans
Richard S. Everhart
Richard G. Ewers
Michael O. Fallon
Thomas W. Fant
Paul C. Farmer
Peter M. Farris
William W. Faulkner
Peter O. Fay
Oscar B. Fears
Paul E. Fedeles
John R. Fenton
Stephen M. Findlay
Kenneth A. Fish
John J. Flaherty
Marvin H. Floom
Howard C. Florence
Thomas J. Fong
Melvin W. Forbush
Brian D. Ford
James D. Fortune
John T. Foster, Jr.
Frederick T. Fowler
Charles R. Fox
John F. Fraser
Warren T. Frommelt, Jr.
Charles H. Gallina
William N. Gamble
David A. Garcia
Daniel H. Gardner
Jon N. Garner
Thomas E. Garrick
Anthony L. Gasper
John J. Gaynor, Jr.
Jesse D. Geren
John W. Gerwig, Jr.
Andre G. Gib
Richard E. Glantz
John X. Golich
Ronald J. Gonzales
Robert B. Goodrich
Paul D. Gordon
Gary J. Goslin
Joel L. Goza
William J. Graham
Laurens B. Grandy
Kenneth R. Gray
Joseph R. Green
William W. Green
Robert J. Greene
John R. Gregory
Wallace C. Gregson
Steven E. Gugas
John W. Guild
Allen D. Guins, Jr.
Michael W. Hagee
Clarence E. Hagstrom
Earl B. Hailston
William F. Haizlip, Jr.
Terrance C. Hall
George E. Halloran
Lee A. Haltom
Roger C. Ham
Thomas B. Hamilton, Jr.
Richard D. Hammer
Stuart D. Hammons
James H. Haney
Robert P. Hansen
Willis H. Hansen
Thomas G. Harkins
Thomas F. Harper
Ronald C. Harrington
George K. Harris
Robert W. Harris
James P. Hartneady, Jr.
Timothy M. Hartsook
Robert C. Haskett
Jerry B. Hatfield
Dean H. Hattan
John E. Hayes
Matthew J. Heck
John B. Heffernan
Robert G. Hempel
Garland C. Hendricks
John F. Hendry
Clifford F. Henes
William C. Henning
Robert W. Hensley
Ralph E. Henson
John C. Hergert
John C. Hering
James C. Hess
Robert T. Hickinbotham
Richard D. Hickox
Thomas H. Hicks
Walter T. Hicock
Elber A. Highers, Jr.
Edward A. Highers
Marlin D. Hilton
Allyn J. Hinton
Michael G. Hire
Timothy G. Hoff
Richard C. Hoffman
Robert J. Hoffmann
John J. Holly
Charles W. Holmes
Jeffrey T. Holmes
John W. Hooper
Edward A. Horne
Dennis K. Howe
Paul A. Howes
John C. Howland
Harvey E. Huffman
Paul B. Hugenberg
William C. Hunt
William R. Hyatt
David H. Ingram
Erin L. Ireland, Jr.
Roger A. Jacobs
Richard L. Jaehne
Albert C. James, Jr.
Barry E. Jankiewicz
Joseph T. Jewell
Michael C. Jochum
Fred W. Johnson
Gerald E. Johnson
Maxwell O. Johnson
Richard W. Johnson
James D. Jones
Robert D. Jones
Robert C. Jonson
Michael A. Kalashian
Lawrence A. Kassin
Richard H. Kayser
Lawrence G. Kelly
Philip C. Kellogg
Michael B. Kelly
Lawrence H. Kener
Ernest M. Kimoto
Gary W. King
Charles H. Kinney
Samuel V. Kirk
Jack W. Klimp
David T. Knapp
William R. Knapp
Frank L. Kocevar
John L. Kosinski
Walter J. Kowalewski
Ellsworth R. Kramer
Dwight D. Kranz
Jon J. Kratz
Randall D. Krekeler
Michael L. Kudalis
Steven T. Kuykendall
Robert C. Labbe
Philip A. Lahlum
Robert D. Lankes
Roy A. Larkin
Ivan G. Larsh
Michael N. Lavelle
Richard A. Lawrence
Allan J. Leach
Thomas I. Leach
Frederick E. Leek
John W. Leslie
Stephen B. Leslie
William M. Liebenow
Robert W. List
Thomas E. Little
Lawrence H. Livingston
Charles M. Lohman
David M. Lohr
Andrew K. Long, Jr.
Theodore T. Long
Bruce L. Lorick
Thomas E. Loughlin
Connie B. Lovett
Robert K. Lunday
Bruce C. Lyon
Ross M. Macaskill
David B. Macfarlane
John M. Mack
Robert J. Mack
Kendall A. Madaras
James D. Majchrzak
Ronald A. Malmgren
John W. Mann
James A. Marapoti
Richard J. Marien
Ervin P. Martin
Jeffrey A. Marlin
James F. Martin
Robert P. Mauskapf
Craig L. Mayer
Charles W. Mayo
Michael R. McCarty
Charles W. McCoy, Jr.
Scott E. McDaniel
Charles R. McGill
John C. McKay
Robert F. McKiernan
Richard E. McLane II
Sidney F. McLaughlin
David D. McNally
Jon M. McNerney
Anthony R. Medley
Paul N. Meier
Stephen N. Melgaard
James M. Messer
Philip A. Messer
Robert H. Meyer
Robert F. Meyers
James J. Mietzel
Charles A. Millard
Charles G. Miller
Thomas O. Miller
Thomas S. Miller
Barry C. Milo
Charles P. Minor
Joseph A. Mitchell, Jr.
Christopher R. Mohr
Charles E. Moore
James B. Moore, Jr.
Michael C. Morschauser
Leonard J. Mrozak
Mark K. Mulder
Curtis W. Murray
John T. Murray
Terrence P. Murray
Clifford O. Myers III
Martin J. Nacrelli
John E. Neithammer
Garry D. Nelson
Robert R. Nelson
John F. Newhouse
Dominic Nicolosi, Jr.
Thomas E. Noel
Oliver L. North
Harvey R. Norton
Patrick A. Nourot
Timothy P. Nunan
William L. Nyland
Lon P. Oakes
Patrick P. Oates
Christopher C. Obanks
William P. O'Brien, Jr.
Bryan D. O'Connor
Steven J. Oder
Kent R. Oehm
Malcolm L. Ogilvie
John J. O'Leary
Willie J. Oler
John F. O'Neil
Jerry D. Owen
Mackubin T. Owens, Jr.
Nelson Paler
Steven S. Palmer
William M. Palmer
Thomas A. Pantke
Joseph F. Parker
John E. Parker
Michael L. Parks
Thomas L. Parrish
Michael L. Patrow
James R. Pazourek
George M. Pease
Charles A. Pelletier
John A. Penne
William C. Peoples
Donald N. Persky
Robert R. Petering
William G. Peters
Thomas H. Petersen
Ross T. Petersen
Harry W. Peterson III
Leslie B. Petty
Chester R. Pino
Richard L. Piper
Robert C. Plunkett
Simon Poljakow
Paul B. Pratt, Jr.
Gary A. Prentice
Kenneth D. Pricer
Theodore M. Printy
Lloyd H. Prosser
Richard L. Pugh
Jerry B. Pullium
William R. Purdy
Norman D. Raderer
Raymond C. Raece
James R. Ramsden
Arthur J. Rauchle, Jr.
John E. Ready
Joseph V. Reasbeck
John B. Reeside IV
Charles E. Reeves
Joseph D. Reich
Robert W. Reid
Victor F. Reston
Raymond B. Reynolds, Jr.
John E. Rice
Jesse W. Rigby
James P. Rigoulot
David B. Ripley
James D. Ritchie
James H. Roach
Joseph W. Roach
Marlen C. Robb
Kenneth M. Roberts
Leonard T. Roberts
Ray A. Roberts
William E. Roberts
Joe D. Robinson
Joe D. Robinson
Sands A. Robnick
Christian A. Rodatz
Earl C. Rodenberg
Bruce L. Rodgers
Wayne E. Rollings
Mark A. Roman
Jeffrey T. Ronald
Thomas H. Rouse
Clinton L. Rudesill
James A. Ruska
Tibor R. Saddler
Hayward L. Sawyer
Paul O. Schaefer
Marc A. Scheele
Edwin S. Schick
William H. Schopfel
John W. Schwab, Jr.
Lowell N. Schwankl
David N. Schweitzer
Joseph W. Seabrooke, Jr.
Irving E. Shafer III
Eric D. Shaffer
Edward N. Sibley
Colin B. Sillers
Goron L. Silliker
Herbert P. Silva
Charles H. Silver
Daniel C. Silver
Michael K. Simmons
Ralph E. Sinke, Jr.
Ronald C. Skelton
Douglas B. Skinner
Ronald D. Skow
Clyde E. Smith
Gilbert E. Smith
Lawrence W. Smith
Richard M. Smith
Terrance L. Smith
William A. Smith
Robert L. Snelson
Dennis L. Snook
George Solhan
Elmer R. Spears, Jr.
Hugh B. Speed
Mark S. Splain
Louis J. Stanislao
John J. Steger
William O. Steinberg
Peter R. Stenner
Jack E. Steury
Wayne L. Stevens
Charles E. Stewart
Michael D. Stewart
James V. Stiger
George F. St. John
Eric N. Steinbaugh
Dennis M. Storm
Robert D. Strouse
William H. Stubblefield
William J. Sublette
Tom E. Sulick, Jr.
Calvin L. Swanson
James B. Swartzenberg
Thomas W. Swihart
Michael B. Taggart
Joshua D. Tallentire
Thomas K. Tardy
James W. Taylor, Jr.
William M. Taylor
James P. Terry
Milton J. Teixeira

Allan G. Thaut
Daniel L. Thompson
Howard J. Thompson
Harry M. Thornley
Thomas H. Timberlake
William F. Titterud
Gary G. Todd
John R. Todd
Joseph B. Towle
George L. Townsend
Tompson R. Toyama
Thomas B. Trammell
Byron M. Trapnell
James N. Treadwell
Mark C. Treanor
Robert A. Tretsch, Jr.
Drake F. Trumpe
George E. Tucker
William T. Tucker
Thomas A. Turner
Thomas D. Turner
William A. Tweed
John W. Vagnetti
Edwin R. Valdez
Donald H. Valley
Dyrck H. Vandusen
Rondall L. Vanhoutan
Earnest A. Vanhuss
Richard W. Vaughn
Gerald J. Villano
Frederick W. Volcansek
James L. Volkmar
Kim A. Wahtera
Rudy J. Wadle
Stephen T. Waimey
Frank N. Waldrop
Patrick G. Waller
Roger P. Waniata
Buddy A. Ward
William D. Warren
Myron Wasiuta
James L. Watson
Harry B. Wease
Walter T. Weathers
James H. Webb
David L. Weber
Jefrey F. Weed
Terence A. Weigel
Laurance W. Wells
Charles T. Westcott
Newell J. Weston
William A. Wheeler
Robert L. Whitaker
Charles E. White
Edward P. Whitner
John F. Whittle
Douglas P. Wiita
Patrick D. Wilder
Dennis A. Williams
James M. Williams
John R. Williams
Leslie K. Williams
Rickey D. Williamson
Leonard H. Willis
Paul E. Wilson
Roger E. Wilson
Guy C. Windheim
James D. Wojtasek
Walter J. Wood
Claud V. Woodard
Thomas G. Woods
Waite W. Worden
Alin C. Worley
Eugene O. Wright
Wayne W. Wynkoop
William R. Wyser III
Joseph C. Yannessa
Fred J. Young
Richard I. Zabovnik
Edward R. Zaptin
Donald F. Zeller
Michael V. Ziehmn

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be captain

Aaron, Samuel A., XXXX
Abbott, Michael H., xxx-xx-xxxx
Ackels, Alden D., xxx-xx-xxxx
Adam, Leroy A., xxx-xx-xxxx
Adams, Curt H., Jr., xxx-xx-xxxx
Adams, Luther M., Jr., xxx-xx-xxxx
Adams, Richard M., xxx-xx-xxxx
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Ahern, Michael B., xxx-xx-xxxx
Ahrens, Roger W., xxx-xx-xxxx
Airy, James F., xxx-xx-xxxx
Albright, Carl W., xxx-xx-xxxx
Alexander, Edward G., xxx-xx-xxxx
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Allen, Richard B., xxx-xx-xxxx
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Allison, David B., xxx-xx-xxxx
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Almes, Edward W., xxx-xx-xxxx
Aman, Ronnie J., xxx-xx-xxxx
Ambrose, Richard S., xxx-xx-xxxx
Ammon, Stephen L., xxx-xx-xxxx
Anderson, Cecil T., xxx-xx-xxxx
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Appel, George C., Jr., xxx-xx-xxxx
Appler, Donald E., xxx-xx-xxxx
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Arentz, Richard T., xxx-xx-xxxx
Arkangel, Carmelito, xxx-xx-xxxx
Arlinsky, Harris D., xxx-xx-xxxx
Armenta, Hector, xxx-xx-xxxx
Armstrong, Douglas, xxx-xx-xxxx
Aron, Charles M., xxx-xx-xxxx
Arthur, Robert K., xxx-xx-xxxx
Ashley, Kenneth W., xxx-xx-xxxx
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Asplund, Ralph E., xxx-xx-xxxx
Atchley, Oscar L., II, xxx-xx-xxxx
August, Robert L., xxx-xx-xxxx
Ayres, Larry F., xxx-xx-xxxx
Babich, James M., xxx-xx-xxxx
Bacheldor, Ned W., xxx-xx-xxxx
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Baird, Raymond P., xxx-xx-xxxx
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Barber, Paul F., xxx-xx-xxxx
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Barker, Ballard M., xxx-xx-xxxx
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Barnes, Herbert E., xxx-xx-xxxx
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Bayliss, William A., xxx-xx-xxxx
Beard, Beau B., xxx-xx-xxxx
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Bisno, Chester J., xxx-xx-xxxx
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Black, Elbert C., III, xxx-xx-xxxx
Blacker, Blair K., xxx-xx-xxxx
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Cowan, James D., Jr., xxxx
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Fincher, Betty H., xxx-xx-xxxx
Larson, Jane S., xxx-xx-xxxx
Martin, Glenice J., xxx-xx-xxxx
Psimadis, Karen K., xxx-xx-xxxx
Ready, Peggy E., xxx-xx-xxxx
Roberts, Janice I. xxx-xx-xxxx
Spencer, Dorothy E., xxx-xx-xxxx

MEDICAL CORPS

To be captain

Finney, Jackie L., xxx-xx-xxxx
Fisherman, William H., xxx-xx-xxxx
Taylor, Ronald G., xxx-xx-xxxx

DENTAL CORPS

To be captain

Allen, Andrew L., xxx-xx-xxxx
La Bounty, Gary L., xxx-xx-xxxx
Oxford, Robert L., xxx-xx-xxxx
Stanford, Thomas W., xxx-xx-xxxx

VETERINARY CORPS

To be captain

La Fontain, Daniel xxx-xx-xxxx
Renne, Roger A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be captain

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ARMY NURSES CORPS

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To be captain

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Braswell, Leroy J., xxx-xx-xxxx
Brown, Clarence D., xxx-xx-xxxx
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HOUSE OF REPRESENTATIVES—*Wednesday, May 5, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be ye followers of God, as dear children, and walk in love.—Ephesians 5: 1.

Our Father God, amid the pressure of persistent problems and the demands of daily duties we are grateful for this quiet moment when we may be still and know that Thou art God. Bowing before the altar of Thy loving spirit may we have our souls restored and our spirits renewed.

As we turn to the tasks of this day deliver us from cynicism and cowardice and lead us to the higher ground of faith and hope where Thou art that we may be true leaders of our people in this trying time.

Guide with Thy peaceable wisdom those who in this Chamber take counsel for our Nation and those who take counsel for the nations of the world, that in tranquillity Thy kingdom may go forward, until the earth be filled with the knowledge of Thy love, through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5674. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide an increase in the appropriations authorization for the Commission on Marihuana and Drug Abuse.

The message also anounced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 421. An act to amend title 10, United States Code, to provide special health care benefits for certain surviving dependents;

S. 699. An act to require a radiotelephone on certain vessels while navigating upon specified waters of the United States; and

S. 860. An act relating to the Trust Territory of the Pacific Islands.

A COHESIVE DEMOCRATIC LEADERSHIP

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is axiomatic that you cannot believe all you hear—or read. Some of the columnists have embarked on a program to show that the Democratic leadership of the House is falling apart. It is not. It is