By Mr. HÉBERT (for himself and Mr. AREND):

H.R. 8356. A bill to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation; to the Committee on Armed Services.

By Mr. HENDERSON:

H.R. 8357. A bill concerning legal counsel of recipients of loans under programs administered by the Department of Agriculture; to the Committee on Agriculture.

H.R. 8358. A bill to amend the National Labor Relations Act with respect to its findings and policies, and for other purposes; to the Committee on Education and Labor.

H.R. 8359. A bill to amend the National Labor Relations Act to clarify judicial procedures standards, and for other purposes; to the Committee on Education and Labor.

By Mr. KASTENMEIER:

H.R. 8360. A bill requiring personal financial disclosure, and promoting public confidence in the legislative, executive, and judicial branches of the Government of the United States; to the Committee on the Judiciary.

By Mr. KUYKENDALL:

H.R. 8361. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Public Works.

By Mr. MATHIS of Georgia:

H.R. 8362. A bill to provide a penalty for the manufacture, sale, or display of the Vietcong flag; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.R. 8363. A bill to provide increased unemployment compensation benefits for Vietnam era veterans; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, and Mr. HASTINGS):

H.R. 8364. A bill to amend the Public Health Service Act so as to promote the public health by strengthening the national effort to conquer cancer; to the Committee on Interstate and Foreign Commerce.

By Mr. ROY:

H.R. 8365. A bill to provide for uniform and full disclosure of information with respect to the computation and payment of interest on certain savings deposits; to the Committee on Banking and Currency.

By Mr. CHARLES H. WILSON (for himself and Mr. GUDE):

H.R. 8366. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

By Mr. YATRON:

H.R. 8367. A bill to establish a National Environmental Bank, to authorize the issuance of U.S. environmental savings bonds, and to establish an environmental trust fund; to the Committee on Banking and Currency.

H.R. 8368. A bill to amend the Internal Revenue Code of 1954 to continue the investment tax credit for the first $20,000 of investment in each taxable year in a farming business; to the Committee on Ways and Means.

By Mr. YATRON (for himself, Mr. EILBERG, and Mr. HALPERN):

H.R. 8369. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for employers who hire unemployed Vietnam veterans; to the Committee on Ways and Means.

By Mr. DORN:

H.J. Res. 634. Joint resolution amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools and the improvement of existing medical schools affiliated with the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. FULTON of Tennessee:

H.J. Res. 635. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. LENNON:

H.J. Res. 636. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. PODELL:

H.J. Res. 637. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.J. Res. 638. Joint resolution authorizing the President to call an international conference to study the problems with respect to the development and use of supersonic aircraft; to the Committee on Interstate and Foreign Commerce.

By Mr. WIGGINS:

H.J. Res. 639. Joint resolution to authorize the President to issue a proclamation designating the week of October 18, 1971, through October 24, 1971, as "National Indian Week"; to the Committee on the Judiciary.

By Mr. ANDERSON of Tennessee:

H. Con. Res. 298. Concurrent resolution calling for the humane treatment and release of U.S. prisoners of war held by North Vietnam and its allies in Southeast Asia, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HECHLER of West Virginia:

H. Con. Res. 299. Concurrent resolution calling for the humane treatment and release of U.S. prisoners of war held by North Vietnam and its allies in Southeast Asia, and for other purposes; to the Committee on Foreign Affairs.

By Mr. REUSS:

H. Con. Res. 300. Concurrent resolution for an International Economic Conference; to the Committee on Banking and Currency.

By Mr. WOLFF:

H. Con. Res. 301. Concurrent resolution calling for the humane treatment and release of U.S. prisoners of war held by North Vietnam and its allies in Southeast Asia, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HUNGATE (for himself and Mrs. ABZUG):

H. Res. 439. Resolution to express the sense of the House on relationship between legislative and executive branches of the Government; to the Committee on Appropriations.

By Mr. HUNGATE (for himself, Mr. COLMER, Mr. FLOWERS, and Mr. HAYS):

H. Res. 440. Resolution to express the sense of the House on relationship between legislative and executive branches of the Govment; to the Committee on Appropriations.

By Mr. VANIK:

H. Res. 441. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of certain freight rates for the purpose of determining the feasibility of equalizing freight rates for certain primary and secondary production materials as an aid in the alleviation of the solid waste disposal problem; to the Committee on Rules.

MEMORIALS

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

169. By Mr. BARING: Memorial of the Senate and Assembly of the State of Nevada, jointly: That the Congress of the United States and the National Railroad Passenger Corp are hereby memorialized to reevaluate the decision to omit rail passenger service to Las Vegas, Nev., and to include that city in the proposed rail passenger network; to the Committee on Interstate and Foreign Commerce.

170. By the SPEAKER: Memorial of the Legislature of the State of Washington, relative to a claim by the State of Washington against the United States for the effective control of outdoor advertising along interstate highways; to the Committee on Public Works.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

72. By the SPEAKER: Petition of Edward J. Chwalek, Brunswick, Ga., relative to American prisoners of war in Southeast Asia; to the Committee on Foreign Affairs.

73. Petition of the Student Congress, California State College, California, Pa., relative to the war in Indochina; to the Committee on Foreign Affairs.

74. Also, petition of Lillian D. Yates, Los Angeles, Calif., relative to the Great Seal of the United States; to the Committee on the Judiciary.

SENATE—*Wednesday, May 12, 1971*

The Senate met at 10 a.m. and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

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

Our God, our help in ages past, our hope for years to come, as we struggle with the vexing problems of our day, teach us the lessons of history. Show us what the past has to say to the present about the future. Make known to us Thy plan and program for peace and justice in the world.

In this reverent moment once more we dedicate ourselves to Thy service. When Thy guidance shows us the right, give us the courage to do it. In private prayer and thought, as well as in public speech and action, make us instruments of peace and righteousness. And to Thee we ascribe all thanksgiving and praise. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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 12, 1971.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 11, 1971, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The assistant legislative clerk read the nomination of Norman Vickers Watson, of Florida, to be an Assistant Secretary of Housing and Urban Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

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.

THE AMERICAN DOLLAR ABROAD

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Daily News on Tuesday, May 11, 1971, entitled "Money Tangle in Europe," and also two editorials published in the Christian Science Monitor on the same date, one entitled "The Dollar: Actions Abroad," and the other "And Corrections at Home."

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

[From the Washington Daily News, May 11, 1971]

MONEY TANGLE IN EUROPE

It now appears the money "crisis" in Western Europe has passed its boil—altho confusion and uncertainty are still in the picture.

The long-run effect of the maneuvers which had the general effect of lowering the value of the dollar in the area may be beneficial in the end. Some economists, at least, think the pegged value of the dollar in relation to some European currencies was unnatural and eventually had to be adjusted.

By permitting the West German mark and the Dutch guilder to "float"—that is, take their chances in a free market—a more equitable relationship to the dollar may develop. This could have a generally stabilizing effect eventually.

But uncertainty and confusion in any market are unsettling and can affect current business and planning for the future. International commerce runs best when currencies are stable over long periods of time.

The U.S. Treasury has decided, for the present at least, to keep its cool, despite the threat to the dollar's value. Central banks in Europe appear to be following a similar policy—which bodes well for the ultimate outcome.

Leading bankers seem to think the "emergency" is over, but agree the "basic questions" are unchanged.

The "crisis" was provoked by huge speculations in which dollars were unloaded for other currencies, principally marks, on the gamble that the mark would be revalued upward. Instead, the Germans decided to let it loose to find its own level—which was upward in relation to the dollar.

The speculation was incited by an excess of American dollars in Europe. This excess, estimated at some $50 billion, was possible because the United States consistently has been spending more dollars overseas than it earns outside the country.

Expansion of U.S. businesses abroad, the Vietnam War, U.S. troops stationed in Europe, foreign aid, rising import of foreign-made goods and other factors have brought this about.

Where the cause is usually lies the cure. A much more vigorous effort to balance our international payments is urgent, plus a continued crackdown on inflation at home. The last week has provided ample warning.

[From the Christian Science Monitor, May 11, 1971]

THE DOLLAR: ACTIONS ABROAD

By revaluing upward the Swiss franc and Austrian schilling, and by setting afloat the value of the West German mark and Dutch guilder, Europe has done for the American dollar what Washington has been unwilling to do.

The Europeans, at cost of considerable strain on their own delicate international relationships, have in effect devalued the dollar.

Henceforth it will cost Americans more to buy European goods. Conversely, it will cost Europeans less to import American goods. This will help the United States right its imbalance of payments on the trade end, but not on the overseas investment and military spending ends—which is where the dollar outflow really occurs.

This is a messy way to seek a more realistic equilibrium between the dollar, which is the Western international key currency, and other Western European currencies. It has caused severe strains not only between Europe and the United States, but between France and West Germany and other members of the Common Market, at a time when they are trying to work out a common monetary union alongside their trading union.

Some adjustment was inevitable. In the last couple of years United States liquid reserves have gone down to about $14.3 billion against European credits estimated as high as $60 billion. West Germany, which alone holds more credits against the dollar than there are U.S. reserves available, just happened to be the nation that got hit by the "hot" dollar speculative rush last week. But the weekend decision by the Swiss, Austrians, and Dutch to revalue or set afloat their currencies was proof that the stabilizing mechanism set up by the Bretton Woods Agreement after World War II was not working.

The fault in last week's debacle was not Washington's alone. West Germany had failed to stem the speculative inflow of dollars which were attracted by higher interest rates and the expectation of a revaluation. This resulted in an expansion of the money supply by a staggering 22 percent this year.

This said, the dollar continues to be the key currency. And the United States continues to be the world's leading industrialized nation. It therefore falls to the United States to demonstrate exemplary posture in its custodial role as keeper of the international standard currency. This starts but does not end with two key responsibilities: curbing inflation at home, and stanching the outflow of dollars in the national balance of payments.

The responsibility is not one-sided. Europeans must demonstrate their own willingness to cooperate and coordinate in a process of continual readjustment that recognizes the internal stresses as well as the external responsibilities of each country. The goodwill and good sense manifested more than two decades ago at Bretton Woods must prevail again. There may have to be changes of tactics—such as allowing for more flexibility in the rather narrow margin within which currencies have been allowed to fluctuate.

But self-discipline at home and responsible use of credit abroad will continue to be the soundest basis for a workable international monetary system.

[From the Christian Science Monitor, May 11, 1971]

AND CORRECTIONS AT HOME

There may be many other contributing reasons behind the drop in the value of the dollar, but only one is really important. The political leadership in Washington has for six years tried to run a very expensive war "on the cuff" like the family that lives beyond its means.

The fault has been bipartisan. It was committed in the first case by Lyndon Johnson. In 1965 his economic and congressional leaders advised him to raise taxes and pay for the war as he went along. He refused, on the comforting theory that the overwhelming might of the American military machine would win the war before the cost began to hurt.

Richard Nixon promised his backers of 1968 that if elected he could cut taxes. Unlike some presidents who have put embarrassing campaign promises aside on getting to the White House, Mr. Nixon insisted on dropping the income surtax.

It is merely coincidental that Washington's European creditors chose to close down on easy credit (buying more dollars than they want or need at the old official rate) at the same time that Congress begins de-

bate on extension of the so-called "selective service" system, and an Army staff sergeant goes on trial for making a fortune out of Army PXs. But there is a connection among all these things.

Corrupt staff sergeants are just another surface manifestation of living beyond one's means.

The American Army is the most overstuffed in history. Thanks to the draft, it has become accustomed to more manpower that it ever needed. It lives extravagantly, in every way. Its greatest single extravagance has been to keep long-term volunteers largely in safe occupations while sending the drafted men into combat. Roughly nine out of ten combat riflemen in Vietnam have been draftees.

The Vietnam war was itself a luxury possible only because the draft existed.

The Army has been living high, on unlimited manpower. The Government has been living high, on fighting faraway frontier wars without enough taxation to carry them. And it all comes together in a day of reckoning. It's always like this sooner or later, for those who live beyond their means. The time comes when creditors cut off credit. That is precisely what the European bankers have done to Uncle Sam.

One way to prevent a recurrence will be to make sure that no president ever again commits half a million Americans to a faraway war as easily as President Johnson was allowed to do it.

And one way for Congress to do that will be to take a very careful look at the draft. Perhaps it has to be extended for another year or two; but it need not be extended indefinitely, nor need a president be able to use it at his discretion for wars beyond the country's resources.

THE MILITARY SELECTIVE SERVICE ACT

Mr. MANSFIELD. Mr. President, so that the Senate will be informed of the position of the Senator from Montana on the amendment which he offered and all amendments thereto, I am prepared to vote on any and all of them as expeditiously as possible—10 minutes after the morning hour is concluded, or 1 hour, 2 hours, or late in the day.

I do not intend to do anything to stall the consideration of the bill now under discussion, which is quite important and has a termination date. I want the RECORD to show that, so far as the Senator from Montana is concerned, on this and other amendments, he is prepared to vote as expeditiously as possible and is willing to enter into any kind of time agreements and will do all that he can as majority leader to bring the bill to a head before it expires on June 30 of this year.

May I say that today would be a good day to start voting on the Mansfield amendment, the Mathias amendment as a substitute, and other substitutes, and amendments thereto, because so far as the Democrats are concerned, and I think it applies to the Republicans as well, we have an extraordinary number of our Members present today.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. CHILES). The Chair would inquire of the Senator from Oregon (Mr. PACKWOOD), is he the acting minority leader today?

Mr. PACKWOOD. That is correct, Mr. President.

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

(The remarks of Mr. HUGHES when he introduced S. 1835 and S. 1836 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. CHILES). Pursuant to the previous order the Senator from Tennessee (Mr. BROCK) is recognized.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time allotted to the Senator from Tennessee be vacated without prejudice to the able Senator from Oklahoma (Mr. BELLMON).

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

The Senator from Oklahoma is recognized for not to exceed 15 minutes.

(The remarks of Mr. BELLMON when he introduced S. 1837 appear in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order previously entered recognizing the able Senator from Michigan (Mr. GRIFFIN) at this time for 15 minutes be vacated.

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

The Senator from New York is recognized for 15 minutes.

(The remarks of Mr. JAVITS when he submitted Senate Concurrent Resolution 25 appear in the section of the RECORD devoted to the transaction of routine morning business under the heading Senate Concurrent Resolution 25—Submission of a concurrent resolution to call for an international monetary conference.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Chair recognizes the Senator from Connecticut (Mr. WEICKER) for a period not to exceed 15 minutes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing the able Senator from Connecticut (Mr. WEICKER) at this time be vacated.

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

Under the previous order, the Senator from Alaska (Mr. GRAVEL) is recognized for a period not to exceed 15 minutes.

THE WELFARE PROBLEM

Mr. GRAVEL. Mr. President, today I should like to discuss an article written by Mr. Carl T. Rowan that appeared in the newspapers not too long ago, less than 2 weeks ago. It is an interesting article because it addresses itself to a subject which has been very much in the news of late. The subject of the article is the problems of welfare that this Nation faces.

Welfare is a subject that has been discussed at great length, in very strong political terms, by the Governor of California and the President of the United States.

I should like to read this article, because I think it would be difficult to enlarge upon the points that are made:

A few weeks ago I wrote a column debunking some of the myths about welfare.

I got nice letters of thanks from a couple of high-level federal officials who see these myths as preventing public and congressional acceptance of President Nixon's welfare reform plan.

But who turns up on the political stump breathing new life into the worst of myths? Richard M. Nixon himself.

With California's Ronald Reagan beaming proudly, Mr. Nixon gave welfare reform "No. 1 priority" in his speech to Republican governors, but he was back accentuating the negatives with which he drove away liberal support last year.

"I do not think we can tolerate a system under which working people can be made to feel like fools by those who will not work, he said.

He put new lyrics to the same tune by asserting that he wants a plan that helps "those who need it" but not "those who are able to help themselves and refuse to do so."

Perhaps this was just rhetoric reaching for the support of conservatives who oppose Mr. Nixon's Family Assistance Plan. But it is futile, because most of these conservatives don't want *any* welfare plan.

And this rhetoric is alienating responsible groups like the League of Women Voters, and liberal congressmen, all of them disturbed by the antiwelfare tenor of the White House approach.

I want to underscore this antiwelfare aspect, because if you take examples and overexaggerate your effort with respect to these examples, obviously those who listen to you will come away only with these extreme examples and not with a very well adjusted view as to what the total problem is. Unfortunately, this is being done by the present administration.

I continue reading the article:

This self-defeating strategy raises the question of whether Mr. Nixon really wants welfare reform that puts a floor of decency under every family, or whether he is building a case to make the welfare burden a major campaign issue in 1972.

There is no denying that welfare costs are stupendous and still growing. But the welfare burden reflects a variety of ills in this society, from high unemployment, poor education of the poor, racial discrimination, to greater sexual permissiveness with accompanying illegitimacy. To solve the welfare dilemma requires meeting these challenges,

and not just the passage of repressive laws that say welfare recipients must scrub floors and empty bed pans for $1.20 an hour because the President says those jobs are just as dignified as his.

North Carolina's State Department of Social Services recently issued an enlightening report about some myths and facts regarding welfare in that state. Ponder these excerpts:

MYTH. "They're getting rich on welfare."

FACT. The average monthly benefit under the Aid to Families with Dependent Children is $116.53. The non-farm poverty level for a family of four is $312 a month.

MYTH. Most AFDC families contain men who don't work.

FACT. Of the nearly 145,000 AFDC recipients in North Carolina in December 1970, there were no able-bodied men. About 6,300, or 4 percent, were incapacitated fathers. The remaining recipients were women with children.

MYTH. Practically all welfare recipients are black.

FACT. 46.8 percent of the welfare cases in December 1970 were white, 51.8 percent were black, and 1.4 were other races.

MYTH. AFDC mothers keep having children to get more benefits.

If I have heard that myth once, I have heard it a thousand times.

Continuing to read:

FACT. The number of children per AFDC family has declined from 3.1 in December 1961 to 2.8 in December 1970. The latest social services department statistics indicate that about 3.4 percent of children in AFDC families were born after the mother went on the rolls.

MYTH. Welfare recipients are lazy and do not want to work.

FACT. 26.4 percent of AFDC mothers are employed or actively seeking work, 19.8 percent are unemployed because of a physical or mental handicap, 12.5 percent are unemployed because they have no marketable skill, 20.8 percent are unemployed because they must stay at home as a homemaker.

Now this is what is so interesting, Mr. President:

The picture is about the same in other states. Can't someone get the facts to the President and get him off this Horatio Alger ethic that feeds on myths?

He says the picture is about the same in every other State as has just been described in North Carolina, that is, that we are faced with more myths than we are with facts.

Let me interject there, Mr. President, that Horatio Alger ethics are myths, in my mind, reminiscent of our society at the turn of the century when we had child labor, 8- and 9-year-old children working in the mines. It is a myth that, in fact, does not elevate the dignity of individuals, but projects a society based upon a dog-eat-cat, laissez faire economic theory, with the survival of the fittest.

Let me restate that last paragraph of this very fine article:

The picture is about the same in other states. Can't someone get the facts to the President and get him off this Horatio Alger ethic that feeds on myths?

Only when they do will we have a chance at meaningful welfare reform.

Mr. President, how much time remains to me?

The PRESIDING OFFICER (Mr. STEVENSON). Six minutes remain to the Senator from Alaska.

Mr. GRAVEL. I thank the Chair.

THE MILITARY SELECTIVE ACT—THE MANSFIELD AMENDMENT

Mr. GRAVEL. Mr. President, I should like to take a few moments to bring to the attention of the Senate a short article published in the Wall Street Journal of today with reference to the amendment of the Senator from Montana (Mr. MANSFIELD) to the Military Selective Service Act of 1967.

In the third paragraph, it states:

The Nixon administration strongly opposes Senator Mansfield's amendment, and some of the President's Senate allies are suggesting the whole draft-extension bill may be vetoed if the amendment passes the Senate and House.

Mr. President, may I convey my view that if that is going to be the strategy of the administration, then, of course, what would be done is that the President would be vetoing an extension of the draft itself. If that is going to be the case, then I certainly welcome him to our ranks in his feeling that the draft should not be extended, since he campaigned strongly on that in 1968, stating that he would, if elected, drop the draft. He now has an opportunity, some 2½ years later, to make that promise good.

In fact, earlier this year, he praised the Gates Commission—which is, of course, one of the finest commissions which made a most definitive study of this problem, and recommended that we could have an all-volunteer army. I would hope we could now dispense with the rhetoric and get to the action. I hope that the President, one, will keep the promise he made during the last campaign and, two, will stand by the statement he made earlier this year, when he stated that the recommendations of the Gates Commission were fine. Those recommendations indicate that we could have an all-volunteer army, that we need not extend the draft, and that we could permit the draft to expire on June 30.

Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with a limitation of 3 minutes for each Senator being recognized.

ORDER FOR RECOGNITION OF SENATOR GRAVEL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on tomorrow, immediately following the recognition of the two leaders under the standing order, the distinguished junior Senator from Alaska (Mr. GRAVEL) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT UNTIL 10 O'CLOCK 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 10 a.m. tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, upon the completion of the orders recognizing Senators, there be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes; upon the conclusion of which the unfinished business, H.R. 6531, be laid before the Senate.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CHILES) laid before the Senate the following letters, which were referred as indicated:

OFFICERS DETAILED TO ARMY GENERAL STAFF

A letter from the Secretary of the Army transmitting, pursuant to law, reports of the number of officers on duty with Headquarters, Department of the Army and detailed to the Army General Staff on March 31, 1971 (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO NATIONAL GUARD TECHNICIANS

A letter from the General Counsel of the Department of Defense, submitting a draft of proposed legislation to amend title 32, United States Code, relating to National Guard technicians (with accompanying papers); to the Committee on Armed Services.

PROPOSED CONCESSION CONTRACT WITH UNITED SUBSIDIARY, INC.

A letter from the Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract under which United Subsidiary, Inc., will be authorized to provide lodging, food, and marine accommodations, facilities, and services for the public at Echo Bay site of Lake Mead National Recreation Area, Nevada, for a term of approximately 20 years from the execution date of the contract through December 31, 1989, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF THE GOVERNMENT COMPTROLLER FOR GUAM

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, the second annual report of the Government

Comptroller for Guam for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON THE LIBRARY OF CONGRESS AND COPYRIGHT OFFICE

A letter from the Librarian of Congress transmitting, pursuant to law, a report on the Library of Congress, including the Copyright Office, for the fiscal year ending June 30, 1970 (with accompanying papers); to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

S. 1681. A bill to liberalize eligibility for cost-of-living increases in civil service retirement annuities (Rept. No. 92–103).

By Mr. ALLOTT, for Mr. DOMINICK, from the Committee on Labor and Public Welfare, without amendment:

S. 390. A bill to amend the Higher Education Act of 1965 in order to provide for a U.S. Foreign Service scholarship program (Rept. No. 92–104). Referred to the Committee on Foreign Relations.

Mr. ALLOTT. Mr. President, on behalf of Senator DOMINICK, I submit a report from the Committee on Labor and Public Welfare concerning the U.S. Foreign Service Scholarship Program Act, and ask that it be printed.

Further, I ask unanimous consent that the bill, S. 390, be referred to the Committee on Foreign Relations for a time certain period of 42 calendar days, at the conclusion of which the bill is to be reported to the Senate.

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

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. PACKWOOD:

S. 1834. A bill to provide for payment to the State of Oregon of amounts equal to the Federal taxes and customs duties which had been paid on certain alcoholic beverages destroyed on account of fire. Referred to the Committee on the Judiciary.

By Mr. HUGHES (for himself, Mr. WILLIAMS, and Mr. JAVITS):

S. 1835. A bill to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence. Referred to the Committee on Labor and Public Welfare.

S. 1836. A bill to provide a comprehensive Federal program for the treatment of rehabilitation of drug dependent Federal offenders. Referred to the Committee on Labor and Public Welfare; and, when reported, to be referred to the Committee on the Judiciary, if so desired by that committee.

By Mr. BELLMON:

S. 1837. A bill to provide for the establishment of a work experience and training program in the several States, and for other purposes. Referred to the Committee on Finance (by unanimous consent).

By Mr. TALMADGE (by request):

S. 1838. A bill to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. CANNON (for himself, Mr. FANNIN, and Mr. BAYH):

S. 1839. A bill to authorize and direct the Administrator of the General Services Administration to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia; and

S. 1840. A bill to authorize and direct the Secretary of Defense and the Administrator of the General Services Administration to insure the procurement and use by the Federal Government of products manufactured from recycled materials. Referred to the Committee on Government Operations.

By Mr. SCOTT (for himself and Mr. SCHWEIKER):

S. 1841. A bill to provide for the establishment of the Tinicum Environmental Center in the Commonwealth of Pennsylvania, and for other purposes. Referred to the Committee on Commerce.

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

S. 1842. A bill to reimburse the city of Frederick, Md., for money paid, saving harmless valuable military and hospital supplies owned by the U.S. Government. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 1843. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals, and to impose a countervailing duty on imported minerals. Referred to the Committee on Finance.

By Mr. GOLDWATER:

S. 1844. A bill to amend the National Labor Relations Act to further secure and protect the constitutional guarantee of free speech belonging to employers and employees. Referred to the Committee on Labor and Public Welfare.

By Mr. EASTLAND:

S. 1845. A bill for the relief of Capt. Claire E. Brou. Referred to the Committee on the Judiciary.

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

S. 1846. A bill to establish a Coal Gasification Development Corporation, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 1847. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain drugs under the insurance program established by part A of such title. Referred to the Committee on Finance.

By Mr. HARTKE:

S. 1848. A bill to provide for uniform and full disclosures of information with respect to the computation and payment of interest on certain savings deposits. Referred to the Committee on Banking, Housing and Urban Affairs.

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

S. 1849. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, in Montana, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 1850. A bill for the relief of Giuseppe Di Leonardo. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 1851. A bill to amend the Internal Revenue Code of 1954 to prohibit the deduction of illegal bribes and kickbacks. Referred to the Committee on Finance.

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

S. 1852. A bill to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ALLOTT (for himself, Mr. BENNETT, Mr. JAVITS, and Mr. STEVENS):

S. 1853. A bill to terminate and to direct the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve No. 4, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK:

S. 1854. A bill to increase the Government's contribution to the costs of health benefits insurance for Federal employees. Referred to the Committee on Post Office and Civil Service.

By Mr. HOLLINGS:

S.J. Res. 96. A joint resolution expressing the support of the Congress that a Conference of Experts be convened in early 1972 to make recommendations on ocean dumping to the 1972 United Nations Conference on the Human Environment. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD:

S. 1834. A bill to provide for payment to the State of Oregon of amounts equal to the Federal taxes and customs duties which had been paid on certain alcoholic beverages destroyed on account of fire. Referred to the Committee on the Judiciary.

Mr. PACKWOOD. Mr. President, the State of Oregon is one of many States which limits the sale of alcoholic beverages to State-owned and operated facilities. On three occasions in the last 10 years, fires have occurred in its warehousing facilities where liquor in bottles was condemned by the Food and Drug Administration because contaminated water soaked through the cartons containing the bottles.

The tax on this bottled liquor had been paid by the State of Oregon.

The State of Oregon also operates on a self-insurance program on State property. Therefore, the tax on the bottled liquor which has been destroyed at the instance of the Food and Drug Administration is in effect forfeited.

A quirk in the Internal Revenue Code precludes the refund of taxes paid on this unconsumed liquor. Had the liquor been destroyed as a result of a natural disaster such as flood or wind storm, the taxes paid would have been automatically refunded. However the Internal Revenue Code does not provide for a refund in the event of a fire.

I believe that this is one of those peculiarities which now and then creep into the law. Whereas fire may not be classified as a "natural disaster," it is a disaster nonetheless, and the people of

the State of Oregon collectively should not be penalized for the taxes and duties paid on this unconsumed liquor.

Therefore, I am today introducing a bill to provide for payment to the State of Oregon of amounts equal to the Federal taxes and customs duties which had been paid on these alcoholic beverages destroyed at the direction of the Federal Food and Drug Administration, because the cartons containing the bottles had been contaminated by water which had soaked through the cartons.

The intent of the Congress in assessing a Federal tax on alcoholic beverage is that it be paid by the consumer. Because of the specific fires and subsequent contamination, this liquor was not consumed, and it seems to me that whether the cause of contamination was a natural disaster or a fire is moot. The fact is that the liquor was not consumed, and accordingly the tax should not be collected.

Mr. President, I request unanimous consent to include as part of this record a letter dated February 15, 1971, from Robert G. Davis, executive assistant to the Governor of Oregon and a copy of a letter dated March 17, 1971, from the Internal Revenue Service. Both of these letters indicate that because of the manner in which Internal Revenue Code is written, Congress is the only source of redress.

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

OFFICE OF THE GOVERNOR,
Salem, Oreg., February 15, 1971.

Hon. ROBERT PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR BOB: The State of Oregon, Department of General Services, operates a self-insurance program on state property known as the Restoration Fund. On three occasions, the Oregon Liquor Control Commission has had fire losses where liquor in bottles was condemned because contaminated water had soaked through the cartons containing the bottles. The Fund has reimbursed the OLCC in full for their cost, including taxes and duties.

The Oregon Liquor Control Commission and the Department of General Services have been unable to secure a refund from the United States Government for taxes and duties paid on the alcoholic contents which were destroyed at the request of the Federal Food and Drug Administration inspector.

The reason given is that none of the fires are qualified under the refund code of the U.S. Internal Revenue Service. In case of a natural disaster, we have been refunded in full for taxes and duties on liquor involved in floods as the President of the United States declared the areas eligible for federal aid under certain public laws.

This Department, as administrator of the State Restoration Fund, feels that the State of Oregon should be refunded taxes and duties paid to the United States Government on unconsumed alcoholic beverages which were destroyed on order of the Federal Food and Drug Administration.

Three fire losses are involved:

	Taxes and duties only
August 28, 1962, Eugene, Oreg	$22,863.48
September 18, 1965, The Dalles, Oreg	26,111.97
November 6, 1969, Rockaway, Oreg	5,267.72
Total	54,243.17

A spokesman for the Internal Revenue Service suggested that a member of the Oregon Congressional delegation could possibly initiate action which would result in payment to the state. We would certainly appreciate any help you can give in this matter.

Sincerely,

ROBERT G. DAVIS,
Executive Assistant.

INTERNAL REVENUE SERVICE,
Washington, D.C., March 17, 1971.

Hon. ROBERT PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: We have reviewed the letter from the office of the Governor of the State of Oregon which you forwarded with your letter of March 8, 1971.

We can readily appreciate that to the Governor and his staff it well might seem that the Federal Government is bound in equity to reimburse the State for the tax on the destroyed liquors mentioned in the Governors' letter, since it was an agency of the Federal Government (the Food and Drug Administration) which insisted that the liquors be destroyed. We feel it is worth mentioning, however, that the actual loss in the marketable value of the liquors was caused by the fire damage which preceded the FDA action, and that the FDA request for physical destruction of such liquors was merely the final result of the fire damage. It seems probable that the State's own health authorities would have ordered the liquors destroyed if the FDA had not already initiated action toward that end.

The granting of a refund of taxes is a privilege which can be extended only by the Congress, and although the Congress has provided authority for the Internal Revenue Service to refund taxes on liquors under certain other circumstances (such as for losses caused by major disasters) it has not so provided in respect of circumstances such as those described in the Governor's letter to you.

We sincerely regret that we cannot give you a more favorable reply but, as you can see from the foregoing discussion, we are without authority to grant a refund in this case.

The copy of the Governor's letter which you sent us is returned for your file.

Sincerely yours,

REX D. DAVIS,
Acting Director,
Alcohol, Tobacco and Firearms Division.

Mr. PACKWOOD. Mr. President, although the amount involved is relatively small, the principle involved is significant. The taxpayers of the State of Oregon, collectively, should be reimbursed in the amount of $54,243.17, which sum represents the amount of Federal taxes and custom duties which had been paid by the Oregon Liquor Control Commission on bottled liquor destroyed by order of the Federal Food and Drug Administration as a result of water contamination subsequent to a fire in a storage facility.

By Mr. HUGHES (for himself, Mr. WILLIAMS, and Mr. JAVITS):

S. 1835. A bill to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence. Referred to the Committee on Labor and Public Welfare.

S. 1836. A bill to provide a comprehensive Federal program for the treatment and rehabilitation of drug dependent Federal offenders. Referred to the Committee on Labor and Public Welfare; and when reported, to be referred to the Committee on the Judiciary, if so desired by that committee.

FEDERAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1971 AND DRUG DEPENDENT OFFENDERS TREATMENT AND REHABILITATION ACT OF 1971

Mr. HUGHES. Mr. President, we have reached the stage where it is no longer necessary to discuss at length the magnitude of the drug abuse problem in the United States. It now infects all social levels, regional categories, and age groups of our society. It is continuing to grow rapidly and seemingly uncontrollably, particularly among the young people of America and in our Armed Forces.

Everywhere in America, parents are sick and scared about the exposure of their sons and daughters to the illicit use of drugs. Witness after witness, appearing before the Subcommittee on Alcoholism and Narcotics, which I chair, has verified that what we have on our hands is a public health tragedy of epidemic proportions.

My subcommittee, during the past 2 years, has found that the number of drug abusers and experimenters is increasing at a rate that seems to be one of almost geometric progression; that drug use is spreading to ever younger children—especially in the elementary grades in our large cities; that hard narcotics have invaded the suburbs and the small towns of virtually every part of the country; that the entire range of drugs—including, again, hard narcotics—are being abused by large numbers of our servicemen; that a dramatically increasing number of substances are being used to induce kicks; and that drugs are being employed in more and more weird and increasingly dangerous combinations. It is, in short, a national nightmare.

But the strangest and most frustrating phenomenon of all is that while our private fears about the drug problem reach a fever pitch, our action to meet the problem on the governmental level has been and continues to be token. It should be self-evident that what we require now is not tokenism or continued wrangling over what is needed, but a massive, across-the-board attack on the source of the problem—the addiction itself. The legislation which I am introducing today can provide the necessary framework for that action.

I would like to introduce two pieces of legislation for myself, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS). The first is a bill entitled the "Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1971;" the second is a bill entitled the "Drug Dependent Offenders Treatment and Rehabilitation Act of 1971." I send these two bills to the desk, and ask unanimous consent that they be referred to the Committee on Labor and Public Welfare, with the understanding that the second bill, the "Drug Dependent Offenders Treatment and Rehabilitation Act of 1971," will be rereferred to the Judiciary Committee, should that be the desire of that committee.

The ACTING PRESIDENT pro tempore (Mr. CHILES). Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I also ask unanimous consent that a section-by-section analysis of each of these bills, along with the bills themselves, be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibits 1, 2, 3, and 4.)

Mr. HUGHES. Mr. President, the first piece of legislation which we are introducing, the "Federal Drug Abuse and Drug Dependence Prevention, Treatment and Rehabilitation Act of 1971," is similar to the comprehensive drug bill which I introduced last year. That legislation was successfully attached, in the Senate, as a substitute title to another bill. Its provisions were, to a great extent, lost in conference, however. It was then passed by the Senate as a separate piece of legislation by a vote of 86–0. No further action was taken on the bill by the House.

The legislation is also similar to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (S. 3835), which was cosponsored by 52 Senators last year and which the President signed into law on December 31, 1970.

Briefly, the bill:

Establishes a National Institute of Drug Abuse and Drug Dependence in the Public Health Service, and spells out the range of responsibilities of the Institute;

Authorizes an emergency supplemental State assistance program totaling $100 million over the next 3 years to provide temporary aid to States in planning, establishing, maintaining, coordinating and evaluating prevention, treatment, and rehabilitation projects. The annual authorizations are: $15 million for fiscal 1972, $35 million for fiscal 1973, and $50 million for fiscal 1974.

Authorizes a model and experimental treatment and rehabilitation grant program totaling $150 million over the next 3 years, to allow the Secretary to establish, conduct, and evaluate model and experimental treatment and rehabilitation programs. The annual authorizations for this purpose are: $25 million for fiscal 1972, $50 million for fiscal 1973, and $75 milion for fiscal 1974.

Requires that the U.S. Civil Service Commission establish drug abuse and drug dependence prevention, treatment, and rehabilitation programs for Federal civilian employees, and guarantee employees with drug dependence the same employment conditions and benefits as persons who are ill from other causes;

Requires an annual report by the Secretary of HEW, which will, first, contain a detailed, comprehensive Federal plan for utilizing all available prevention and treatment resources to combat the drug problem from the prevention and treatment point of view; second, describe the various existent model and experimental methods of treatment and rehabilitation, their advantages and disadvantages, and make recommendations for communities as to their implementation; and third, set forth the Federal programs conducted, expenditures made, results achieved, plans developed and problems discovered in the operation and coordination of the various Federal prevention, treatment and rehabilitation programs; and

Finally, the bill establishes an independent National Advisory Council on Drug Abuse and Drug Dependence, to insure outside evaluation of Federal efforts in this area.

The second piece of legislation which we are introducing, the "Drug Dependent Offenders Treatment and Rehabilitation Act of 1971," would replace present legislation—certain provisions of the Narcotic Addict Rehabilitation Act of 1966—providing treatment and rehabilitation services to drug dependent persons charged with or convicted of violating Federal criminal laws with updated and stronger legislative provisions. The bill would continue the same basic policy of treatment and rehabilitation contained in existing law, but it would greatly expand the number of persons eligible for such treatment and rehabilitation and would make the Federal Government's obligations to carry out that policy more definite. More specifically, the bill would:

Broaden the number of offenders eligible for treatment, to include all drug dependent persons who are Federal offenders;

It would make more definite the Federal Government's obligations to carry out treatment of such persons by limiting the area within which the Government can exercise its discretion to not allow treatment;

It would authorize a State and local development program totaling $150 million over the next 3 years, to assist State and local governments in developing, expanding, or evaluating programs providing treatment and rehabilitation services to State and local offenders charged with or convicted of drug related crimes; and

It would repeal provisions authorizing civil commitment of nonoffenders, placing the responsibility of providing such services on State and local governments.

Mr. President, I do not claim by any means that these two pieces of legislation are the "magic bullets" that will cut down the drug problem in America; nor do I claim that they cannot be improved upon as we go into hearings and mark up on the bills. In fact, there are certain sections of the bill dealing with Federal offenders which I myself want to review carefully again. So I am hopeful that we will have healthy comment and criticism from all sides as we move. I do claim, however, that it is time that the Federal Government got moving on a scale never seriously envisioned before. This legislation constitutes a move to provide the kind of framework essential to get that movement underway.

Let me explain what I mean.

It is beyond contention that in dealing with the abuse and illicit distribution of narcotics and dangerous drugs, stern laws and strict enforcement are essential. But the most efficient system of enforcement and punishment cannot do the job alone.

A civilized society in the late 20th century recognizes that narcotics addicts and people who abuse drugs—including the most widely abused drug of all, alcohol—are sick people and not necessarily criminals.

It is also well known that a great many addicts resort to criminal acts simply to support the considerable financial burden of their addiction.

It would seem logical that if we recognize the seriousness of the drug problem in the United States and its contribution to crime and if we realize that drug addiction is a sickness, we would be determined to make a maximum public effort to prevent, cure, or control this sickness.

After all, if we send a narcotics addict to jail, he will eventually be released—the only question is when—only to return to society and to his addiction—and usually to a life of crime to support the costly habit he has incurred.

The truth of the matter is, however, that despite some scattered highly dedicated work at National, State, and local levels, we have made only token inroads toward getting at this urgent health problem at its source.

It seems that we are willing to spend almost any amount of public funds to punish the addict, but a pitifully small amount to provide the professional services he needs to kick the habit, or preventive programs that might have enabled him to avoid becoming addicted in the first place.

The two bills I am introducing today place the emphasis on this realistic approach.

The "Federal Drug Abuse and Drug Dependence Treatment and Rehabilitation Act" establishes a National Institute on Drug Abuse. The reasons such an institute is necessary are numerous. An commensurate with the magnitude of this health problem—and it is a tremendous problem—command the funding which is necessary in this field; establish the visability necessary to provide a strong program of public education and to develop public attention and concern about this important health area; serve as a coordination vehicle for the mixed prevention and treatment and rehabilitation programs presently in existence and for the programs created by this act; provide the administrative structure necessary to attract a broad cross section of individuals of varied expertise who are able to assist in solving drug problems; and will have a permanent statutory status which will assist the development of the most qualified staff possible in the Federal Government in this area.

The Treatment and Rehabilitation Act also authorizes an Emergency Supplemental State Assistance program, totaling $100 million over the next 3 years and a Model and Experimental Treatment and Rehabilitation grant program totaling $150 million over the next 3 years to plan, develop, conduct and evaluate prevention, treatment, and rehabilitation programs.

There is absolutely no question about the dire need for these funds. Time after

time—in personal conversations without constituents, in correspondence, and in our hearings, we have heard eloquent testimony of the need for assistance. Just last week my own subcommittee heard testimony from a panel of six mayors, representing the Legislative Action Committee of the U.S. Conference of Mayors, tell of the tragic lack of assistance and of their resultant incapability to act in these areas of national tragedy.

The story among our States is similar—and certainly it is here where planning and coordination of programs is most critical.

But the loudest and most persuasive cry is from individual citizens who are trapped by this problem, want out, and have no place to go but to the streets and to a tortured life of crime committed to support the deadly craving of their addiction.

The Treatment and Rehabilitation Act also requires that the U.S. Civil Service Commission establish drug abuse and drug dependence prevention, treatment, and rehabilitation programs for Federal civilian employees. Here, as in the area of alcoholism programs for our Federal employees, we have sadly failed to exercise Federal leadership in furnishing a way out to our own employees—while asking that private industry do this for their employees.

The legislation also requires an annual report by the Secretary, which requires a detailed, comprehensive report on how the activities of various branches of Government which have drug programs—HUD, OEO, Office of Education, NIMH, the Veterans' Administration, the Office of Transportation, and so on—are being coordinated in a single plan of attack on the drug epidemic; what each such program is spending; the results achieved; and recommendations made. The fact is that these activities are overlapping, often in conflict, and are sadly uncoordinated. There is not even a document available for distribution to interested States, cities, and citizens which spells out where our drug and drug-related programs are in the Government, who is in charge of them, what Federal assistance or direct programs they administer, and so on. No wonder our local and State officials are frustrated and angry about this area. They have every right to be.

The annual report also requires that the Secretary describe the various existant model and experimental methods of treatment and rehabilitation, their advantages and disadvantages, and make recommendations for communities as to their implementation. If the Federal Government is to be a clearinghouse for this type of information—and it already claims to be—then it is time that we got busy and disseminated it to our communities. This provision would insure that that necessary service is finally carried out.

The "Drug Dependent Offenders Treatment and Rehabilitation Act of 1971" would serve to greatly increase the number of persons eligible for treatment and rehabilitation services among those charged with Federal crimes. It would also make more definite the Federal Government's obligations to provide such treatment and rehabilitation services.

If there ever was an area where we have remained shortsighted, and let our emotions dictate our actions, it is here. The price we have been paying as a society for essentially ignoring the drug priorities in our prisons is almost beyond comprehension. HEW officials testifying before our subcommittee last week doubled their estimates of persons addicted to narcotics. They said 250,000 people in this country are addicted to heroin. The figure is, I am convinced, a country mile short of the mark, and far short of reality. There are probably that many addicts and more in New York City, if we could find them and register them—probably in Harlem alone. But even assuming that figure and a $40 a day habit, a minimal figure, there is a cost of $10 million a day.

If it takes three times that amount in stolen property to obtain money—and it actually takes three to five times the value of the stolen property—then we are talking about $30 million worth of crime a day—every day of the week, every week of the month, every month of the year. As I say, the real number of addicts is many times higher, and so is the cost we are actually paying.

But the cost in terms of crime is only the beginning, the quantifiable factors associated with narcotic abuse include costs for law enforcement, lost productivity, and welfare costs associated with broken families and unemployed abusers. Government authorities have estimated that the total of involuntary social costs of narcotic drug abuse alone amounts to $541 million per year. The figure is far higher than that.

But the greatest price of all is the price we are paying in terms of human life—the lives of the many hundreds of thousands of narcotics addicts and other drug abusers who lead a terrified existence in the shadows of society; half alive and bereft of hope.

We have placed our hopes in our prison system and we have continued to increase our emphasis on law enforcement efforts to put our drug offenders there. We have deluded ourselves into thinking that when that was done, we had somehow taken a step toward solving the drug problem. Nothing could be further from the truth.

Our prisons are a national scandal. Nineteen out of every 20 persons who are sent to prison eventually return to society. Obviously what happens to these persons while they are there is critical. In many instances, they return to society in far worse shape than when they left. In nearly all instances there are no treatment and rehabilitation programs available for the addict. In New York City, a recent survey revealed that 70 percent of the inmates of the city jail were addicts and that approximately 95 percent of these individuals will return to heroin use upon their release. The New York situation is far from uncommon.

It has been estimated that between 50 and 60 percent of the inmates in our big city jails are narcotics addicts and that once they are released that there is a 70–90 percent chance that they will return within 1 year.

Time after time in our subcommittee hearings we have heard testimony that drugs of virtually every type were available within our prisons. In some instances, it was stated, they were more readily available there than on the outside. We had testimony from a young man who, as a boy, first got hooked on heroin in a boys' detention home.

Rehabilitation efforts may, to some extent, conflict with the deterrent and punishment goals that are a fact in our criminal justice system, and rehabilitation has been opposed by some people in the past for these reasons. But the issue here is not simply whether new correctional methods amount to "coddling." The ultimate goal of corrections under any theory is to make the community safer by reducing the incidence of crime. Rehabilitation of offenders to prevent their return to crime is, in blunt terms, the only realistic and economically plausible way to achieve this end.

The task force on corrections of the President's Commission on Law Enforcement and Administration of Justice has stated:

> A major role for Federal corrections should be the initiation of innovative programs to serve as proving grounds and as models for State and local corrections. This role as innovator would not, of course, be the exclusive domain of the Federal Government. Such programs should be primarily a stimulus to change at the local level. Much that is new and promising will continue to be generated locally. But the prestige and visibility of the Federal service and its national character give it unique advantages.

The "Drug Dependent Offenders Treatment and Rehabilitation Act of 1971" would provide the kind of leadership and innovative program to which the Commission refers by providing a way out of crime for our Federal offenders. It would also authorize a State and local development program of $150 million over the next 3 years to begin a Federal effort to assist State and local governments to develop, expand, and evaluate programs providing treatment and rehabilitation to State and local offenders charged with or convicted of drug related crimes.

Realistically, Mr. President, without faulting the valiant efforts that dedicated individuals and groups have made in a difficult field, treatment for drug abuse in America is scarcely a scratch on the surface of the problem.

The same statement can be made with reference to rehabilitation facilities and research and prevention programs.

It stems from the fact that we are working almost entirely from a prosecution, rather than a public health, approach.

We are concerned with punishing people, not educating them or healing them.

We cannot wish narcotics and mind-

altering drugs out of existence; we cannot legislate them away; we cannot enforce them into oblivion.

But we can do something about healing sick people and about preventing others from incurring the illness.

We are properly concerned about protecting society from crime induced by drugs.

But the protection is a delusion, unless we get at the problem of addiction itself.

Somehow public programs and policies get diverted from the central point, the need for salvaging human beings—both for the protection of society and for simple humanity.

Armed with this understanding, I am convinced that we can meet the drug problem sensibly and be a stronger and better society for so doing.

The legislation I am introducing today is a substantial step in that direction.

EXHIBIT 1

S. 1835

A bill to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence

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 "Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1971".

TITLE I—NATIONAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT AND REHABILITATION PROGRAM

PART A—FINDINGS AND STATEMENT OF PURPOSE; DEFINITIONS

FINDINGS AND STATEMENT OF PURPOSE

SEC. 101. Drug abuse and drug dependence are rapidly increasing throughout the country. National and international organizations and experts representative of those most knowledgeable and most experienced in the treatment of drug abuse and drug dependence have found that drug abuse can seriously impair health and lead to drug dependence and that drug dependence is an illness or disease which requires treatment through health and rehabilitation services.

A national effort to reduce the public health problem of drug abuse and drug dependence should be made and should be directed toward developing community-based prevention, treatment, and rehabilitation services. Such a program should be staffed by and represent a broad cross section of individuals who have the creativity and initiative to develop the widest possible range of activities; to foster and encourage Federal, State, and local initiatives; and to dramatize the extraordinarily serious nature of the drug abuse and drug dependence problems in this country.

An immediate, major commitment of health and social resources and Government funds is required to develop and implement such a national program. It is the purpose of this Act to mandate such a commitment.

DEFINITIONS

SEC. 102. As used in this Act:

(1) "Drug abuser" means any person who uses any controlled substance under circumstances that constitute a violation of law.

(2) "Drug dependent person" means a person who is using a controlled substance (as defined in section 102 of the Controlled Substances Act) and who is in a state of psychic or physical dependence, or both, arising from administration of that substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort caused by its absence.

(3) "Prevention and treatment" includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

(4) "Secretary" means the Secretary of Health, Education, and Welfare.

PART B—NATIONAL INSTITUTE ON DRUG ABUSE AND DRUG DEPENDENCE

ESTABLISHMENT OF INSTITUTE

SEC. 111. (a) There is hereby established within the Public Health Service of the Department of Health, Education, and Welfare a National Institute on Drug Abuse and Drug Dependence (hereinafter referred to as the "Institute") to administer or coordinate drug abuse and drug dependence prevention and treatment authorities assigned to the Secretary under this Act and other Federal law. The Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary. Acting through the Institute, the Secretary shall take any action consistent with the intent and purpose of this Act, including but not limited to the functions stated in this part.

SEC. 112. The Secretary shall—

(1) develop yearly a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this Act. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under all relevant existing Federal legislation, should be utilized;

(2) develop and encourage the enactment of model drug abuse and drug dependence prevention and treatment plans and legislation for State and local governments, utilizing the concepts incorporated in the comprehensive Federal plan and specifying how all types of community resources and existing Federal legislation may be utilized;

(3) encourage and promote the adoption, throughout the country, of public health procedures for the handling of drug abuse and drug dependence as alternatives to present criminal procedures; and

(4) review and provide in writing an evaluation of the adequacy and appropriateness of any provisions relating to the prevention and treatment of drug abuse and drug dependence contained in the comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including, but not limited to, those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, sections 314(d)(2)(K) and 604(a) of the Public Health Service Act, section 1902a (a) of title XIX of the Social Security Act, and section 204(a) of part A of the Community Mental Health Centers Act.

COORDINATION FUNCTIONS

SEC. 113. The Secretary shall—

(1) insure that all Federal programs and all Federal assistance to State and local programs under this chapter is carried out in a coordinated manner. In order to meet this responsibility he is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Secretary deems necessary to carry out his functions under this Act. Each such department or agency is authorized to cooperate with the Secretary and, to the extent permitted by law, to furnish such materials to the Secretary. Any Federal department or agency engaged in administering programs dealing with the prevention or treatment of drug abuse and drug dependence shall, to the maximum extent practicable, consult with and seek advice from the Secretary to insure fully coordinated efforts, and the Secretary shall undertake to coordinate such efforts;

(2) assist and serve in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of a full range of programs, facilities, and services for education, diagnosis, planning, counseling, treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter among their employees and among the public they serve;

(3) encourage and assist State and local government programs and services and programs and services of other public and of private agencies, institutions, and organizations for the prevention and treatment of drug abuse and drug dependence; and

(4) serve as a clearinghouse and information center for the collection, preparation and dissemination of all information relating drug abuse and drug dependence including State and local drug abuse and drug dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information.

RESEARCH FUNCTIONS

SEC. 114. The Secretary shall—

(1) conduct, encourage, and coordinate all forms of research relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, treatment, toxicology, pharmacology, chemistry, and effects on the health of drug abuse and drug dependence;

(2) make research facilities and resources of the Secretary available to appropriate authorities, health officials, and individuals engaged in special studies related to the purposes of this Act, and establish and maintain research fellowships in the Institute and elsewhere;

(3) investigate and publish information concerning uniform methodology and technology for determining the extent and kind of drug use by an individual and effects which individuals are likely to experience from such use;

(4) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence; and

(5) gather and publish statistics pertaining to drug abuse and drug dependence, and promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse and drug dependence; and

TRAINING FUNCTIONS

SEC. 115. The Secretary shall—

(1) establish and encourage the establishment of training programs for professional and paraprofessional personnel, including recovered drug dependents, with respect to drug abuse and drug dependence; and

(2) establish and maintain training fellowships in the Institute and elsewhere.

EDUCATION FUNCTIONS

SEC. 116. The Secretary shall—

(1) develop and encourage the development of a broad variety of educational materials and techniques for use by schools (including elementary, secondary, adult education, professional and graduate schools) public and private agencies, organizations and individuals and others concerning the use and abuse of drugs; and

(2) evaluate and encourage the evaluation of educational materials and techniques.

REPORTING FUNCTIONS

SEC. 117. The Secretary shall—

(1) within ninety days of the end of each fiscal year, submit to the President and to the Congress an Annual Report on Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation, which shall:

(a) contain the comprehensive Federal drug abuse and drug dependence plan required by section 112(1) of this Act;

(b) contain the Federal Report on Model and Experimental Methods for the Treatment and Rehabilitation of Drug Abusers and Drug Dependent Persons required by section 131 (3) of this Act; and

(c) set forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal drug abuse and drug dependence prevention, treatment, and rehabilitation programs.

(2) present to the President of the United States and to the Congress such other reports or recommendations as may be requested or be necessary.

PART C—DEVELOPMENT OF STATE AND LOCAL PROGRAMS

Subpart I—Emergency Supplemental State Assistance Program

PROGRAM AND AUTHORIZATION

SEC. 121. (a) An emergency supplemental State assistance program is hereby established to temporarily aid States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

(b) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $35,000,000 for the fiscal year ending June 30, 1973; and $50,000,000 for the fiscal year ending June 30, 1974, for grants to carry out the purposes of this part.

(c) For the purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

STATE ALLOTMENT

SEC. 122. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 121 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

(b) Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be realloted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year.

STATE PLANS

SEC. 123. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence, and a plan for the development and distribution of such facilities and programs throughout the State;

(5) provide a scheme and methods of administration which will supplement, broaden, and complement State health plans developed under section 314(d)(2) of the Public Health Act;

(6) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(7) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(8) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (7);

(9) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(10) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds; and

(11) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

Subpart II—Model and Experimental Treatment and Rehabilitation Programs

PROGRAM AND AUTHORIZATION

SEC. 131. (a) The Secretary, utilizing the authority of this subpart as well as other existing legislative authorities and acting through the Institute, shall establish, conduct, and evaluate model and experimental drug abuse and drug dependence treatment and rehabilitation programs. In carrying out this responsibility, the Secretary shall—

(1) obtain data, information, and evaluations from the broadest possible reliable cross section of public and private agencies, organizations, institutions, and individuals interested and active in the field of drug abuse and drug dependence treatment and rehabilitation;

(2) make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals; and

(3) include in his annual report to Congress under section 117 of this Act, a separate section describing the various existent model and experimental methods for the treatment and rehabilitation of drug abusers and drug dependent persons and the advantages of each; describing their indications of success or failure or both; making recommendations for future development of these areas; making such recommendations for community implementation of the treatment and rehabilitation methods as may be appropriate; and making such recommendations for legis-

lation and administrative action in these areas as he may deem appropriate.

(b) There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972; $50,000,000 for the fiscal year ending June 30, 1973; and $75,000,000 for the fiscal year ending June 30, 1974, to carry out the purposes of this part. Any appropriated funds shall remain available until expended.

ADMINISTRATION OF GRANTS AND CONTRACTS

SEC. 132. In administering section 131(2) of this part:

(a) The Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

(b) Each applicant within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 123, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse and drug dependence under such section 123. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

(c) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(1) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(4) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

Subpart III—Admission of Drug Abusers and Drug Dependent Persons to Hospitals

ADMISSION TO HOSPITALS

SEC. 141. Drug abusers and drug dependent persons who are voluntary patients shall be admitted to and treated in private and public hospitals on the basis of medical need and shall not be discriminated against because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

SEC. 151. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this Act. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abusers or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed

CONFIDENTIALITY OF RECORDS

SEC. 152. (a) All patient records prepared or obtained pursuant to section 131 of this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate criminal charges against a patient under any circumstances.

(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

HEALTH AND DISABILITY INSURANCE PLANS FOR FEDERAL EMPLOYEES

SEC. 153. All health and disability insurance policies and plans for Federal employees shall cover drug dependence in the same way as other health problems and illnesses.

PART E—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

ESTABLISHMENT OF COUNCIL

SEC. 161. (a) Section 217(a) of the Public Health Service Act is amended—

(1) in the first sentence thereof, by inserting "the National Advisory Council on Drug Abuse and Drug Dependence," immediately after "the National Advisory Mental Health Council,";

(2) in the second sentence thereof, by (A) inserting "the National Advisory Council on Drug Abuse and Drug Dependence," immediately after "the National Advisory Mental Health Council," and (B) inserting "drug abuse and drug dependence" immediately after "psychiatric disorders," and

(3) in the fourth sentence, (A) by inserting "and the members of the National Advisory Council on Drug Abuse and Drug Dependence" after "(other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism"; (B) by striking out "and" before "(3)"; and (C) by striking out the period at the end and inserting a semicolon and "and (4) the terms of the members of the National Council on Drug Abuse and Drug Dependence first taking office after the date of enactment of this clause, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.".

(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting "drug abuse and drug dependence," immediately after "mental health,".

(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Secretary in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council."

APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER PART D OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 162. Section 266 of the Community Mental Health Centers Act is amended (1) by inserting "and part D" immediately after "(other than part C", and (2) by adding at the end thereof the following new sentence, "Grants under part D of this title for such costs may be made only upon recommendation of the National Advisory Council on

Drug Abuse and Drug Dependence established by such section."

PART F—GENERAL

LEASING OF FACILITIES

SEC. 171. (a) Section 251(a) of the Community Mental Health Centers Act is amended (1) by inserting "or leasing" after "construction", and (2) by inserting "facilities for emergency medical services, intermediate care services, outpatient services, or" immediately before "post-hospitalization treatment facilities".

(b) Section 251(b) of the Community Mental Health Centers Act is amended by inserting "or leasing" after "construction".

TITLE II—GENERAL

SAVING PROVISION

SEC. 201. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

RECORDS

SEC. 202. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

PAYMENTS

SEC. 203. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

EXHIBIT 2

FEDERAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1971

SECTION-BY-SECTION ANALYSIS—TITLE I

Part A—Findings and statement of purpose; definitions

Findings and statement of purpose

SEC. 101. Sets out the findings and statement of purpose.

Definitions

SEC. 102. Sets out definitions which apply throughout the bill.

"Prevention and treatment" is defined to include all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency medical care, inpatient, intermediate care, and outpatient), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

Other definitions include those for the terms "drug abuser," and "drug dependent person."

The remaining definitions are routine.

Part B—National institute for the prevention and treatment of drug abuse and drug dependence

Establishment of Institute

SEC. 111. Establishes a National Institute of Drug Abuse and Drug Dependence within the Public Health Service. Remaining sections of this part prescribe the responsibilities of the Institute and the method for appointing its Director.

Planning Functions

SEC. 112. Sets out the planning functions of the Institute which include development of a comprehensive Federal drug abuse and drug dependence prevention and treatment plan; development of model State and local drug abuse and drug dependence prevention and treatment plans; providing assistance and consultation to all interested agencies and persons with respect to the prevention and treatment of drug abuse and drug dependence; and carrying out evaluations of drug abuse and drug dependence provisions in various health plans required to be submitted to the Federal Government pursuant to Federal law.

Coordination Functions

SEC. 113. Sets out the coordination functions of the Institute, which include assisting all Federal departments and agencies in the development and maintenance of drug abuse and drug dependence prevention, treatment, and rehabilitation programs; serving as consultants to Federal courts, departments, and agencies; coordinating all Federal health and rehabilitation efforts to deal with drug abuse and drug dependence; encouraging State and local public and private programs and services and stimulating more effective and coordinated use of all existing resources and services; and serving as an information clearing house.

Research Functions

SEC. 114. Sets out the research functions of the Institute, which include conducting research of all kinds relating to drug abuse and drug dependence; encouraging and assisting others in conducting such research; making research facilities of the Institute available to other researchers; maintaining a research fellowship program; investigating methods for measuring drug consumption; and gathering and publishing statistics pertaining to drug abuse and drug dependence.

Training Functions

SEC. 115. Sets out the training functions of the Institute, which include establishment of training programs for professionals and paraprofessionals, and establishment of training fellowships.

Educational Functions

SEC. 116. Sets out the educational functions of the Institute, which include the development of a broad variety of educational materials and techniques, and the evaluation of such materials and techniques.

Reporting Functions

SEC. 117. Sets out the reporting functions of the Institute, which include the development of an Annual Report on Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation, containing specified information; and the presenting of such other reports or recommendations as the President or the Congress may require.

Part C—Development of State and local programs

SUBPART I—EMERGENCY SUPPLEMENTAL STATE ASSISTANCE PROGRAM

Program and authorization

SEC. 121. Establishes an emergency supplemental State asistance program to temporarily aid States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of drug abuse and drug dependence prevention, treatment, and rehabilitation programs. The following amounts are authorized to be appropriated for this purpose: $15 million for fiscal 1972; $35 million for fiscal 1973; and $50 million for fiscal 1974.

State Allotment

SEC. 122. Provides for the allotment of grants to all States regardless of their size, such allotment to be made on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs, except that no State shall be allotted less than $200,000. The allotment procedure is that generally followed for formula grants.

State Plans

SEC. 123. Requires States wishing to participate in the formula grant program to develop State plans meeting certain basic requirements. The plans must designate a single State agency to administer the plan; provide for a State advisory council to oversee the plan; specify the needs of the State and its existing health facilities; supplement, broaden, and complement State health plans; meet certain standards of administration; provide required reports and information; and assure that Federal funds will be used to supplement rather than supplant non-Federal funds. The Secretary must approve any State plan meeting the statutory requirements.

SUBPART II—MODEL AND EXPERIMENTAL TREATMENT OF REHABILITATION PROGRAMS

Program and Authorization

SEC. 131. Establishes a program under which the Secretary, utilizing the authority of this subpart, as well as other existing legislative authorities, will establish, conduct, and evaluate model and experimental drug abuse and drug dependence treatment and rehabilitation programs. The following amounts are authorized to be appropriated for this purpose: $25 million for fiscal 1972; $50 million for fiscal 1973; and $75 million for fiscal 1974.

Administration of Grants and Contracts

SEC. 132. Requires the Secretary to assure coordination of all grant applications for programs in a State, and not to give precedence to public agencies over private agencies or to State agencies over local agencies. It also establishes the administrative and budgetary crieria which must be met by those seeking funds under this subpart.

SUBPART III—ADMISSION OF DRUG ABUSERS AND DRUG-DEPENDENT PERSONS TO HOSPITALS

Admission to Hospitals

SEC. 141. Provides that no private or public general hospital which discriminates against drug abusers or drug dependent persons who are voluntary patients because of their drug abuse or drug dependence will receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. Termination of aid will occur only after the Secretary gives notice of the failure to comply with this section and provides an opportunity for correction or hearing.

Part D—Prevention and treatment of drug abuse and drug dependence for Federal employees

Drug Abuse and Drug Dependence Among Federal Employees

SEC. 151. Sets out procedures for prevention and treatment of drug abuse and drug dependence among all Federal Government employees. It provides that the Civil Service Commission, in cooperation with other Federal agencies, shall be responsible for developing and maintaining appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among all Federal civilian employees. The Institute will be responsible for encouraging similar drug abuse and drug

dependence prevention, treatment and rehabilitation services in State and local governments and private industry. Other rights and responsibilities are also set out.

Confidentiality of Records

SEC. 152. Provides that all patient records prepared or obtained pursuant to this Part shall remain confidential, and may be disclosed with the patient's consent only to proper persons for purposes of medical treatment, research, or the obtaining of benefits relating to the patient's drug dependence. Similar provisions apply to private medical records.

Health and Disability Plans

SEC. 153. Provides that all health and disability insurance policies and plans for Federal employees shall cover drug dependence in the same way as other health problems and illnesses.

Part E—The National Advisory Council on Drug Abuse and Drug Dependence

Establishment of Council

SEC. 161. Provides for the establishment of a 15-member council, to advise and consult with, and make recommendations to the Secretary on matters relating to his activities and functions in the field of drug abuse and drug dependence.

Approval of Certain Grants Under Community Mental Health Centers Act

SEC. 162. Transfers to the new National Advisory Council the functions of the National Advisory Council on Mental Health with respect to certain grants under part D of the Community Mental Centers Act.

Part F—General

Leasing of Facilities

SEC. 171. Expands certain provisions of the Community Mental Health Centers Act to allow funding for the leasing of facilities used in treating and rehabilitating drug abusers and drug dependent persons.

TITLE II—GENERAL

Saving Provision

SEC. 201. Is a severability provision.

Records

SEC. 202. Requires recipients of grants to make whatever reports are required by the Secretary.

Payments

SEC. 203. Provides that payments under this title may be made in advance or by way of reimbursements, and in such manner as the Secretary may determine.

EXHIBIT 3

S. 1836

A bill to provide a comprehensive Federal program for the treatment and rehabilitation of drug dependent Federal offenders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act many be cited as "The Drug Dependent Offenders Treatment and Rehabilitation Act of 1971".

TITLE I—FINDINGS, STATEMENT OF PURPOSE, AND DEFINITIONS

FINDINGS AND STATEMENT OF PURPOSE

SEC. 101. (a) Drug dependent persons commit a high percentage of the serious crime in our cities in order to secure funds with which to supply their drug habits. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime and to meet the human needs of such drug dependent persons. Effective and successful treatment and rehabilitation services offer the best possibility of meeting such human needs and of avoiding a high rate of recidivism.

(b) It is the purpose of this Act to implement a policy under which drug dependent persons charged with or convicted of drug related offenses should receive treatment and rehabilitation services designed to effect their restoration to health and their return to society as useful members.

DEFINITIONS

SEC. 102. As used in this Act:

(1) "Courts" includes all Federal courts, including any United States magistrate.

(2) "Department" means the Department of Health, Education, and Welfare.

(3) "Drug abuser" means any person who uses any controlled dangerous substance under circumstances that constitute a violation of law.

(4) "Drug dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(5) "Drug related offense" means any Federal criminal offense committed by a drug dependent person (1) to satisfy his drug dependence or to obtain funds to satisfy his drug dependence or (2) while under and as a result of the influence of a controlled dangerous substance.

(6) "Emergency medical services" includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, (3) are affiliated with, and constitute an integral (but not necessarily physical) part of, the general medical services of a general hospital, and (4) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and classification with respect to possible drug dependence, and referral for other treatment and rehabilitation.

(7) "Government attorney" means an attorney authorized to represent the United States with respect to this Act.

(8) "Inpatient services" includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

(9) "Intermediate care services" includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment institution (including but not limited to a halfway house, hostel, or foster home) which is community based and located so as to be quickly and easily accessible to patients.

(10) "Medical officer" means the physician responsible under this title for the examination, diagnosis, treatment, or making of recommendations with respect to treatment of any person subject to the provisions of this title.

(11) "Outpatient services" includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment institution, which are community based and located so as to be quickly and easily accessible to patients.

(12) "Secretary" means the Secretary of Health, Education, and Welfare.

TITLE II—TREATMENT AND REHABILITATION OF FEDERAL OFFENDERS

TREATMENT AND REHABILITATION SERVICES

SEC. 201. (a) The Secretary shall provide at least the following treatment and rehabilitation services for male and female juveniles and adults who are charged with, convicted of, or serving a criminal sentence for, any criminal offense under Federal law and are eligible for treatment under this Act:

(1) Emergency medical services.

(2) Inpatient services, which shall not be a part of or at the same location as a correctional institution.

(3) Intermediate care and outpatient services. (A) The Secretary shall give priority to developing these community based treatment services. (B) Reasonable surveillance techniques such as urine analysis may be used for treatment purposes but the results thereof shall remain confidential and may not be used against any patient in any criminal proceeding. Because of the nature and seriousness of the disease a drug dependent person can be expected to relapse into drug abuse one or more times after the onset of therapy. The decision whether to continue or to modify or to discontinue intermediate care or outpatient treatment after one or more such relapses shall be made on the basis of sound clinical judgment. All reasonable methods of treatment shall be used to prevent their recurrence. (C) Supportive medical care, services, and residential facilities shall be provided for drug dependent persons for whom treatment has repeatedly failed and recovery is unlikely so that they may live in a decent and productive manner.

(b) The treatment and rehabilitation service authorized by this Act may be provided at any available facility, including but not limited to Public Health Service hospitals, Veterans' Administration hospitals, public and private general hospitals, community mental health centers, and public and private drug dependence and drug abuse treatment and rehabilitation centers. Care and treatment for veterans shall be provided where possible in Veterans' Administration hospitals. The Secretary may contract with any appropriate public or private agency, organization, or institution that has proper and adequate facilities and personnel in order to carry out the purposes of this Act.

(c) There shall be in each city or region a central office open twenty-four hours a day to coordinate and provide information concerning the availability of all such services. The Secretary may determine, in his discretion, the area to be served by any such office.

(d) Any person assisted under this Act may be required to contribute toward the cost of his subsistence, care, or treatment, to the extent that he is financially able to do so, under regulations promulgated by the Secretary. Such regulations shall specify how funds available to any person as a result of his drug abuse or drug dependence under Federal or State Government programs such as social security, welfare, medicare, medicaid, veterans benefits, and employee health insurance plans and policies, shall be used to contribute to the costs of such treatment so far as practicable without imposing undue hardship on him or his family. No person may be discriminated against on the basis of indigence.

EMERGENCY MEDICAL SERVICES

SEC. 202. (a) (1) Any person charged with a misdemeanor under Federal law and who appears to be a drug abuser, or who is taken into custody for what appears to be a drug related misdemeanor under Federal law, shall, after preliminary police processing and an opportunity to consult with counsel, promptly be taken for emergency medical services, where he shall either be admitted as a patient or transported to another appropriate health facility for treatment and diagnosis. Upon admission as a patient, such person shall immediately be examined to determine whether (A) it is probable that he is not a drug abuser and has not committed a drug related misdemeanor, or (B) it is probable that he is not in need of emergency medical services although he may be

a drug abuser, or (C) it is probable that he is a drug abuser or a drug dependent person who is in need of emergency medical services. Such screening shall be completed within twenty-four hours of such person's admission to emergency medical services. Any person determined to fall within subparagraph 202(a)(1)(C) shall be detained there as long as is necessary to complete emergency medical treatment, to conduct a diagnosis for possible drug dependence, and to institute any civil commitment proceeding pursuant to section 203 or 204, but in no event longer than five days after his admission.

(2) Any person determined to fall within subparagraph 202(a)(1)(A) or 202(a)(1)(B) shall be released from emergency medical services immediately upon completion of the initial screening process, and in no event shall he be detained there longer than twenty-four hours. Upon his release from emergency medical services, he shall be handled as in any other criminal case.

(3) If a person determined to fall within subparagraph 202(a)(1)(C) is diagnosed as not a drug dependent person and prior to trial on the offense he requests voluntary treatment in lieu of criminal prosecution, the medical officer in charge of the patient or services shall, after a review of the patient's record, advise the Government attorney in writing whether for the treatment and rehabilitation of the person it would be preferable for the criminal charges to be held in abeyance or withdrawn in order to institute voluntary treatment for his drug abuse, or for the criminal charges to be prosecuted. The Government attorney shall exercise his discretion whether to accept the medical officer's advice, but in the event that he does not accept the medical officer's advice he shall state in writing the reasons for his decision.

(4) If a person determined to fall within subparagraph 202(a)(1)(C) is diagnosed as a drug dependent person and prior to trial on the offense he requests voluntary treatment or civil commitment for treatment in lieu of criminal prosecution, the medical officer in charge of the patient or services shall, after a review of his record, advise the Government attorney and the court in writing whether for the treatment and rehabilitation of the person it would be preferable for the criminal charges to be held in abeyance or withdrawn in order to institute either voluntary treatment for his drug dependence or treatment for his drug dependence under civil commitment, or for the criminal charges to be prosecuted. The Government attorney shall exercise his discretion whether to accept the medical officer's advice, but in the event that he does not accept the medical officer's advice he shall state in writing the reasons for his decision.

(5) If the criminal charges are prosecuted and such person is convicted, and at the time of conviction he requests probation with treatment or civil commitment for treatment in lieu of criminal punishment, the medical officer in charge of the patient or services shall advise the court in writing whether for the treatment and rehabilitation of the person it would be preferable for him to receive a suspended sentence and probation on the condition that he undergo education and treatment for drug abuse and drug dependence, or to be civilly committed pursuant to section 204 for treatment in lieu of criminal punishment, or to receive criminal incarceration. The court shall exercise its discretion whether to accept the medical officer's advice.

(6) Any person determined to fall within subparagraph 202(a)(1)(C) shall immediately be informed of his right to request any of the procedures for treatment in lieu of criminal prosecution or punishment which are available to him under subsection 202(a)(3), 202(a)(4), or 202(a)(5) as a result of his diagnosis. If such person is, as a result of his drug abuse or drug dependence, unable at the time of diagnosis either to understand or to make a rational decision concerning his right to request treatment under such subsections, he shall again be informed of such right as soon as he is able to understand the choices available to him and to make a rational decision concerning them.

(7) A criminal charge may be held in abeyance pursuant to subsection 202(a)(3) or 202(4) for no longer than one year, after which it is automatically dismissed. A person civilly committed pursuant to section 204 may be returned to stand trial pursuant to section 204(e)(3) within that year.

(b)(1) Any person charged with a felony under Federal law and who appears to be a drug abuser, or who is taken into custody for what appears to be a drug related felony under Federal law, shall, after preliminary police processing and an opportunity to consult with counsel, promptly be taken for emergency medical care services, where he shall either be admitted as a patient or transported to another appropriate health facility for treatment and diagnosis. Upon admission as a patient, such person shall immediately be examined to determine whether (A) it is probable that he is not a drug abuser and has not committed a drug related felony, or (B) it is probable that he is not in need of emergency medical services although he may be a drug abuser, or (C) it is probable that he is a drug abuser or a drug dependent person who is in need of emergency medical services. Such screening shall be completed within twenty-four hours of such person's admission to emergency medical services. Any person determined to fall within subparagraph 202(b)(1)(C) shall be detained there as long as is necessary to complete emergency medical treatment, to conduct a diagnosis for possible drug dependence, and to institute any civil commitment proceeding pursuant to section 203 or 204, but in no event longer than ten days after his admission.

(2) Any person determined to fall within subparagraph 202(b)(1)(A) or 202(b)(1)(B) shall be released from emergency medical services immediately upon completion of the initial screening process, and in no event shall he be detained there longer than twenty-four hours. Upon his release from emergency medical services, he shall be handled as in any other criminal case.

(3) If a person determined to fall within subparagraph 202(b)(1)(C) is diagnosed as not a drug dependent person, he shall be handled as in any other criminal case.

(4) If a person determined to fall within subparagraph 202(b)(1)(C) is diagnosed as a drug dependent person and he pleads nolo contendere or guilty, or he is found guilty after trial, and at that time he requests probation with treatment or civil commitment for treatment in lieu of criminal punishment, the medical officer in charge of the patient or services shall advise the court in writing whether it would be preferable for the treatment and rehabilitation of the person for him to receive a suspended sentence and probation on the condition that he undergo education and treatment for drug abuse and drug dependence, or to be civilly committed pursuant to section 204 for treatment in lieu of criminal punishment, or to receive criminal incarceration. The court shall exercise its discretion whether to accept the medical officer's advice.

(5) Any person diagnosed as a drug dependent person pursuant to subsection 202(b)(4) shall immediately be informed of his right to request probation with treatment or civil commitment for treatment in lieu of criminal punishment. If such person is, as a result of his drug dependence, unable at the time of diagnosis either to understand or to make a rational decision concerning his right to make such a request, he shall again be informed of such right as soon as he is able to understand the choices available to him and to make a rational decision concerning them.

(c) Whenever the medical officer in charge of the patient or services believes that any patient requires additional short-term involuntary emergency medical treatment and care, and that the findings required by section 203(a) can be substantiated, he shall recommend in writing to the Government attorney that a civil commitment proceeding be instituted pursuant to section 203. The Government attorney shall institute such a proceeding unless he believes that the findings required by section 203(a) cannot be substantiated or that there is other good cause for denying the recommendation.

(d) Whenever the medical officer in charge of the patient or services believes that any patient taken into custody for or charged with any violation of the Controlled Substances Act is a drug dependent person who is charged with a drug related offense, he shall recommend in writing that a civil commitment proceeding be instituted pursuant to section 204.

(1) The Government attorney shall institute such a proceeding unless he believes that the violation was not a drug related offense or that the findings required by section 204 cannot be substantiated. If the medical officer and the Government attorney disagree on the applicability of this subsection, the Government attorney may proceed with a criminal prosecution and shall state in writing the reasons for his decision. If the criminal charges are prosecuted under these circumstances against the recommendation of the medical officer, the medical officer shall make a report in writing to the court setting out his conclusions and recommendations, and the court shall take any appropriate action.

(2) If criminal charges are prosecuted and the court finds that the person is a drug dependent person and that violation was a drug related offense, he shall be handled only pursuant to sections 202, 203, and 204 of this Act. In any trial, the burden of showing the applicability of this subsection shall be on the defendant.

(3) This subsection shall be inapplicable to any drug dependent person who is charged with distribution of a large quantity of a controlled substance or distribution of any controlled substance as part of a continuing criminal enterprise. The Secretary may issue regulations defining, for any controlled substance, the quanity that constitutes a large quantity of that substance for purposes of this provision.

(e) Any Federal officer, Government attorney, court, or Federal probation or parole officer shall refer any person to the Secretary for handling pursuant to subsection (a) or (b) whenever it appears that such person is a drug abuser or that an offense with which he is charged may be drug related.

(f) The medical officer in charge of the patient or services shall be given all pertinent records and information with respect to any person handled pursuant to subsection (a) or (b) by any Federal department, agency, officer, Government attorney, court, or Federal probation or parole officer who has such records or information.

SHORT TERM CIVIL COMMITMENT FOR EMERGENCY MEDICAL TREATMENT

SEC. 203. (a) A court may, on a petition of a Government attorney filed before the period of detention for emergency medical treatment and diagnosis expires, and after a hearing without a jury, order any person receiving emergency medical services pursuant to section 202 to be temporarily committed to the Secretary for emergency medical treatment and care for a period not to exceed thirty days from the date of commitment if he determines that the person is a drug dependent person, and as a result of his drug dependence (1) is in imminent danger of

sustaining substantial physical harm unless he receives medical treatment for a period longer than permitted by section 202, and (2) is unable to make a rational decision about accepting assistance. The court shall make any determination pursuant to this subsection, and shall impose any order of commitment, within five days after the filing of the petition, and the person who is the subject of the petition may be detained during that five-day period regardless of any time limit for detention imposed by section 202(a)(1) or 202(b)(1).

(b) The hearing shall be held within four days after the filing of the petition, unless the person or his attorney requests a delay of the hearing. The court shall notify the person and his attorney of the time and place of the hearing. If the person is without funds to provide for the assistance of counsel for the hearing, the court shall appoint counsel to represent the person at the expense of the Government.

(c) In conducting a hearing under this section, the court shall receive and consider all relevant evidence and testimony which may be offered. The person shall have the right to present evidence, and to present and cross-examine witnesses. The testimony of the person at this hearing may not be used against him in any other judicial proceeding, nor shall the person waive his privilege against self-incrimination in any future judicial proceeding by testifying at this hearing. The court shall make any determination pursuant to this subsection, and shall impose any order of commitment, within forty-eight hours after the conclusion of the hearing.

(d) Any person committed shall have the right to appeal: *Provided,* That any appeal arising pursuant to this subsection shall be disposed of within ten days of the entry of the order appealed from.

(e) Any court which conducts the hearing provided for in this section, or which reviews the outcome of said hearing, shall not sit in any trial of the person for an offense which was the basis for or pending at the time of said hearing, or any related appeal.

(f) As soon as a patient committed under this section is once again able to make a rational decision about accepting assistance, he shall be civilly committed for treatment pursuant to section 204 or be handled as in any other criminal case.

CIVIL COMMITMENT FOR TREATMENT OF DRUG DEPENDENCE

SEC. 204. (a)(1) The courts may commit to the Secretary for treatment and care for drug dependence in lieu of criminal prosecution or punishment for up to a specified period of time a drug dependent person who—

(A) is charged with a misdemeanor and who, prior to trial on the offense, requests such treatment in lieu of criminal prosecution; or

(B) is charged with a misdemeanor or felony and who, after having pled nolo contendere or guilty, to, or having been found guilty of, the offense charged, at the time sentence is imposed requests such treatment in lieu of serving the sentence imposed; or

(C) is serving a criminal sentence and petitions the court for such treatment in lieu of serving the remainder of his sentence.

(2) No term of commitment shall be ordered for a period longer than the maximum sentence that could have been imposed for the offense with which the person was charged with respect to subsection (a)(1)(A), or for a period longer than the sentence actually imposed with respect to subsections (a)(1)(B) and (a)(1)(C), unless he is found at the end of that time to constitute an immediate and continuing danger to the safety of another person or of property pursuant to subsection (c)(2). A patient may voluntarily remain in treatment for as long as the medical officer in charge of the patient or services believes warranted.

(b)(1) The courts may commit to the Secretary for treatment and care for drug dependence for up to a specified period of time a drug dependent person who—

(A) is charged with a drug related offense and is acquitted on the ground of drug dependence; or

(B) is charged with an offense under the Comprehensive Drug Abuse Prevention and Control Act of 1970 and is found, before or after trial, to fall within the provisions of section 202(d).

(2) No term of commitment shall be ordered for a period longer than the maximum sentence that could have been imposed for the offense of which he was acquitted with respect to subsection (b)(1)(A), or for a period longer than the maximum sentence that could have been imposed for the offense for which he was taken into custody or charged with respect to subsection (b)(1)(B), unless he is found at the end of that time to constitute an immediate and continuing danger to the safety of another person or of property pursuant to subsection (c)(2). A patient may voluntarily remain in treatment for as long as the medical officer in charge of the patient or services believes warranted.

(c)(1) Prior to the commitment of any person pursuant to subsection (a) or (b) the court shall hold a civil hearing without a jury and must find that (A) he is a drug dependent person; and (B) appropriate treatment is available for him.

(2) To support a finding that a person constitutes an immediate and continuing danger to the safety of another person or of property, a court must conclude from clear and convincing factual evidence, based upon recent behavior during intermediate care or outpatient treatment, that as a result of his drug dependence he will engage in illegal distribution of any controlled drug or will commit grave felonious conduct that is drug related.

(d) Pending the court's decision on civil commitment, the person shall be detained for appropriate care and treatment pursuant to sections 202 and 203: *Provided,* That such commitment cases shall be expedited and that such interim detention shall not exceed ten days from the date the proceeding is instituted. The order of the court shall prevail unless and until overturned on appeal: *Provided,* That any appeal shall also be expedited.

(e) The Secretary shall immediately inform the court whenever in his opinion any one of the findings made pursuant to subsection (c) is no longer applicable, or for any reason the person should be unconditionally released.

(1) The Secretary shall, after a review of the patient's record, recommend to the court whether the commitment order should be continued, or whether the patient should be unconditionally released, or whether the patient should be returned to stand trial if he was committed under subsection (a)(1)(A) or to serve the remainder of his sentence if he was committed under subsection (a)(1)(B) or (a)(1)(C)) or whether some other appropriate action should be taken. The court shall hold a civil hearing and shall enter an appropriate order.

(2) Time spent under civil commitment shall be counted toward any sentence for a person returned to stand trial or to serve the remainder of his sentence.

(3) A person committed under this section may be returned to stand trial or to serve the remainder of his sentence if he does not cooperate with an appropriate treatment or care program, or if appropriate treatment or care is ineffective: *Provided,* That the decision whether to return the person to stand trial or to serve the remainder of his sentence after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with the rehabilitation of the individual and the safety of the community.

(4) Except as provided in subsection 204(h), no person shall remain committed for treatment or care pursuant to this section after a court determines that any one of the findings made under subsection 204(c) is no longer applicable.

(f) A committed person may, upon the expiration of six months following the commitment order, and not more frequently than every six months thereafter, request the Secretary in writing to conduct a review of the current applicability of the required findings, and if the request is timely it shall be granted. The patient may, at his own expense, have one or more qualified physicians participate in the review or conduct an independent review. The Secretary shall, upon the written request of an indigent patient, assist him in obtaining a qualified physician to participate in the review, and such a physician shall be compensated for his services by the Secretary in an amount determined by the Secretary to be fair and reasonable. The Secretary shall report the result of the review to the patient. If the patient is not released as a result of this review he may petition the court for an order directing his release. The court may hold a hearing and shall consider all pertinent evidence and enter an appropriate order. The burden of proof in such a proceeding shall remain on the Secretary.

(g) In addition to the right of review upon a patient's written request, the Secretary shall as often as practicable, but not less often than every six months, review a patient's status under the required findings. Any right available to him for obtaining release from confinement, including the right to petition for a writ of habeas corpus, shall also be retained, and the burden of proof in such a proceeding of the continuing existence of the findings upon which the commitment is based shall remain on the Secretary.

(h) If the Secretary continues to make a good faith attempt to provide appropriate treatment pursuant to subsection (c)(1), a drug dependent person who has been adjudged an immediate and continuing danger to the safety of other persons or of property pursuant to subsection (c)(2) shall not fail to be committed pursuant to subsection (a) or (b), or be released from commitment under subsection (e), (f), or (g), until the finding under subsection (c)(2) is no longer applicable.

(i) A committed person or a person detained for treatment may initially be placed in inpatient, intermediate care, or outpatient treatment, on the basis of sound clinical judgment, except that a person charged with or subject to a prison sentence for a felony shall initially be placed in inpatient treatment unless the court orders otherwise. The Secretary may transfer a committed person or a person detained for treatment between inpatient, intermediate care, and outpatient services without court permission on the basis of sound clinical judgment, except that a court order must be obtained for the transfer from inpatient status of any person charged with or subject to a prison sentence for a felony. No committed person may be unconditionally released without a court order. A committed or detained person has a right to intermediate care and outpatient status, and to unconditional release, as quickly as is consistent with sound clinical judgment and with the safety of other persons and of property.

(j) If the respondent in any proceeding under this Act does not have an attorney and cannot afford one, the court shall appoint one to represent him. Counsel so appointed shall be compensated for his serv-

ices by the Secretary in an amount determined by the court to be fair and reasonable.

(k) Neither mail nor other communications to or from a person committed pursuant to this section may be read by others or censored except when ordered by a physician for treatment reasons: *Provided,* That reasonable regulations regarding visiting hours and the use of telephone and telegraph facilities may be adopted, and reasonable precautions may be used to prevent persons from illegally obtaining controlled substances.

(l) Upon the institution of proceedings for the commitment of a person pursuant to section 203 or 204, the Secretary shall give such person and his nearest known adult relative a written statement and explanation outlining in simple nontechnical language the procedures and rights set out in this section. If such person is committed, the Secretary shall give him and his nearest known adult relative a further written statement and explanation outlining all release procedures and other rights provided by this section, as well as by other statutes and general legal principles.

(m) A specific treatment plan, adapted to each individual, shall be prepared and maintained by the Secretary on a current basis for every patient committed pursuant to section 204. It shall show the treatment planned, and the treatment provided, in sufficient detail to permit an evaluation of the adequacy of the program for that individual. The plan shall be reviewed by the court in considering the findings required by subsections 204(c) (1) and (c)(2).

(n) Each individual treatment plan prepared pursuant to subsection 204(m) may utilize inpatient, intermediate care, and outpatient services, in accordance with principles of medical care and treatment accepted by a responsible segment of the medical profession. All public and private community efforts, including but not limited to welfare services, vocational rehabilitation, and job replacement, shall be utilized as part of outpatient treatment programs to integrate drug dependent persons back into society as productive citizens.

(o) Any hearing held pursuant to subsections 204 (c), (e), or (f) shall be conducted according to the provisions of subsections 203 (b) through (e) of this Act. Any such hearing shall be taken down by a court reporter or recorded by suitable sound recording equipment. A transcript of the record of such hearing shall be made available, at the expense of the Government, to a person who was the subject of the hearing and who makes affidavit that he is unable to pay or give security therefor.

FEDERAL YOUTH CORRECTIONS ACT

SEC. 205. Any person committed to or eligible for commitment to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code) who is eligible for civil commitment under this title shall be handled pursuant to this title: *Provided,* That any person who was a youthful offender within the meaning of section 5006 of title 18 of the United States Code or who was eligible for sentencing under the Federal Youth Corrections Act pursuant to section 4209 of title 18 of the United States Code at the time of his commitment hearing under this title shall remain eligible for sentencing under the Federal Youth Corrections Act (1) if he should fail to be committed for treatment under this title or (2) if, having been committed, he is at any time returned to stand trial or to serve the remainder of his sentence under section 204(e)(3).

DRUG ABUSE SERVICES IN CORRECTIONAL INSTITUTIONS AND ON PROBATION AND PAROLE

SEC. 206. (a) The services established by this Act shall be used by the Bureau of Prisons and the Board of Parole for drug abuser or drug dependent offenders (including persons sentenced under the Federal Youth Corrections Act, chapter 402 of title 18 of the United States Code) placed on work release, probation, parole, or other conditional release. The Secretary and the Bureau of Prisons shall cooperate in establishing and encouraging the establishment of community based drug abuse treatment services and of drug abuse treatment services in Federal correction institutions.

(b) The conditional release of any drug abuser or drug dependent person convicted of any Federal offense may be conditioned on the person's agreement to periodic urine analyses or other means of detecting narcotic drugs within the body.

(c) The Bureau of Prisons and the Board of Parole may transfer an offender placed on conditional release from one treatment service to another depending upon his response to treatment. The decision whether to retain or to restrict or to revoke probation or parole or other conditional release after failure to conform to a schedule for rehabilitation shall be made on the basis of what is most consistent with both the rehabilitation of the individual and the safety of the community. All reasonable methods of treatment shall be used to prevent relapses and to promote rehabilitation. The Secretary shall provide periodic reports and recommendations to the Bureau of Prisons and the Board of Parole on persons being treated pursuant to this section.

AVAILABILITY OF CRIMINAL RECORDS

SEC. 207. (a) In order to facilitate the treatment and rehabilitation of drug abusers and drug dependent persons, any arrest for a criminal offense under the Controlled Substances Act or under the provisions of Federal law previously governing narcotics and dangerous drugs shall no longer be available as part of the person's public arrest and other public criminal records when the charges are withdrawn or dismissed or the person is acquitted of the charges.

(b) Any arrest or trial or conviction for a criminal offense under the Comprehensive Drug Abuse Prevention and Control Act of 1970 or under the provisions of Federal law previously governing narcotics and dangerous drugs may be made unavailable as part of a person's public criminal records by a court upon the filing of a petition supported by substantial evidence of good conduct since the petitioner's conviction. Copies of the petition shall be served on the United States attorney, who shall be responsible for consulting other appropriate public agencies and departments. If a Government attorney files a motion to dismiss the petition within sixty days, the court, without a jury, shall hold a hearing before ruling on the issue. The petitioner shall have the right to cross-examine any adverse witness or rebut any adverse evidence. The proceeding shall be closed to the public. The petition shall be granted if supported by substantial evidence of good conduct since the petitioner's conviction unless the court finds, on the basis of evidence of record, good cause not to accept the petitioner's allegations of good conduct. The petition may be filed and heard only after the following time lapses:

(1) For a Federal conviction involving any controlled substance in Schedule I or II which is a narcotic drug, or any Federal offense under prior law involving any such controlled substance after five years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(2) For a Federal conviction involving any controlled substance in Schedule I or II which is not a narcotic drug, or any controlled substance in Schedule II, or any Federal offense under prior law involving any such controlled substance after three years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(3) For a Federal conviction involving any controlled substance in schedule IV or V, or any offense under prior law involving any such controlled substance, after two years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(4) For a conviction for any Federal offense under prior law governing narcotics and dangerous drugs that would not now come within any of these provisions, after three years from the date of conditional or unconditional release from a penal institution or from the date of conviction if not sent to a penal institution.

(c) An arrest or trial or conviction that has been made unavailable to the public pursuant to this section shall not thereafter be regarded as an arrest or trial or conviction for the purpose of any statute or regulation or license or questionnaire or any other public or private purpose: *Provided,* That such a conviction shall continue to constitute an offense for purposes of any criminal statute under which the existence of a prior conviction is relevant to the penalty to be imposed. No Government employee shall divulge, nor shall any Government record available to the public reflect such arrest or trial or conviction, or a proceeding conducted pursuant to this section: *Provided,* That the judiciary, court personnel, and Government attorneys may be informed of such arrest or, trial or conviction, and of such proceeding, where it becomes relevant to a penalty to be imposed in a subsequent case. Any Government employee who divulges such information in violation of this subsection shall be punished by a prison sentence of not more than ninety days, or a fine of not more than $1,000, or both.

RETENTION OF CIVIL RIGHTS AND LIBERTIES

SEC. 208. A person receiving care or treatment under the provisions of this Act shall retain his civil rights and liberties except as herein otherwise explicitly provided.

CONFIDENTIALITY OF RECORDS

SEC. 209. (a) A complete medical, social, occupational, and family history shall be obtained as part of the diagnosis, classification, and treatment of a patient pursuant to this title. Copies of all pertinent records from other agencies, practitioners, institutions, and medical facilities shall be obtained in order to develop a complete and permanent confidential personal history for purposes of the patient's treatment.

(b) All patient records (including all records relating to any commitment proceeding) prepared or obtained pursuant to this Act, and all information contained therein, shall remain confidential, and may be disclosed with the patient's consent only to medical personnel and only for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug abuse or drug dependence. Disclosure may be made for purposes unrelated to such treatment or benefits upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate or substantiate charges against a patient under any circumstances.

(c) All patient records and all informa-

tion contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug abuse or drug dependence.

TITLE III—DEVELOPMENT OF STATE AND LOCAL PROGRAMS FOR OFFENDERS

ESTABLISHMENT OF DEVELOPMENT PROGRAM

SEC. 301. The Secretary, utilizing and being guided by the concepts incorporated in this Act, shall encourage, assist, and upon request, evaluate State and local programs and procedures for the treatment and rehabilitation of male and female juveniles and adults who are charged with, convicted of, or serving a criminal sentence under State or local laws for drug related offenses. In carrying out this responsibility, the Secretary shall—

(1) serve as a clearinghouse and information center for the collection, preparation, and dissemination of all information relating to such programs and procedures;

(2) make grants to State and local governments for the development, expansion, or evaluation of such programs and procedures; and

(3) develop and encourage the enactment of model legislation for the use of State and local governments desiring to establish such programs and procedures.

ADMINISTRATION OF GRANTS

SEC. 302. Approval of any application for a grant under section 301(2), including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(1) provide that the activities and services for which assistance is sought under that section will be substantially administered by or under the supervision of the applicant;

(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(4) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

AUTHORIZATIONS

SEC. 303. There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972; $50,000,000 for the fiscal year ending June 30, 1973; and $75,000,000 for the fiscal year ending June 30, 1974, to carry out the purposes of this title. Any appropriated funds shall remain available until expended.

TITLE IV—GENERAL

SAVING PROVISION

SEC. 401. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

RECORDS

SEC. 402. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

PAYMENTS

SEC. 403. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

REPEALER

SEC. 404. (a)(1) Chapter 175 of title 28, United States Code, chapter 314 of title 18, United States Code, and title III of the Narcotic Addict Rehabilitation Act of 1966 (80 Stat. 1438), are repealed.

(2) In any case involving an individual committed pursuant to such chapter 175, chapter 314, or title III, on or before the date immediately preceding the effective date of the repeal of such chapters and title, such individual shall continue to be subject to the provisions thereof in the same manner and to the same extent as if they had not been repealed.

(b) Sections 341, 342, 343, 344, and 345 of the Public Health Service Act, and the provisions of the Act entitled "An Act to amend title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addiction, and for other purposes", approved November 8, 1966 (80 Stat. 1438) are repealed.

EXHIBIT 4

THE DRUG DEPENDENT OFFENDERS TREATMENT AND REHABILITATION ACT OF 1971—SECTION-BY-SECTION ANALYSIS

TITLE I—FINDINGS, STATEMENT OF PURPOSE, AND DEFINITIONS

Findings and statement of purpose

SECTION 1.—Sets out the findings and Statement of Purpose.

Definitions

SEC. 102.—Sets out definitions which apply throughout the bill. Definitions include those for the terms "drug abuser," "drug dependent person," "drug related offense," "emergency medical services," "inpatient services," "intermediate care services," "medical officer," and "outpatient services." The remaining definitions are routine.

TITLE II—TREATMENT AND REHABILITATION OF FEDERAL OFFENDERS

Treatment and rehabilitation services

SEC. 201.—Sets out the types of treatment and rehabilitation services which shall be provided to persons charged with, convicted of or serving a criminal sentence for any criminal offense under Federal law. Such services include emergency medical care services, inpatient services and intermediate care and outpatient services. Persons receiving such assistance may be required to contribute toward the cost of treatment. Regulations shall specifiy how Government funds available to any person for treatment under Federal-State programs shall be used to pay for such treatment.

Emergency medical care services

SEC. 202(a)—provides that the persons charged with a misdemeanor who either appear to be drug abusers or are taken into custody for what appears to be a drug related offense shall be taken for emergency medical services. After an initial screening, those persons determined not to be in need of medical attention will be handled as in any other criminal case. The remaining individuals will be detained for medical care during withdrawal, possible diagnosis for drug dependence, and initiation of any civil commitment proceedings under section 203 or 204. Such detention may not exceed five days.

If the person is not diagnosed as drug dependent, the government attorney, with the recommendation of the medical officer, will decide whether he should be prosecuted, or permitted to follow voluntary education and treatment for drug abuse. If the person is diagnosed as drug dependent, the government attorney will decide, with the recommendation of the medical officer, whether the person should be prosecuted, civilly committed, or permitted to follow voluntary treatment. If he is prosecuted and convicted, he may still receive a suspended sentence and probation conditional on treatment, or be civilly committed for treatment, rather than being criminally sentenced.

The bill provides that the medical officer shall make his recommendations to the government attorney at every stage of the decision-making process with respect to such an individual. In all instances, however, the government attorney has the ultimate decision, and can either accept or reject the medical officer's recommendation. Similarly, the judge is free to accept or reject the recommendations made by the medical officer.

SEC. 202(b)—contains similar provisions relating to a person taken into custody by the police for a felony who either appears to be a drug abuser or is charged with a drug-related felony. Initial screening will single out those persons not in need of medical attention. The remaining persons, after any necessary withdrawal, may be detained for up to ten days for diagnosis of possible drug dependence. If such a person is not diagnosed as drug dependent, the criminal charges are prosecuted. If he is diagnosed as drug dependent, the criminal charges are prosecuted, but after conviction the court, with the recommendations of the medical officer, must decide whether to impose a suspended sentence, to institute civil commitment proceedings under section 204 or to impose a criminal charge. If he is convicted, he may also receive treatment through civil commitment.

SEC. 202(c)—provides that the government attorney shall institute involuntary civil commitment proceedings for additional short-term emergency medical treatment pursuant to Section 203 whenever any patient requires such care and the findings required by section 203(a) can be substantiated.

SEC. 202(d)—provides that civil commitment proceedings for treatment for drug dependence shall be instituted by the government attorney pursuant to section 204 whenever there is a finding that a person taken into custody for a violation of the Controlled Substances Act as (1) a drug dependent person who (2) is charged with a drug related offense.

Short term civil commitment for emergency medical treatment

SEC. 203—permits a court to order up to 30 additional days of emergency medical care services for a drug dependent person who, even after the initial detention period authorized by section 202 is in imminent danger of sustaining substantial physical harm and is not in a position to exercise a rational judgment about accepting assistance. Such a per-

son, when once again able to make a rational judgment about accepting assistance, shall be committed for treatment pursuant to section 204, or handled as in any other criminal case.

Civil commitment for treatment of drug dependence

SEC. 204—sets out the conditions under which drug dependent persons who are federal offenders may be civilly committed for treatment for drug dependence.

Under section 204(a), the following persons may be committed for treatment: drug dependent persons charged with a misdemeanor and who, prior to trial, requests treatment in lieu of criminal prosecution; drug dependent persons charged with a felony who, have pled guilty or been found guilty of the offense charged, at the time of sentence request such treatment in lieu of the sentence; or drug dependent persons serving criminal sentences who petition the court for such treatment in lieu of serving the remainder of the sentence.

Under section 204(b), commitment is provided for drug dependent persons charged with a drug related offense and acquitted on the ground of drug dependence; or drug dependent persons charged with an offense under the Controlled Substances Act and found, before or after trial, to fall within the provisions of section 202(d).

For all such persons, no initial commitment shall be ordered for a period longer than the sentence that could have been imposed or was imposed. Prior to any commitment, the court must conduct a full and fair hearing and must find that the person is a drug dependent person and that appropriate treatment is available for him.

With the objective of protecting the public, the bill provides that no civilly committed person shall be released who is found by a court to represent an immediate and continuing danger to the safety of another person or of property. Such persons are retained in custody until there is no longer good reason to believe that they represent such a danger. However, every individual is entitled to intermediate care or outpatient status as soon as possible, consistent with sound clinical judgment.

This section contains procedural safeguards with respect to committed persons. Such a person must be released immediately when he is shown to be rehabilitated. He is, moreover, entitled to a court review of his status every six months. He is entitled to appointed counsel, and retains all of his civil rights and liberties.

Federal Youth Corrections Act

SEC. 205—provides that persons committed to or eligible for commitment to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act who are eligible for civil commitment under this title shall be handled pursuant to this title, except that such a person shall remain eligible for sentencing under the Federal Youth Corrections Act after failure to be committed pursuant to this title, or if he is returned to stand trial or to serve the remainder of his sentence.

Drug abuse services in correctional institutions and on probation and parole

SEC. 206—provides that services provided by this act shall be used by the Bureau of Prisons and the Board of Parole for drug abusers or drug dependent offenders placed on work release, probation, or parole status, including persons sentenced under the Federal Youth Corrections Act, and that the Secretary and the Bureau of Prisons shall cooperate in establishing and encouraging the establishment of community based drug abuse treatment services and of drug abuse treatment services in Federal correctional institutions.

Availability of criminal records

SEC. 207—in order to facilitate the treatment and rehabilitation of drug abusers and drug dependent persons, this section sets out a method whereby the records of arrests and convictions under Federal laws relating to dangerous drugs may, under certain conditions, not be available at a matter of public record.

Retention of civil rights and liberties

SEC. 208—provides that a person treated under the provisions of this Act retains his civil rights and liberties.

Confidentiality of records

SEC. 209—deals with the confidentiality of records. It requires that a complete medical, social, occupational, and family history of a patient be obtained as part of the diagnosis and classification of a patient pursuant to this title, and it provides that a person treated under the bill is entitled to the confidentiality of the physician-patient relationship, and that no such records may be disclosed without a court order or may be used against him.

TITLE III—DEVELOPMENT OF STATE AND LOCAL PROGRAMS FOR OFFENDERS

Establishment of development program

SEC. 301—Establishes a State and Local Development Program to assist state and local governments in developing, expanding, or evaluating programs providing treatment and rehabilitation services to state and local offenders charged with or convicted of drug related crimes.

Administrations of grants

SEC. 302—Establishes the administrative and budgetary criteria which must be met by those seeking funds under this title.

Authorizations

SEC. 303—authorizes the following amounts to carry out the purposes of this title: $25 million for fiscal 1972; $50 million for fiscal 1973; and $75 million for fiscal 1974.

TITLE IV—GENERAL

Saving provision

SEC. 401—Severability provision.

Records

SEC. 402—Requires recipients of grants to make whatever reports are required by the Secretary.

Payments

SEC. 403—Provides that payments under this title may be made in advance or by way of reimbursements, and in such manner as the Secretary may determine.

Repealer

SEC. 404—Repeals certain existing, obsolete Federal statutory provisions which are replaced by the broader or more modern provisions of this Act.

Mr. JAVITS. Mr. President, I join with Senator HUGHES in the legislation introduced today with respect to Federal programs dealing with the tragic narcotics addiction and drug abuse epidemic afflicting America's young people.

Mr. President, I live in the city and represent the State which contains that city, the largest in the country, which has the greatest problem; and I affirm that if we are to make measurable progress, it will come on two fronts: First, law enforcement, which includes limitation of the incursion of drugs into the United States, especially heroin; and, second, the procedures of education, treatment, and research, which are called for in these two very important, comprehensive bills.

The Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1971, is similar to the comprehensive drug bill which Senator HUGHES and I introduced last year with the cosponsorship of 28 Senators. That legislation was successfully attached in the Senate as a substitute title to another bill. Unfortunately, in an effort to assure speedy enactment of a comprehensive penalty-oriented drug bill, its comprehensive prevention, treatment and rehabilitation provisions were, to a great extent, lost in conference. However, it was then later passed by the Senate as a separate bill by a vote of 86 to 0. No further action was taken on the bill by the House in the 91st Congress.

The legislation is also substantially similar to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (S. 3835), which was cosponsored by 52 Senators last year and which the President signed into law on January 1, 1971, Public Law 91–616.

In essence the bill provides:

A National Institute on Drug Abuse and Drug Dependence in the Public Health Service, with a detailed range of responsibilities;

A $100 million emergency supplemental State assistance program over 3 years to aid States in planning, establishing, maintaining, coordinating and evaluating prevention, treatment, and rehabilitation projects;

A $150 million model and experimental treatment and rehabilitation grant program over 3 years, to allow the Secretary to establish, conduct, and evaluate model and experimental treatment and rehabilitation programs;

Drug abuse and drug dependence prevention, treatment, and rehabilitation programs for Federal civilian employees;

An annual report by the Secretary of Health, Education, and Welfare, which will contain a comprehensive Federal plan for utilizing all available prevention and treatment resources to combat the drug problem, describe existing treatment and rehabilitation and rehabilitation modalities with communities for their implementation; and set forth the Federal programs conducted, expenditures made, results achieved, plans developed and problems discovered in the operations and coordination of the various Federal prevention, treatment, and rehabilitation programs;

An independent National Advisory Council on Drug Abuse and Drug Dependence, to insure outside evaluation of Federal efforts in this area.

The Drug Dependent Offenders Treatment and Rehabilitation Act of 1971 would amend present provisions of the Narcotic Addict Rehabilitation Act of 1966 regarding treatment and rehabilitation services to drug dependent persons charged with or convicted of violating Federal criminal laws with updated and stronger legislative provisions. The same basic policy of treatment and rehabilitation contained in existing law would continue, but greatly expand the number of persons eligible and make the Federal Government's obligations to carry out that policy more definite.

In essence the bill:

Widens the definition of offenders eligible for treatment to all drug dependent persons who are Federal offenders;

Defines the Federal Government's obligations to carry out treatment of such persons by limiting the area within which the Government can exercise its discretion to not allow treatment;

Provides a $150 million State and local development program over 3 years, to assist State and local governments in developing, expanding, or evaluating programs providing treatment and rehabilitation services to State and local offenders charged with, or convicted of, drug-related crimes; and,

Of nonoffenders, place responsibility of providing civil commitment services on State and local governments.

Recently Dr. Bertram S. Brown, the Director of the National Institutes of Mental Health, the Government agency charged with responsibility for the development of research, treatment, education, and training programs dealing with narcotics addiction and drug abuse, appeared before the Alcoholism and Narcotics Subcommittee of the Committee on Labor and Public Welfare, of which I am ranking minority member, and testified:

It is our opinion that approximately 250,000 persons are addicted illicitly to narcotics. This estimate is approximately twice as large as the estimate we presented last year to this subcommittee.

The use of hallucinogens nationally appears to be leveling off although experimentation by young drug abusers continues to flourish. Barbituates continue to confound the drug scene, an estimated 2 million people take this drug regularly without medical needs."

And further, that—

The statistics on the use of marihuana are becoming more accurate with the use of broader surveys. We estimate 10–12 million Americans have used the drug at least one time.

This critical problem is not a secret to the communities plagued by it. Last year Congress enacted the Drug Abuse Education Act, Public Law 91–527, and despite community knowledge of limited available Federal funding for programs, more than 540 communities in every State of the Nation submitted program proposals requiring $55,101,740 in funding. But only an $8 million budget request is submitted by the Office of Education. The depth and breadth of the commitment to establish programs to combat this dread narcotics addiction and drug abuse epidemic is perhaps best reflected by proposals by the youth of our Nation. When the Office of Education indicated it would set aside approximately $700,000 to assist college-oriented programs, and urged applicants to substantially limit their funding requests—309 colleges across the country responded with programs requiring $14,734,843 in funding.

Mr. President, many of our people complain that people in public office do a lot of talking about this, but there is no appreciable action. I believe much is being done both publicly and privately, with a tremendous emphasis on the vast extent of the private efforts as well as the public efforts—exemplified by the above-mentioned efforts—but we simply do not have the enabling legislation and the implementing appropriations to do what needs to be done. For example, New York State, whose $65 million budget for drug abuse community efforts last year exceeded the total national commitment has regrettably, because of its fiscal constraints, cut back its funding and a valuable bilingual program by the Hispanic Association to provide urgently needed bilingual services for education and rehabilitation in addiction—an ideal program for funding under the legislation introduced today—will be lost to the young people in need.

I do not believe any one method of treating narcotics addicts is "the answer" and it is urgent that we evaluate a variety of treatment modalities—traditional institutional treatment, therapeutic communities, psychiatric outpatient model—aftercare—probation-parole, behavior modification, crisis centers, halfway houses, methadone maintenance—called by the NIMH Director, and with which I agree, "the most effective modality in engaging large numbers of addicts in treatment in a brief period of time"—as that is provided for by the legislation we introduce today.

Only by finding out what causes narcotics addiction and drug abuse and by curing it, even if we just have to dam the flow, as we do with methadone, will we get on top of the problem.

I hope the public will not assume that because we advocate the medical approach, the preventive approach, the research approach, it means that we are oblivious to and will not support and will not be in the forefront of urging strict enforcement of the law and the penalties for the pushers and sellers, who are the worst enemies of the youth of America.

By Mr. BELLMON:

S. 1837. A bill to provide for the establishment of a work experience and training program in the several states, and for other purposes. Referred to the Committee on Finance (by unanimous consent).

WORK EXPERIENCE AND TRAINING ACT OF 1971

Mr. BELLMON. Mr. President, probably no effort by any government at any time was ever undertaken with a higher, more humanitarian or more noble purpose than this country's welfare program. It grew out of the great depression and was intended as a means of sustaining individuals and families which, through no fault of their own, were unable to provide for their basic needs. In keeping of the noble designs of its founders the welfare program has generally served to accomplish its purpose. Three of the four components which make up the present welfare program are operating without serious criticism from either recipients or taxpayers. Little adverse comment is heard regarding aid to the aged—old age pensions—aid to the blind or aid to the totally and permanently disabled.

The costs of these programs seems to have stabilized in recent years and may go down as social security provides for the needs of a larger percentage of the aged. However, there is serious and justified, criticism of the remaining element of the welfare program. Both recipients and taxpayers are highly critical of ADC now called AFDC, aid to families with dependent children.

Recipients complain that the level of benefits is not adequate to provide for the necessities of family life, that the program forces families to break up, that it encourages and subsidizes immorality, and that it has produced many generations of welfare families since it offers no escape for its client families. Taxpayers are critical because of the serious social shortcomings of the program, because its cost is skyrocketing without compensating benefits and because there seems to be no hope for a reduction or even stability unless fundamental changes are made.

It is easy to see why taxpayers are incensed. In 1950 there were 2.2 million ADC cases and the cost was 520 million. In 1960 there were 3.8 million cases and the cost was 1.02 billion. In 1965 there were 4.40 million cases and the cost was $1.7 billion. In 1970 there were 8.4 million ADC cases and the cost was more than $4 billion. The program doubled in cost and nearly in number of recipients during the last 5 years. If the trend continues by 1980 nearly 32 million persons will be receiving aid at a cost of $16 billion.

Great as the financial drain has become this is not the greatest deficiency. The cost in human resource waste is much greater and more damaging to the social fabric of our Nation.

Mr. President, obviously a dramatic change in the basic concept of the aid to families with dependent children program is desperately needed. Experience has proved that such a change is possible and I am today introducing legislation to put this change in effect nationally.

Mr. President, this bill will establish, in each State, a work experience and training program for needy persons.

This bill embodies the principle that any physically able adult welfare recipient, under age 65, should accept offered work, as determined by the State agency.

The program is to be funded totally by the Federal Government, through the Secretary of Health, Education, and Welfare. Administration of the funds would be left to a single agency within each State. The ideal State agency would be the State public welfare agency which coordinates and provides needed service aspects of the welfare program.

Throughout the country, the Departments of Public Welfare have offices in every county, that are staffed, already in operation, and know the majority of individuals and case situations which are covered by this bill. The legislation in H.R. 1 which this bill supplants will, if enacted, of necessity take a period of time to fully implement, necessitating services to recipients during the interim as well as services to these people during the period of training or during the time they are accepting work and becoming

oriented in the labor market in full or in part.

After training is obtained, employment must be found for the trainees. It has been publicly announced that legislation will be introduced on the service aspects, but to me the establishment of another set of offices throughout this country sets up another bureaucracy and causes additional expenses. In my judgment the service aspect cannot be separated from the training and job placement aspects of this program.

The determination of eligibility and delivery of services to these unfortunate people should be provided by a single agency. My bill makes provisions for the referrals of individuals to the employment security offices and labor programs throughout the country; and it also assures the full complement of services for those making applications.

I introduce this bill because my experiences as Governor of Oklahoma have shown me the majority of people on aid to families with dependent children are desirous of working, that the social work profession and related professions throughout the country are honest, capable, and sincere. They have a burning desire to assist these people in breaking the chain of doing nothing but sitting and waiting to receive a check. I submit to you, Mr. President, we have learned over the years that, beneficial as the aid to families with dependent children program has been, the restraints need to be taken off of both the recipient and the dedicated personnel.

This is one of the goals which my bill establishes and attempts to accomplish.

Mr. President, such a program will bring into our productive society thousands of potential producers who are presently burdens on our social and economic system. Oklahoma's experience in programs of work training for welfare recipients substantiates that such a program can work nationally with highly desirable results.

The Oklahoma Department of Public Welfare operated a pilot work incentive program under title V of the Economic Opportunity Act, from June 15, 1965, to June 30, 1969. During this period, 5,201 persons were referred to the program. Of this number, 2,669 either were not eligible or dropped out.

A total of 2,482 completed their training, and of that number, 2,119 were employed at an average monthly starting salary of $291. This amounted to $7,399,548 a year in new income earned from the private sector.

Because of these earnings, the department was able to close 1,274 AFDC cases for a savings to the government of $2,476,656 a year in money payments alone, not considering medicare or other benefits. The social benefits which will accrue over the years as a result in this break in the welfare cycle are impossible to overemphasize.

Also, it is impossible to emphasize the importance of the national impact of such a program, and for this reason I am extremely optimistic as to what this legislation would do for social conditions, particularly in the urban centers, and also in reducing the cost of the welfare program.

Oklahoma officials generally recognized that the title V program was a realistic approach to providing marketable skills and restoring dignity to hundreds of persons who had been unable to provide a decent standard of living to their families, because of a lack of effective job training, which made it impossible for them to break the unemployment and underemployment barriers.

The results of the Oklahoma program also showed that many AFDC mothers became better homemakers and better mothers to their children, because of the interest they took in home management courses, conducted in conjunction with their job training. Other adults in the program learned the value and dignity of work by being placed in work experience situations that represented a realistic job setting. Still others were sufficiently stimulated by their participation in adult basic education that they planned to further their education at the college or trade school in order to be better prepared for jobs, more consistent with their interests.

Mr. President, under the bill which I am introducing, any employable recipient of assistance in a given State would be required, unless excepted for cause, to register with the State employment agency. They would then be referred for participation in the work experience and training projects developed by the State agency in cooperation with private industry and public or private nonprofit agencies.

The bill provides that to the extent possible the State shall expand the opportunity for work experience and needed training in the State and shall encourage the development of local work experience and training programs of a constructive nature designed to conserve existing work skills and develop new skills of participants.

It also provides that such work is performed on projects which serve a useful public purpose, including work performed on public work projects of State and local governments, and do not result either in displacement of regular workers or in the performance by participants of work that would be otherwise performed by employees of public or private agencies, institutions, or organizations, and—except in the cases of projects which involve emergencies or which are generally of a nonrecurring nature—are of a type which has not normally been undertaken in the past by the State or local government, as the case may be.

Such a program of intensive job training and employment is needed and needed at once so that the third and fourth generations of welfare recipients we now have will not become the parents of fifth and sixth poverty generations of tomorrow. The vicious poverty cycle must be stopped. That will be accomplished only if we make a concerted effort through a soundly planned program to help the povertystricken discover and develop their own potential for self-support.

Experiences in Oklahoma prove that this can be accomplished. It is a national tragedy as well as a personal tragedy for millions of Americans that the concepts embodied in this legislation were not a part of our Nation's welfare program when it was first conceived. Its passage now will, in a short time, remedy most of the deficiencies in the existing welfare program by providing the means for millions of now helpless Americans to become self-supporting and self-respecting.

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

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

S. 1837

A bill to provide for the establishment of a work experience and training program in the several States, 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 "Work Experience and Training Act of 1971".

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized to enter into an agreement with any State for the establishment and operation in such State of a work experience and training program for needy persons who require work experience or special family and supportive services, as well as training, in order that they may be assisted to conserve existing skills and develop new skills, and to the extent possible develop their employment potentials so that they may be assisted to secure and hold regular employment in a competitive labor market, with the costs of such work experience and training program to be met entirely from Federal funds.

(b) If any State is unable or unwilling to enter into an agreement to establish and operate a work experience and training program as provided in this Act, the Secretary is authorized to arrange for direct Federal administration of such program in such State as provided in section 4.

SEC. 3. The agreement between the Secretary, and the State authorized under section 2(a) must—

(1) provide for the establishment or designation of a single State agency to administer or supervise the program;

(2) provide that the program shall be in effect in all political subdivisions of the State;

(3) provide—

(A) that every individual found eligible for aid or assistance under the provisions of this Act, except an individual specified in section 3(3)(B), will register with the State agency and be referred for participation, when an opening becomes available, in the work experience and training projects established under this program, and any individual so referred must accept work or training, unless he has good cause for refusal as determined by the State agency; and

(B) that an individual found eligible for aid or assistance under the provisions of this Act shall not be required to register pursuant to section 3(3)(A) if under regulations issued by the Secretary it is determined by the State agency such individual is—

(i) unable to engage in work or training by reason of illness, incapacity, or advanced age;

(ii) a mother or other relative of a child under the age of six who is caring for such child;

(iii) the mother or other female caretaker of a child, if the father or another adult male relative is in the home, and not excluded by subparagraph (i), (ii), (iv), or (v) of this

subsection, and otherwise eligible for work experience training;

(iv) a child who is under the age of sixteen or who is under the age of twenty-two and (as determined by the State agency under regulations issued by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to train him for gainful employment;

(v) one whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household;

(4) provide that in developing work experience and training projects attention will be given to the employment potentials of older needy persons;

(5) provide that the Secretary shall by regulation define which groups of needy persons, other than those who have been found eligible for aid or assistance under the provisions of this Act, may participate in the work experience and training projects;

(6) provide that notwithstanding any other provisions of this Act, expenditures for aid or assistance under section 5 of this Act may be paid in the form of payments for work performed by eligible beneficiaries;

(7) provide that to the extent possible the State shall expand the opportunity for work experience and needed training in the State and encourage the development of local work experience and training programs of a constructive nature designed to conserve existing work skills and develop new skills of participants;

(8) include provisions, which, with respect to work experience and training projects, will give reasonable assurance in regard to eligible individuals participating in such projects that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by participants are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, including work performed on public work projects of State and local governments, and do not result either in displacement of regular workers or in the performance by participants of work that would be otherwise performed by employees of public or private agencies, institutions, or organizations, and (except in the cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or local government, as the case may be;

(D) in determining the needs of any such individual, any additional expenses reasonably attributable to such work will be considered;

(E) any such individual shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such individual will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid or assistance under section 5 of this Act will not be denied with respect to any such individual (or the dependent child) for refusal by such individual to perform any such work if he has good cause for such refusal as determined by the State agency;

(9) include pretraining services and basic maintenance, health, family and day care, counseling, and similar social services, and basic education, as provided under regulations issued by the Secretary;

(10) include a provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment of any such individuals performing work under such program, including appropriate provision for registration and periodic reregistration of such individuals and for maximum utilization of the job placement services and other services and facilities of such offices;

(11) include a provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational rehabilitation, vocational education, and adult education in the State, looking toward maximum utilization of available public vocational rehabilitation, vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such individuals performing work under such program and otherwise assist them in preparing for regular employment;

(12) include a provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any relative of such child when such relative is performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(13) include a provision that there will be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work;

(14) include such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in this Act;

(15) provide that work experience and training project proposals shall be reviewed and evaluated by the State agency and submitted for approval to the appropriate regional office of the Department of Health, Education, and Welfare, and that such regional office shall have the responsibility of conducting evaluative reviews of approved projects, including Federal onsite inspections of projects, and the administration of a work experience and training project by the State agency. The State shall also be responsible for planning and directing reviews and evaluations, including onsite reviews and special studies of approved work experience and training projects, and analyzing the results thereof;

(16) provide that the State agency may enter into agreements with private industry, and with appropriate public or private nonprofit agencies, including State manpower and educational agencies, to provide work experience to the extent required to assist participants in the program in developing necessary work attitudes or to prepare them for work or training involving the acquisition of needed skills;

(7) provide that the State agency may make arrangements through appropriate agencies to provide testing, counseling, training either on or off the job (including classroom instruction where needed), to assist participants to develop their occupational potential, improve their occupational level, and secure promotion or advancement;

(18) provide that the State through use of Federal funds shall provide a training allowance in a specified sum to individual trainees, and shall make arrangements for necessary transportation to training sites; and

(19) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assume the correctness and verification of such reports.

SEC. 4. If any State is unable or unwilling to enter an agreement with the Secretary for the establishment and operation of a work experience and training program in such State, the Secretary is authorized to make provision for direct Federal administration of such program in such State, the costs of such program to be met entirely from Federal funds.

SEC. 5. For the purpose of carrying out agreements between the Secretary and the States for the establishment and operation of work experience and work experience programs, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this Act. The sums made available under this section shall be used for making payments to States in the form either of advance payment or reimbursement. In addition, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to pay for direct Federal administration of the program in any State where that becomes necessary as provided in section 4 of this Act.

SEC. 6. As used in this Act, the term—

(a) "Secretary" means the Secretary of Health, Education, and Welfare; and

(b) "fiscal year" means a period beginning with any July 1 and ending with the close of the following June 30.

By Mr. CANNON (for himself, Mr. FANNIN, and Mr. BAYH):

S. 1839. A bill to authorize and direct the Administrator of the General Services Administration to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia; and

S. 1840. A bill to authorize and direct the Secretary of Defense and the Administrator of the General Services Administration to insure the procurement and use by the Federal Government of products manufactured from recycled materials. Referred to the Committee on Government Operations.

Mr. CANNON. Mr. President, I am extremely pleased to submit for the scrutiny of the Senate legislation calling for the Federal Government to take the lead in encouraging the use of recycled papers and other materials.

Although we as a nation are only 5.7 percent of the world's population, we consume 40 percent of the earth's natural resources, including nonrenewable minerals and timber. A crisis in natural resources is growing, because man is spending his mineral capital faster than any other resource.

Our Nation of 200 million persons uses 30 million tons of paper yearly, or about 285 pounds of paper for each man, woman, and child. Since 1 ton of paper requires the cutting of 17 trees; it is not difficult to see that 510 million trees must be cut each year to satisfy our need for paper.

To meet our skyrocketing demand for timber in 1969 we imported 1.2 billion more board feet than we did in 1967, and America's future demand for this precious resource will double in 30 years. At present rates of growing and cutting the United States will fall 2.5 billion cubic feet farther behind in 10 years.

The United States cannot depend indefinitely on imports to meet our needs. We must place emphasis on recycling. As the National Wildlife Federation points out, if the paper from the New York Times alone were recycled for 1 year, 36

square miles of Canadian forest could be saved. We presently burn most of this paper after only one use—destroying a valuable resource, and adding to our air pollution.

But the Federal Government uses far more paper than the Times does, and it has an obligation to stop using up these resources at an ever accelerating rate.

The Federal Government can and must take the lead in finding ways to recycle and use recycled products. It has taken some steps. For example, in Madison, Wis., a joint USDA-Department of the Interior-Health, Education, and Welfare research project aimed at recycling urban solid wastes has shown that it can be done. I understand the State of Wisconsin makes the use of recycled paper a State government policy. Some segments of private industry are becoming involved in recycling programs, and much of the paper used by the Federal Government goes back into circulation after it has been discarded.

As the Nation's largest single purchaser and user of paper and paper products, the Federal Government could do more by actually making a policy of using recycled materials for its own specifications.

To this end, Senator FANNIN, Mr. BAYH, and I are introducing legislation which would direct all Federal agencies and purchasing departments to require the maximum use of all recycled paper. We have also introduced a bill to require the agencies to study the use of all recycled materials for procurement. This legislation is designed to look into potentially greater use of recycled materials and to bring the Congress and the American public into the policymaking process. The Congressional Joint Committee on Printing, which has control over printing paper purchased throughout the Federal Government, already is moving ahead in restudying specifications for paper requirements.

But many questions are left unanswered and these must be addressed in order to come up with a realistic and positive Federal policy on recycled paper procurement. What is the state of the art? How far has it progressed since national awareness arose over the depletion of our natural resources? What are the physical problems, such as collection? How far can the recycling process be carried? How many times can fibers be recycled? What is the total potential market for recycled fine papers? Coarse papers? Board? What are the potential savings, in terms of natural resources. What are the economics of recycled papers, sorting and collecting.

These are some of the questions this legislation would have the Federal agencies answer.

The first bill authorizes and directs the General Services Administration and Defense Supply Agency to insure the procurement and use by the Federal Government of products manufactured from recycled materials. It would require both agencies to jointly conduct a full study of which products and materials procured or used by the departments, agencies, or instrumentalities of the Federal Government could be required to have, as part of their composition, recycled material while meeting the use specifications of such organizations.

The second bill authorizes and directs the GSA to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia. Such regulations shall specify that the contents of such paper shall consist of as great an amount of recycled material as possible consistent with the purpose for which such paper was procured.

It also provides for the GSA to coordinate the efforts, requirements, policies, and authority of the Joint Committee on Printing.

Similar bills have been introduced in the House by Congressman Dow of New York; I hope hearings can be held as quickly as possible, so that the Government will show its commitment to the cause of saving our natural resources.

Unfortunately, the present state of the art and limited demands for recycled paper; have not made it possible to lower prices below that of virgin paper; however a declared policy by the Government to use recycled materials can exert tremendous consumer power toward research and development activities for cheap, reusable products.

Mr. President, at this point I ask unanimous consent to have the text of the two bills be printed in the RECORD.

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

S. 1839

A bill to authorize and direct the Administrator of the General Services Administration to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds that—

(1) There are many products which, after having been used or damaged, are discarded as waste matter;

(2) Many products so discarded could be recovered and reused as the raw material for new products and new materials;

(3) The failure to so recover and reuse this waste matter causes an unnecessary drain upon the Nation's natural resources; and

(4) The Federal Government has the responsibility to lead in the effort to promote recycling of materials by procuring and using, to the greatest extent possible, only those products and materials which have, as part of their composition, recycled material.

(b) Section 201 of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new subsection:

"(f)(1) Except as provided in subparagraph (2), the Administrator shall prescribe regulations establishing standards with respect to the contents of any paper procured or used by any Federal agency or the District of Columbia. Such regulations shall specify that the contents of such paper shall consist of as great an amount of recycled material as is possible consistent with the purpose for which such paper was procured.

"(2) In carrying out the provisions of this subsection, the Administrator shall coordinate his efforts with the requirements, policies, and authority of the Joint Committee on Printing as indicated under section 313 of chapter 3, and chapter 5 of Title 44 of the United States Code (relating to standards of quality of paper).

"(3) Except for the provisions of subparagraphs (4) and (7) of section 602(d) of the Federal Property and Administrative Services Act of 1949, the regulations prescribed by the Administrator under this subsection shall apply (in as uniform a manner as is practicable) to all paper procured or used in the United States by an Federal agency or the District of Columbia.

"(4) For the purposes of regulations prescribed by the Administrator under this subsection, the term 'recycled material' means any paper which:

"(1) has served the purpose for which it was originally manufactured;

"(2) has been scrapped or otherwise discarded as an element of solid waste; and

"(3) has been recovered in whole or in part and reprocessed into a new raw material used in the manufacturing process of new paper; except that such term shall not mean those materials generated by the paper manufacturing process and reused within a plant as part of such process.

"(5) For the purposes of this subsection, the term 'United States' means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 2. Section 602(d) of the Federal Property and Administrative Services Act of 1949 is amended by striking out at the beginning of such section "Nothing" and inserting in lieu thereof "Except as provided in section 201(f), nothing".

S. 1840

A bill to authorize and direct the Secretary of Defense and the Administrator of the General Services Administration to insure the procurement and use by the Federal Government of products manufactured from recycled materials

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds that—

(1) there are many products and materials which, after they have been used or damaged, are discarded or scrapped as waste matter;

(2) the accumulation of this waste matter presents a danger to the health and welfare of the citizens of the United States;

(3) many products and materials (otherwise discarded as waste matter) could be recovered and reused as the raw material for new products and materials;

(4) such recovery and reuse of such waste matter will abate the noxious and dangerous accumulation of such waste matter and will aid in the effort to conserve our scarce natural resources; and

(5) the Federal Government has the responsibility to lead in the effort to utilize recycled material by procuring and using, to the greatest extent possible, those products and materials which have, as part of their composition, recycled material.

(b) It is the purpose of this Act to authorize and direct the Secretary of Defense (hereinafter referred to as the "Secretary") and the Administrator of the General Services Administration (hereinafter referred to as the "Administrator") to take the necessary and proper actions to insure the procurement and use (to the greatest extent possible) by the Federal Government of products and materials which have, as part of their composition, recycled material, and to jointly conduct a full and complete study of the feasibility of the procurement and use by the Federal Government of such products and materials.

SEC. 2. (a) The Secretary and the Administrator are authorized and directed to

take the necessary and proper actions, including the promulgation of standards and regulations to ensure the procurement and use (to the greatest extent possible) by the departments, agencies, and instrumentalities of the Federal Government of products and materials which have, as part of their composition, recycled material. Such standards and regulations promulgated by the Secretary, or by the Administrator, shall be promulgated in the same manner as those standards and regulations promulgated under the provisions of the Federal Property and Administrative Services Act of 1949 relating to procurement and use by the Federal Government of personal property.

(b) The Secretary, through the Defense Supply Agency, and the Administrator are authorized and directed to jointly conduct a full and complete study of which products and materials procured or used by the departments, agencies, or instrumentalities of the Federal Government could be required to have, as part of their composition, recycled material while meeting the use specifications of such departments, agencies, or instrumentalities.

SEC. 3. (a) The Secretary and the Administrator, in carrying out the joint study under this Act, are authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality any information, suggestions, estimates, and statistics for the purposes of this Act, and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Secretary and the Administrator, upon their joint request.

(b) For the purposes of securing the necessary scientific data and information the Secretary and the Administrator may jointly make contracts with universities, research institutions, foundations, laboratories, and other competent public or private agencies to conduct research into the various aspects of the problem of using products and materials which have, as part of their composition, recycled material. For such purposes, the Secretary and the Administrator are authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code.

SEC. 4. The Secretary and the Administrator shall report to the Congress, from time to time, the findings and results of the study conducted under this Act and the final report shall be made no later than the one hundred and eightieth day after the date of enactment of this Act. Such final report shall include the findings and results of the study, and specifically—

(1) recommendation as to the necessary and proper legislative, administrative, or other actions that should be taken in order to ensure that the departments, agencies, and instrumentalities of the Federal Government procure and use (whenever possible) products and materials which have, as part of their composition, recycled material; and

(2) what actions the Secretary and Administrator have already taken, either jointly or separately, to promote and ensure the procurement and use by such departments, agencies, and instrumentalities of such products and materials.

SEC. 5. The Secretary and the Administrator shall make a joint annual report to the Congress with respect to the progress that they are making in providing for the procurement and use by the departments, agencies, and instrumentalities of the Federal Government of products and materials which have, as part of their composition, recycled materials. The report submitted under this shall be submitted to the Congress within sixty days after the end of the calendar year for which such report is submitted. The first such report shall be due within sixty days after the end of the first calendar year ending after the date of enactment of this Act.

SEC. 6. For the purposes of this Act the term "recycled Material" means any product or material completed for sale or use which has been—

(1) scrapped, used, damaged, or otherwise discarded; and

(2) recovered in whole or in part and reused as all or part of the contents of any new material or product; or

(3) the salvageable wastes or byproducts of which are recovered and reused as all or part of the contents of any new material or product.

Mr. FANNIN. Mr. President, as a major consumer of paper products and other goods, the Federal Government should take the lead to encourage the recycling of used materials that are partially to blame for our environmental problems.

It has been pointed out that the General Services Administration buys more than 400,000 tons of paper each year. If a part of this $140 million market were guaranteed for recycled paper, it would give a tremendous boost to efforts to reprocess waste paper. This also should spur the use of recycled paper by making more available to individuals and private industry as well.

Our Government also uses many other products that could conceivably come from recycled or remanufactured materials.

In addition to helping solve the problem of what to do with much of our trash, recycling also can help us preserve some of our precious natural resources such as timber and minerals.

In response to the growing concern over waste disposal and depletion of our resources, various industries have come up with processes to reuse basic materials such as paper, plastics and metals. Unfortunately, there has proven to be a very disappointing market for these products.

I am pleased to join my distinguished colleague from Nevada in introducing two bills to help correct this situation.

By passing these bills, the Congress would declare that:

First. There are many products and materials which, after they have been used or damaged, are discarded or scrapped as waste matter;

Second. The accumulation of this waste matter presents a danger to the health and welfare of the citizens of the United States;

Third. Many products and materials—otherwise discarded as waste matter—could be recovered and reused as the raw material for new products and materials;

Fourth. Such recovery and reuse of such waste matter will abate the noxious and dangerous accumulation of such waste matter and will aid in the effort to conserve our scarce natural resources; and

Fifth. The Federal Government has the responsibility to lead in the effort to utilize recycled material by procuring and using, to the greatest extent possible, those products and materials which have, as part of their composition, recycled material.

The two bills being introduced provide two practical steps aimed at helping implement solutions to these problems.

One bill directs the General Services Administration to prescribe regulations which would require the purchasing of certain amounts of recycled paper where practical for Federal agencies. There are many day-to-day operations of Government where such paper can be used.

The other bill directs the Secretary of Defense and GSA to order the use of other recycled or remanufactured goods to the maximum extent that is feasible. This bill also provides for studies to determine just where recycled items can be used and still meet necessary specifications.

The Nixon administration already has indicated its interest in encouraging programs and processes that would ease the pollution problem. The bills being introduced would help in this regard and put Congress on record as solidly favoring efforts to reuse that which is reusable.

Mr. BAYH. Mr. President, we are all painfully aware of the terrible waste which takes place in this country because we persist in using new materials in everything we use and build, and because we pay too little attention to reusing valuable materials.

Today I cosponsor two bills to make us use our raw materials more efficiently, by requiring that the Federal Government purchase recycled materials—and products made with recycled materials—wherever possible.

I am pleased to join with the senior Senator from Arizona and the junior Senator from Nevada in this bipartisan effort. These bills have already been introduced in the House by Congressman Dow of New York, one of the most sincere and respected spokesman for the ecology movement in the other body. We hope that both Houses of Congress will give serious and prompt consideration to these proposals, thus recognizing the need for leadership by the Federal Government in the drive to increase the supply and use of recycled goods.

The magnitude of the waste is staggering. To take only one example, we produce about 58 million tons of paper each year, but less than 20 percent of that total is saved and recycled for future use. Increasing that percentage to 50 percent would save a total of 500 million trees a year. We cannot afford to ignore such a tragic and unnecessary waste of our natural resources any longer.

In the past years, public interest and environmental groups have been able to generate a widespread and forceful concern about waste of our resources and pollution of the environment. Public concern has been aroused. Now we in the Senate no longer have the excuse of "public apathy" to justify our continued inaction. We must recognize the validity of this concern and finally take action.

There have been attempts to deal with this problem in the past. It might be of historical interest to note that groups were formed to advocate the recycling of used materials as early as 1913. During World War II many of us participated in collection drives; no reusable material was considered too insignificant to save. The national interest of a

war-time economy inspired tremendous sacrifice then. I believe that the national interest of each American in a decent environment still calls for sacrifice and effort to save our resources. Unfortunately, we have forgotten the lessons we learned during World War II. Since that time we have too often taken the easy way out, using disposable packages and materials whenever possible. While this has been convenient, it has stood as a symbol of conspicuous consumption in an affluent country. It is long past the time to return to the policy of reclamation which stood as a strong, positive symbol of our national dedication to preserving our heritage, including our national resources.

In the past few years there have been countless newspaper, can, and bottle collection drives. Industry has sponsored many of them and the public response has been gratifying.

Even though they get little or no financial reward for their actions, many families motivated by a sense of public concern have been taking their reusable refuse to the small number of collection centers, scattered around some of our cities. With the upsurge of public interest in preserving our resources, these collection centers have often been swamped with such "donations." In many cases they have had to refuse to accept any more waste materials because we have yet to design and build adequately large recycling facilities.

If we do not take action to increase our capacity for recycling, these collection centers will have to close down because they will be unable to get rid of the newspapers, bottles, and scrap metals on hand to make room for the new supplies that are being delivered daily. But as long as the demand for recycled materials is less than the supply of waste, the incentive to save and recycle waste materials will be weak.

I believe that, since it is one of the largest—if not the largest—purchasers in the country, the Federal Government can—and should—take the lead in creating this increased demand. We in government must govern by example, by leadership, as well as law. The two bills I am introducing today would require the Federal Government to purchase recycled materials wherever possible.

The first bill recognizes that many products are discarded or scrapped as waste material after being used only once, that the accumulation of this waste matter can pose a danger to health, that many materials could be recovered and reused as raw materials for new products, thus conserving our scarce natural resources. For these reasons, the bill acknowledges that the Federal Government "has the responsibilty to lead in the effort to utilize recycle material by procuring and using to the greatest extent possible, those products and materials which have, as part of their composition, recycled material." To remedy this situation, the bill directs the Secretary of Defense and the Administrator of the General Services Administration to establish new procurement standards, which standards shall require the procurement and use of recycled materials to the greatest extent possible.

The Secretary and Administrator are further required to conduct a joint study of materials used by the various agencies within their respective jurisdictions in order to make sure that the maximum feasible use is being made of recycled material. The Secretary and the Administrator are required to report the findings and results of this study within 6 months of the bill's passage. Furthermore, they must also make a joint annual report in each succeeding year, detailing their progress to date and their recommendations for future action.

The second bill deals with the reuse of waste paper. While the Government is presently undertaking various studies to determine the feasibility of using recycled paper, I believe that the progress to date has been too slow. Therefore, this bill would require the immediate establishment of regulations for the future procurement of paper to be used by any Federal agency or by the District of Columbia. These regulations would not be half-way measures. The bill specifies that the regulations require the purchase of paper which consists "of as great an amount of recycled material as is possible consistent with the purpose for which such paper was procured." The bill also requires that these regulations shall be promulgated in coordination with the "requirement, policies, and authority of the Joint Committee on Printing."

The Federal Government is only too well known for the amount of paper it uses; the least the Government can do is insure that its paper does not unnecessarily pollute the environment. Current statistics are astonishing. As a nation, we produce approximately 58 million tons of paper a year. The great bulk of that amount, 40 million tons, is permanently lost and becomes solid waste. Seven million tons are saved as permanent records. Only 11 million tons—about 20 percent of the total—are recycled.

In other words, two-thirds of the amount of paper produced each year is being thrown away and incinerated. According to recent estimates, the Government Printing Office buys at least 78,000 tons of paper a year for the Federal Government. In addition, the General Services Administration buys about $450,000 worth of paper a year for Federal agencies in the District of Columbia. If the Federal Government were to buy recycled paper wherever possible, and if State and local governments were to establish similar policies, a substantial proportion of these 40 million tons could be saved by users for profitable reselling. And this increased demand for recycled paper would make it profitable for industry to increase their recycling capacity and to set up more convenient collection centers. A law which makes recycling profitable will accomplish two desirable goals at once. It will save trees and other natural resources, and it will also decrease the solid waste pollution and the added pollution caused by incineration or other destruction of used materials.

These bills are not intended to—and will not—disrupt industry. But they will encourage industry to make a rapid transition toward a more efficient use of our resources. The time for such a change is long overdue.

By Mr. SCOTT (for himself and Mr. SCHWEIKER):

S. 1841. A bill to provide for the establishment of the Tinicum Environmental Center in the Commonwealth of Pennsylvania, and for other purposes. Referred to the Committee on Commerce.

TINICUM ENVIRONMENTAL CENTER

Mr. SCOTT. Mr. President, I introduce legislation to establish a Tinicum Environmental Center to preserve from imminent destruction the last remaining true tidal marshland in Pennsylvania. I am pleased that Pennsylvania's distinguished junior Senator (Mr. SCHWEIKER) joins me as a cosponsor in this effort to preserve this area as a prime habitat for many species of wildlife and as a feeding and resting place for migratory wildfowl.

Identical legislation has been introduced on the House side by Congressman LAWRENCE G. WILLIAMS, of Pennsylvania's Seventh District. The House version is cosponsored by 23 members of the Pennsylvania congressional delegation as well as Representative JOHN HUNT, of New Jersey.

Under this bill, the Secretary of Interior would be authorized and directed to establish and administer a Tinicum Environmental Center. To accomplish this, the legislation authorizes an appropriation of $4 million to enable the Secretary to acquire such lands in Philadelphia and Delaware counties as he may deem necessary in order to preserve, restore, and develop the natural area known as Tinicum Marsh.

The Tinicum Environmental Center would be bound on the west by Wanamaker Avenue and on the east by the easterly edge of the Tinicum Wildlife Preserve and the Department of Interior land in Philadephia. It would be bound on the south by Interstate Highway 95 and on the northerly edge by the developed areas and parks of Darby Township, Folcroft, Norwood and Prospect Park.

Senator SCHWEIKER, Congressman WILLIAMS, and I have been active for several years in the effort to preserve Tinicum Marsh.

In the fall of 1970, I worked closely with then-Secretary of the Interior Walter Hickel to arrange his tour of the marsh. That tour led to a pledge by the Department to help preserve the ecological balance of this area. On December 4 of 1970, after extensive negotiations, I announced the transfer to the Department of the Interior of 60 acres formerly under the jurisdiction of the Department of Army. The 60 acres transferred by the Army Corps of Engineers have been combined with another 87 acres already owned by the Department of Interior.

My bill would provide for the additional purchases necessary to maintain the ecological balance of the marsh. I believe this is sound and timely environmental legislation, and I urge early and favorable consideration.

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

S. 1842. A bill to reimburse the city of Frederick, Md., for money paid, saving harmless valuable military and hospital supplies owned by the U.S. Government. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President. Most of us are aware of the Civil War's Battle of the Monocacy outside the city of Frederick, Md., where Federal troops spoiled Confederate attempts to overrun Washington, D.C. Few of us, however, know of the valiant efforts of the city and citizens of Frederick.

Frederick functioned as one of the key command headquarters for Union forces during the Civil War. It was a strategic point for supply and reinforcements for the east coast. In the city was located a sizable Government supply depot and hospital. Federal troops were stationed in the city for deployment along the Maryland shores of the Potomac. Here troops were used as a defense against invasion by Confederate troops across the Potomac and from attack upon Washington.

July 9, 1864, the day of the Battle of the Monocacy, was an eventful day for Frederick. On the morning of that day, the city officials received a message from Lt. Gen. Jubal Early, Commanding General of the Confederate Armed Forces, who was on his way to Monocacy and the expected battle. The message demanded of Frederick and its citizens $200,000 or in the alternative medical, commissary, ordnance and quartermaster supplies valued at $50,000 each and equal in value to $200,000. The general surrounded the city with his approximately 20,000 troops and there were rumored threats that all property in the city would be destroyed unless the demand was met.

If the city officials gave the Confederates the Government supplies, it would strengthen their forces for the ensuing battle. And, if they were able to delay and negotiate its terms, it would give Federal troops additional time to prepare for battle and thus contribute to a possible Union victory. These were the considerations—all of them waived and balanced under the imminent threat of total destruction to their city.

The best to be expected was accomplished: the city officials delayed payment for 24 hours and collected $200,000 from local banks under the promise that the citizens of Frederick would be taxed over the years to reimburse the banks. This debt was finally liquidated in 1951 through a series of bond issues.

The stubborn resistance of the city of Frederick cost the Confederate armed forces a day in the march upon Washington, thus giving the Union Army additional time to successfully defend the Capital City. In addition, their efforts saved the destruction of Government property.

Mr. President, today, along with my colleague Senator BEALL, I introduce legislation which would finally, after all these years, repay the citizens of Frederick for their expenditure of $200,000 which during economically harsh days was a particular sacrifice.

The bill authorizes and directs the Treasury to pay to the city of Frederick the sum of $200,000 with interest at the rate of 4 percent per year from July 9, 1864, until the date of payment of such sum or within 30 days after the date of enactment of this act, whichever occurs first.

As a proud son of Frederick, I am particularly honored to introduce this legislation.

This is not a ransom bill, but a bill to reimburse the city of Frederick for its out-of-pocket loss. The citizens of Frederick for 87 years have been paying the insurance premiums on the benefits incurred by the Federal Government. It is time to repay that debt. Not 1 cent for ransom, but what is due in payment for value required by the Union.

Mr. President, we have seen recently, as in the case of the Indians and Mexicans of America, that if appropriate steps are taken, people can redeem from their Government land and money rightfully theirs.

The city of Frederick has been patient. They have waited over 100 years. It is important to show those who are also disenfranchised that the Government can be responsive to valid claims when taken through established channels.

Mr. BEALL. Mr. President, one of the great strengths of our governmental system is its ability to rectify grievances, even grievances of long duration. I would call to your attention one such century old situation which I believe the Congress has a moral obligation to assume.

In early July 1864, Lt. Gen. Jubal A. Early crossed into Maryland in an effort to relieve pressure on the main Confederate forces defending Richmond. By July 9, the Confederates had surrounded the small western Maryland city of Frederick. From this position, General Early was able to disrupt the lines of communication through western Maryland, as well as pose a serious threat to Baltimore and Washington. Units from the Army of the Potomac were sent to reinforce the garrisons protecting both Baltimore and Washington.

Union forces under the command of Lew Wallace—author of Ben Hur—moved West from Baltimore in an effort to dislodge the Confederates. The southern forces carried the day, however, in the Battle of the Monocacy—July 9, 1864. With his position consolidated, General Early demanded that the city of Frederick pay $200,000 to spare the U.S. military and medical supplies that were stored there. The city delayed the negotiations as long as possible but finally met the invaders' demands.

Emboldened by his earlier successes, General Early moved East toward Baltimore and then South to threaten Washington. General Grant sent sizable reinforcements North to bolster the administrative troops and civilian volunteers who were hastily organized to defend the Capital. So great was the threat that President Lincoln even suggested that General Grant return to Washington to direct its defenses. On July 11 and 12 the Confederate forces probed the defenses around the Capital. The arrival of reinforcements convinced General Early that he could not successfully attack Fort Stevens—President Lincoln, personally surveying the city's defenses, came under fire in that area.

The Confederate forces withdrew during the night of July 12 and recrossed the Potomac on the 14th. Thus ended one of the last major Southern thrusts into the North.

The citizens of Frederick not only saved a large supply of medical and military supplies that were vital to the Union cause, but they also delayed the Confederate Army just long enough to allow the reinforcements to reach Washington, D.C.

The city of Frederick bore this burden willingly so that our Union could be preserved. Frederick did not completely liquidate this indebtedness until 1951. The time has come for us to recognize and assume this debt. It is a pleasure for me to join with Senator MATHIAS in introducing legislation that will reimburse the city of Frederick for this payment.

By Mr. METCALF:

S. 1843. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals, and to impose a countervailing duty on imported minerals. Referred to the Committee on Finance.

IMPOSITION OF SEVERANCE TAX ON MINERALS TO ASSIST STATES IN RAISING REVENUES

Mr. METCALF. Mr. President, in the last Congress and in the 90th Congress, I offered legislation to authorize the imposition of a severance tax on minerals to assist the States in raising revenues. I am pleased to introduce today an amended version of the bills. This is a better variety of revenue sharing and it would actually increase revenues at all levels.

Mr. President, the States and local governments are hard pressed for cash and at the same time reluctant to further increase income, property or sales taxes. Mining industry States are reluctant to impose a severance tax and thus give an advantage to a neighboring State that imposes no such tax. My bill provides for a uniform tax of 5 percent on minerals extracted domestically or from deposits in the Outer Continental Shelf and on imported minerals. The revenue raised would be paid into the Federal Treasury but full credit will be allowed for any State or local severance tax.

My previous bills, S. 2934 and S. 910, would have imposed the tax on domestic extractions only. I believe, however, that equity requires the extension of the same tax to imported minerals and the cur-

rent legislation has been drafted accordingly.

Mr. President, there has been much discussion of revenue sharing and the need for "new revenue." Here is a proposal that could generate new revenue. A 5-percent tax on minerals extracted from the Outer Continental Shelf would bring in $20 million annually to the Federal Government; a countervailing duty on imported minerals would yield $410 million annually. After deduction for State collections, another $669,690,000 on domestic minerals would be raised until conforming State and local severance tax laws are written. Based on fiscal year 1970 State collection figures, the Federal Government could realize in excess of nearly $700 million in the year following enactment of my bill. Following enactment of State laws, however, the entire sum would go to the States and the Federal Government would still be richer by $430 million annually, based on 1969 levels of value.

Mr. President, I am greatly indebted to the staff of the Joint Committee on Internal Revenue Taxation for their preparation of an analysis of my bill compared to its predecessor, S. 910, and for data showing the value of mineral production by State and State collections of severance taxes in fiscal 1970. I ask unanimous consent that these valuable studies be printed in the CONGRESSIONAL RECORD at the close of my remarks.

The ACTING PRESIDENT pro tempore (Mr. CHILES). Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. METCALF. Mr. President, the bill would impose a severance tax on minerals extracted from deposits in the Outer Continental Shelf. Thus, oil and sulfur extracted from the Gulf of Mexico under leases granted by the Federal Government would be subject to the severance tax.

A countervailing duty is imposed by section 2 of the bill on imported minerals in an amount approximately equal to the severance tax which would have been imposed if the minerals had been extracted and processed in the United States at the time of importation.

S. 910 would have applied to severance of minerals after December 31, 1968. The new bill would apply to the severance of minerals, and the importation of minerals, on and after the first day of the first month which begins more than 60 days after the date of enactment of the bill.

The provision for the countervailing duty is something of an innovation. There is no precedent in the tariff laws for this provision which requires the Secretary of the Treasury to apply to imported minerals a countervailing duty equal to the burden of a domestic tax, but we believe it is workable.

Under the new bill the Secretary is permitted from time to time to estimate the average amount of severance taxes paid with respect to each domestic mineral, and to apply the estimated figure to imports. Thus, if the Secretary finds that the average severance tax paid for oil in the United States is 15 cents a barrel—5 percent of an average field price of $3 a barrel—oil imported from Saudi Arabia would pay a duty of 15 cents a barrel even though the market price of oil in Saudi Arabia is only $2 per barrel.

Under this proposal, if a mineral has been processed so that it has become a manufactured product having more than three times the value of the mineral before the manufacturing processes were applied, the countervailing duty will not apply. Thus, if an automobile is imported, the duty would not apply to the metals contained in the automobile since manufacturing added more than threefold the value of the minerals contained in the car. However, the duty would apply—even though the case of alumina, brick, tile, cement, or metals in the various shapes and forms described in part 2 of schedule 6 of the Tariff Schedules of the United States. This schedule includes such items as blister copper, copper wire bars, pig iron, steel bars and beams. Accordingly, if a ton of pig iron is imported the countervailing duty would be the average amount of severance taxes imposed domestically on the amount of iron ore used to produce a ton of pig iron.

The bill provides that if the Tariff Commission finds that a mineral—such as tin—is not directly competitive with any mineral produced in the United States, the President can proclaim that the mineral shall be exempt from the countervailing duty, but either House of Congress by resolution may veto such exemption.

EXHIBIT 1

DATA FOR 1969 ON VALUE OF MINERAL PRODUCTION BY STATES, AND STATE COLLECTIONS OF SEVERANCE TAXES ON MINERALS, FISCAL YEAR 1970

[In thousands of dollars]

	1969 value of mineral production	Proposed 5-percent tax	Fiscal 1970 State collections of severance taxes on minerals	Proposed 5-percent tax minus State collections
	(1)	(2)	(3)	(4)
Alabama	$284,736	$14,237	$1,362	$12,875
Alaska	257,776	12,889	8,254	4,635
Arizona	859,303	42,965		42,965
Arkansas	208,126	10,406	3,376	7,030
California	1,850,517	92,526	1,246	91,280
Colorado	368,494	18,425	1,058	17,367
Connecticut	27,767	1,388		1,388
Delaware	2,086	104		104
Florida	295,376	14,769	248	14,521
Georgia	190,902	9,545		9,545
Hawaii	29,539	1,477		1,477
Idaho	118,309	5,915	264	5,651
Illinois	659,815	32,991		32,991
Indiana	241,871	12,094	322	11,772
Iowa	119,930	5,997		5,997
Kansas	577,816	28,891	605	28,286
Kentucky	591,048	29,552	191	29,361
Louisiana	4,685,326	234,266	249,590	−15,324
Maine	20,188	1,009		1,009
Maryland	83,483	4,174		4,174
Massachusetts	49,843	2,492		2,492
Michigan	668,247	33,412	965	32,447
Minnesota	635,636	31,782	18,976	12,806
Mississippi	243,184	12,159	13,343	−1,184
Missouri	367,232	18,362		18,362
Montana	282,631	14,132	4,730	9,402
Nebraska	78,030	3,902	766	3,136
Nevada	$168,295	$8,415	$50	$8,365
New Hampshire	8,120	406		406
New Jersey	83,107	4,155		4,155
New Mexico	935,746	46,787	35,398	11,389
New York	302,339	15,117		15,117
North Carolina	90,455	4,523		4,523
North Dakota	91,048	4,552	3,198	1,354
Ohio	580,667	29,033		29,033
Oklahoma	1,090,809	54,540	50,539	4,001
Oregon	60,164	3,008		3,008
Pennsylvania	967,367	48,368		48,368
Rhode Island	4,433	222		222
South Carolina	55,865	2,793		2,793
South Dakota	54,921	2,746	16	2,730
Tennessee	205,451	10,273		10,273
Texas	5,769,970	288,498	273,213	15,285
Utah	543,282	27,164	4,272	22,892
Vermont	27,759	1,388		1,388
Virginia	317,527	15,876		15,876
Washington	88,626	4,431		4,431
West Virginia	948,430	47,422		47,422
Wisconsin	79,792	3,990		3,990
Wyoming	647,442	32,372	4,268	28,104
Total	26,928,000	1,345,940	676,250	669,690

Sources:
Column (1) from preprint from the 1969 Bureau of Mines Mineral Yearbook, Statistical Summary, table 4.
Column (2) computed from Column (1).
Column (3) from "State Tax Collections in 1970," table 9, U.S. Department of Commerce, Bureau of the Census.

STATE COLLECTIONS ON SEVERANCE TAXES ON MINERALS, FISCAL YEAR 1970

(In thousands of dollars)

	Total	Petroleum and gas	Other minerals
Alabama	1,362	1,325	37
Alaska	8,254	8,254	
Arizona			
Arkansas	3,376	[1] 3,000	[1] 376
California	1,246	1,246	
Colorado	1,058	1,019	39
Connecticut			
Delaware			
Florida	248	248	
Georgia			
Hawaii			
Idaho	264		264
Illinois			
Indiana	322	322	
Iowa			
Kansas	605	605	
Kentucky	191	191	
Louisiana	249,590	243,798	5,792
Maine			
Maryland			
Massachusetts			
Michigan	965	965	
Minnesota	18,976		18,976
Mississippi	13,343	13,199	144
Missouri			
Montana	4,730	3,231	1,499
Nebraska	766	766	
Nevada	50		50
New Hampshire			
New Jersey			
New Mexico	35,398	34,330	1,068
New York			
North Carolina			
North Dakota	3,198	3,198	
Ohio			
Oklahoma	50,539	[1] 48,200	[1] 2,339
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota	16		16
Tennessee			
Texas	273,213	268,978	4,235
Utah	4,272	1,264	3,008
Vermont			
Virginia			
Washington			
West Virginia			
Wisconsin			
Wyoming	4,268	4,268	
Total	676,250	638,407	37,843

[1] Estimated from production figures.

Source: "State Tax Collections in 1970," table 9, U.S. Department of Commerce, Bureau of the Census. (Government (Finances/GF 70 No. 1).

EXHIBIT 3

VALUE OF MINERAL PRODUCTION AND SERVERANCE TAX COLLECTIONS: AMOUNTS AND DISTRIBUTIONS

	Value of mineral production in United States, 1969		Severance taxes collected from minerals, fiscal year 1970	
	Amounts in millions	Percent of total	Amounts in millions	Percent of total
Total	$26,928	100.0	$676.2	100.0
Petroleum and natural gas	13,882	51.6	638.4	94.4
Other minerals	13,046	48.4	37.8	5.6

Note: Staff of the Joint Committee on Internal Revenue Taxation Mar. 5, 1971.

By Mr. GOLDWATER:

S. 1844. A bill to amend the National Labor Relations Act to further secure and protect the constitutional guarantee of free speech belonging to employers and employees. Referred to the Committee on Labor and Public Welfare.

LABOR-MANAGEMENT RELATIONS FREEDOM OF SPEECH ACT

Mr. GOLDWATER. Mr. President, I offer today a bill designed to correct a flagrant example of bureaucratic lawmaking in the field of labor disputes. By virtue of its irregular decisions, mixed with a large dose of prounion bias, the National Labor Relations Board has succeeded in rendering a line of cases which seriously threaten the constitutionally guaranteed right of free speech held by employers. Not only do these cases deny and abridge the protection afforded by the first amendment, but they are gross distortions of the will of Congress as laid down in section 8(c) of the Taft-Hartley Act. Let me explain what I mean.

Mr. President, the Supreme Court long ago has announced the rule that the first amendment protects the right of each employer to express his full and unfettered opinions on labor matters to his employees. And the lower courts have consistently followed suit.

The genesis for most of these opinions can be found in the broad declaration made by the Supreme Court in Thornhill against State of Alabama that—

The dissemination of information concerning facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution. (310 U.S. 88 (1940).)

This ruling was promptly construed by the Federal Circuit Court in the Sixth Circuit as securing for employers the same unmuzzled right of free speech guaranteed to every other citizen. In Midland Steel Products Co. against NLRB, the court upheld the right of an employer to notify his employees by letter of his views on labor matters to the same full extent normally granted to any full-fledged citizen. The court reasoned employers are no less citizens than any other person saying:

Unless the right of free speech is enjoyed by employers as well as by employees, the guaranty of the First Amendment is futile, for it is fundamental that the basic rights guaranteed by the Constitution belong equally to every person. 113 F. 2d 800, 804 (1940, C.C. 6th Cir.).

Shortly thereafter, the same court confirmed the right of a manufacturer to express his labor views by giving pamphlets to workingmen at the factory gate. In holding that the employer is entitled to distribute literature conveying his views to his employees, the court explained:

The right to form opinion is of little value if such opinion may not be expressed, and the right to express it is of little value if it may not be communicated to those immediately concerned. *N.L.R.B.* v. *Ford Motor Co.*, 114 F. 2d 905, 913 (1940, C.C. 6th Cir.).

The decision was subsequently cited with approval by the Supreme Court.

One year later the Supreme Court again took up the issue by squarely ruling that Federal labor law does not and cannot forbid or penalize expression by an employer to his employees of his views of labor policies and problems. Speaking of an employer's action in mailing a bulletin and authorizing speeches to its employees opposing a union's effort to organize the company, the Court held—

The employer in this case is as free now as ever to take any side it may choose on this controversial issue. *Labor Board* v. *Virginia Power Co.*, 314 U.S. 469, 477 (1941).

Significantly the Court made a direct determination that expressions by an employer which are critical of unions or which advocate the formation of unaffiliated unions are not automatically to be considered as intimidating or pressuring employees. The Court stated:

If the utterances are thus to be separated from their background, we find it difficult to sustain a finding of coercion with respect to them alone. (314 U.S. 479.)

Thus, the rule is clearly established that the simple fact a view is expressed by an employer does not, ipso facto, make it coercive. The opinion that every communication from an employer inherently holds a quality of compulsion has been soundly rejected by the Nation's highest court.

The 1941 Supreme Court ruling was applied shortly thereafter by the Second Circuit Court in a noteworthy case sustaining the practice of a company which sent a letter to its employees signed by its president and whose president directly addressed the employees on the premises. Though the employer did not conceal its preference for no union whatsoever and warned that the continued prosperity of the company depended on going on as they had been, the court found the Board had erred in objecting to these expressions because they in no way amounted to coercion or conveyed a hint of reprisal against those who thought otherwise. *N.L.R.B.* v. *American Tube Bending Co.*, 134 F. 2d 993 (1943, C.C. 2d Cir.)

Then in 1945, the Supreme Court reaffirmed its position of the right held by employers by stating:

Decision here has recognized that employers' attempts to persuade to action with respect to joining or not joining unions are within the First Amendment's guaranty. *Thomas* v. *Collins*, 323 U.S. 516, 537.

Taking note of a uniform line of judicial rulings which were overturning the persistent efforts of the NLRB to stifle employers' free speech rights, Congress added an express provision securing this constitutional guaranty when it enacted the Taft-Hartley Act of 1947. In short, this provision, which is designated section 8(c), provides that an employer can express his views about union matters so long as these views contain no threat of reprisal or force and no promise of benefit. Furthermore, no such protected views could be used as evidence of an unfair labor practice.

Mr. President, with such a clear judicial and legislative history, the matter should have been settled beyond any doubt. The ability to exercise the free expression of his views unhampered by

the Board would seem to be a firmly cemented right of each employer, in the absence of coercion.

Nevertheless, I must state the Board has continued to twist and deform congressional intent and the Constitution so severely it has managed to seriously abridge this fundamenal right. Through a succession of prejudiced decisions founded on tortured reasoning and a blind obliviousness of the true congressional mandate expressed in section 8(c), the Board has chopped, whittled, and butchered the free speech provision beyond recognition.

Starting with the mechanistic attitude Congress had referred only to unfair labor practices, and feinting ignorance of a legislative history that definitely reads otherwise, the Board set aside an election a union lost because the Board considered the employer's speech "excessive." That the speech was admittedly noncoercive did not matter. The Board had found a legal technicality through which it could resume its statutory redrafting habits and it dove through the gap with abandon. *General Shote Corp.*, 77 NLRB 124 (1948).

Then in utter contradiction to the plain rule decided in the Virginia Power Co. case, the Board thumbed its nose at both the Supreme Court and Congress by holding that if an employer had the audacity to say that union representation would not benefit employees, a representation election would be set aside. *H. W. Trane*, 137 NLRB 1506 (1962); and *Thomas Products Co.*, 167 NLRB 106 (1967). To infer that employees might be better off by refraining from joining a union is nigh well blasphemy to the NLRB, and it lost no time in seeking to show that no one can dare say such a thing while it is around, regardless of principles like free speech and the will of Congress.

Another way in which the Board has run roughshod over the obvious intent of Congress is by issuing orders requiring that on each occasion an employer makes a speech or distributes literature disclosing his views on labor issues, he must grant the union equal time during working hours, and on his own facilities, to make a reply. In other words, whenever the employer chooses to exercise his admittedly protected right to communicate with his employees, he will be discouraged from doing so by the knowledge the Board will direct him to make his facilities and his paid time available to the union for a prompt reply. What the Board cannot stop by direct action it thereby attempts to halt by shackling the employer's right of free speech with unreasonable burdens.

For example, in 1956, the Supreme Court overturned an effort by the Board to force an employer to permit distributors of union literature onto company-owned parking lots. The Court made the commonsense observation that there existed many alternative channels of communication which were freely open to the union and it, therefore, decided the Board had overstepped itself by adding the company premises to these means. *N.L.R.B.* v. *Babcock & Wilcox Co.*, 351 U.S. 105 (1956).

Not restrained in the least, the Board found itself overruled by the Supreme Court in a similar situation only 2 years later. Here the employer had solicited employees while they were on company premises not to join the union, but refused to allow the union access for solicitation of its own.

The Court solidly reaffirmed the broad right of an employer to openly express his personal views and at the same time sounded wonderment why the Board had not pressed the union to make use of the normal, usual routes of communications available to it. Thus, once again the Board's end run around the statute was rejected by the High Court. *Labor Board* v. *Steelworkers*, 357 U.S. 357 (1958).

Still not convinced, the Board sought to resurrect the same policy in the early 1960's. And once more, the judiciary just as promptly repudiated the Board's effort. In the May Department Stores case, the Board moved to upset an election which had resulted in an emphatic rejection of union representation. In the election, 891 employees had balloted for the union and 1,959 had voted against it. Never ready to accept such a democratically achieved mandate at its face value, the Board attempted to circumvent the election results by finding the company had improperly influenced the balloting.

Its error was alleged to have occurred in addressing employees on company time and on company premises. Even though the meetings were held strictly on a voluntary basis and were conducted in a manner which the Board conceded to be noncoercive, the Board held the employer was guilty of an unfair labor practice because he refused to grant the union equal time for making a reply.

In these circumstances, the circuit court swiftly bounced the matter back to the Board, reminding it the union has no assumed overriding authority giving it access to company premises and facilities against the wishes of the employer. *May Department Stores Co.* v. *N.L.R.B.*, 316 F. 2d 797 (1963, C.C. 6th Cir.).

It seems no matter how many times the Board is rebuked by the courts, it will persist in invading the lawmaking prerogatives of Congress. But to require as the Board does that as a condition of expressing his own views, the employer must grant equal access to his premises, bulletin boards, and time to the union, clearly constitutes an unreasonable and unfair burden on the exercise of the employer's first amendment right of free speech. Accordingly, it is to better preserve and protect this right that I am introducing legislation today.

Mr. President, it must be emphasized nothing in my bill will deny the union access to its normal channels of communication. It may use telephone contacts, off-premises handbilling, meetings at the union hall, home visits, and usual media of publicizing messages such as television and radio time and newspaper space. But to compel the employer to make his personal facilities open and available for use by the union is an unmitigated injustice. No one is clamoring to make the union halls open to employers and the same sensibility that argues for the sanctity of the union's facilities should argue against the invasion of the employer's property.

Mr. President, there is a third way in which the Board is conducting its campaign against the guaranty of free speech. The Board has now begun to use as evidence of a failure to bargain in good faith the noncoercive statements of employers which publicize or explain their offers to employees.

Perhaps the most notorious incident of this technique is the Board's decision against the General Electric Co. in 1964. Again while the Board concluded the employer's publicity of its arguments was not coercive, the Board found the expression was objectionable—primarily I think because it was actually effective in persuading employees that the company's contract proposals should be accepted. In any event, the Board ruled General Electric had refused to bargain in good faith because it publicized its own position, and on this ground, the company was found to be guilty of an unfair labor practice. *General Electric Co.*, 150 NLRB 192 (1964).

Mr. President, I might add, in the same case, the Board ignored the scandalous and highly inflammatory propaganda of the union aimed at discrediting the company's arguments.

In the General Electric case, the Board tells us the employer had mounted a "campaign" to explain its position, for whatever difference there may be in the Board's collective mind between the guaranty of a lot of free speech—as in a campaign—and the guaranty of a little free speech—as in isolated utterances. But to indicate the extent to which the Board is prepared to go in directly attacking the unencumbered right of free speech, I should mention the earlier case of Fitzgerald Mills Corp. in which the Board made an unfair labor case out of an employer's action in merely posting on its bulletin boards summaries of its wage offers. *Fitzgerald Mills Corp.*, 133 NLRB 877 (1961).

Mr. President, with the present law so clearly specifying that the expression of views shall not constitute or be evidence of an unfair labor practice, it requires quite an exercise in legal gymnastics to contravene the statute's intent. But it is obvious this is what the Board is doing; and it is equally obvious Congress must tighten up the protection avowedly secured by the law.

Finally, the Bcard has instituted a new rule directing that in nearly all representation elections, the employer must file with the regional director a list of the names and addresses of each employee who is eligible to vote in that election. Thereupon the Board makes the list available to all unions interested in the election. If the employer fails to do so and a union loses the election, the Board will set aside the election and conduct a new one. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *Wyman-Gordon Co.* v. *N.L.R.B.*, 397 F. 2d 494 (1st Cir. 1968); 394 U.S. 759 (1969).

Mr. President, there are at least three things wrong with this approach. First, it sloughs over the very important personal right of privacy held both by the employer and his employees. The Board

may not think much of it, but there are many employees who do not like harassment by unions any more than they do badgering from any other source. These are people who simply do not want to become a target for solicitations from labor union representatives calling by telephone, ringing their doorbells and stuffing their mailboxes any more than they want other saleshawkers at their homes.

In other words, each individual has a right to be let alone. And just because a union wants to gain a huge advantage in its representation campaign by getting hold of the employer's list does not justify invading that privacy. If the employee wants the union to have his name and home address, let him volunteer it. But let us stop this outrageous disregard of individual rights simply to promote the preconceived notions of the Board as to what is good for each employee.

Second, the Board's ruling may well violate the personal opinions of the employer. Thereby it puts him in the position of being forced to aid the cause of the union in its campaign at the same time his beliefs may oppose the union. It requires him to communicate to the union, through the Board, information which is extremely helpful to the union, though he may wish to remain silent. To be forced to speak when one wishes to remain silent is, in my opinion, equally bad as not being allowed to speak at all.

So long as there is no compelling reason why the freedoms of speech and privacy must be invaded, I fail to see how the Board can trample on these rights. Needless to say, the mere aim of increasing the chances for a union victory in the election is not, to my mind, a surpassing, necessary purpose which excuses the encroachment on these twin personal rights.

Third, it simply offends my sense of elementary justice to compel one party to an election to aid the other side by providing access to its own facilities, whether the facilities are one's own premises or his information. To demand that an employer serve as a voting registrar for the union just does not seem like traditional American fair play to me.

Mr. President, in order to reassert and reestablish the original meaning intended by Congress when it enacted section 8(c) of the Labor-Management Relations Act, I am offering a bill which will nail down the specific breadth of protection of free speech secured by that provision.

The bill will expand section 8(c) by expressly declaring that noncoercive views shall not "constitute grounds for, or evidence justifying, setting aside the results of any election conducted under" the Act. This will prevent the Board from continuing to bypass the statute by the gambit of saying the protection applies only to unfair labor practice charges.

Further, my bill will amend section 8(c) so it specifically tells the Board to stop requiring employers, as a condition of expressing their views, to furnish, provide access or make available to the union, information, time, meeting places, premises, bulletin boards or other of its facilities. This should once and for all prevent the Board from diluting the fundamental right of free speech by encumbering it with so many conditions it cannot be exercised without penalizing its user.

Finally, the bill which I am offering will expand the scope of the free speech provision by pointedly including noncoercive views and statements which are intended to or which may actually influence the outcome of any organizing campaign, bargaining controversy, strike, lockout, or other labor dispute. This addition should prevent the Board from arbitrarily evading the intent of the statute by labeling the employer's properly expressed speech at a failure to bargain in good faith.

Mr. President, I should like to remind Senators that my bill will only protect speech which is not coercive. The bill, the same as existing law, distinctly excludes speech, arguments, pamphlets, and statements of any kind if they contain a threat of reprisal, a threat of force, or a promise of benefit. None of this truly coercive and intimidating speech is granted an immunity under my bill. In fact, it is, as I say, specifically omitted from the benefits of the legislation.

In addition, I should say the bill applies both to employers and to labor organizations. The right secured under the measure is as fully protected for employees and labor unions as it is for employers. Neither the Constitution nor the bill exclude any concerned party from the right preserved under free speech.

Mr. President, in summary, I feel this legislation is a major and important supplement to the constitutional guaranty of free speech in labor matters. It is aimed at implementing the first amendment in areas where that document's pledges have been abused or trampled upon by an agency of the Federal Government.

Mr. President, I have an abiding faith in the good sense and good judgment of America's working men and women. I am confident if we allow them to have the full facts they will make the right and wise decisions.

For this reason, I see no excuse whatsoever for denying them the opportunity to hear the views of their employer, as well as those of the union, during a labor dispute. It is utterly and wholly counter to all precepts of American decency and fairness to deny our working men and women access to information they need in making decisions which have such a profound impact upon their economic well-being.

Regrettably, this violation of American ethics is exactly what will happen, however, unless we restate the labor law and restate it in clearer terms than ever before.

Mr. President, the essence of my proposal is simple—it merely seeks to let employees hear both sides. What could be more fair than that?

Mr. President, I ask unanimous consent that a copy of the bill which I am introducing be printed in the RECORD at this point.

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

S. 1844

A bill to amend the National Labor Relations Act to further secure and protect the Constitutional guarantee of free speech belonging to employers and employees

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 "Labor-Management Relations Freedom of Speech Act."

SEC. 2. Section 8(c) of the National Labor Relations Act (29 U.S.C. 158(c)) is amended to read as follows:

"(c) The expressing of any views, argument, opinion or the making of any statement (including, but not limited to, any expression intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lock-out, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual or auditory form, if such expression or statement contains no threat of reprisal or force or promise of benefit, shall not (A) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (B) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act.

"No labor organization or employer shall be required to furnish, provide access or make available, directly or indirectly, to the employer, in the case of a labor organization, or to the labor organiaztion, in the case of an employer, materials, information (including, but not limited to names and addresses of employees), time, premises, meeting places, bulletin boards or other facilities to enable such other party to communicate with or reply to any communication with employees of the employer, or members of the labor organization, its supporters or adherents."

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

S. 1846. A bill to establish a Coal Gasification Development Corporation, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COAL GASIFICATION ACT

Mr. JACKSON. Mr. President, on behalf of the junior Senator from the State of Utah (Mr. Moss) and myself, I introduce, for appropriate reference, the Coal Gasification Development Corporation Act of 1971. This measure is intended to provide a framework for Government and industry to cooperate in the vital task of bringing the technology of coal gasification to commercial realization.

Concern about natural gas supplies being able to meet demand was first expressed in 1969. It became obvious that demand for gas might be even greater than had been anticipated, because of its environmentally desirable features compared to other fuels. At the same time it became apparent that the consumption of gas would be greater than the amount of new gas found in 1969. A deficit had occurred in 1968 for the first time since records were kept—1945—with consumption being over 5.5 trillion cubic feet higher than new reserves. In 1969 this deficit increased sharply to over 12.2 trillion cubic feet. Consumption continued to rise, and in 1970 over 22 trillion cubic feet were marketed. Reserves, exclusive of Alaska, declined by 10.3 billion cubic feet in 1970.

Projections of future gas requirements,

when compared to the supplies that may be available from conventional sources, have led to an unprecedented agreement among those who are knowledgeable about the gas industry that action must be taken now. University economists, industry spokesmen, private research foundations, and Government officials concur that a deficiency in supply will start to occur in the early part of the 1970's and will continue to grow to a very large extent by 1980. A typical forecast recently made by the Department of Interior projected a demand for gas in 1980 of 31 trillion cubic feet if growth in the uses of natural gas slowed to the rate of other energy sources rather than growing 50 percent more rapidly as it has over the past two decades. Even with this conservative growth rate it will be necessary to find average annual new reserves of 26½ trillion cubic feet per year. This is 50 percent more than the average rate of reserve additions from drilling in the past 5 years and 1½ trillion cubic feet greater than the most reserves ever found in 1 year.

Mr. President, I have compiled a number of recent papers all expressing the need for supplemental gas supplies. I ask unanimous consent that this material be included in the RECORD at the conclusion of my statement. These articles clearly show that the additional gas will be needed regardless of what assumptions are made with respect to the growth of other fuel resources. Gas has unique values for domestic heating and industrial processing. It is essential that the United States be assured of a continuing and ample supply of fuel gas. There is abundant evidence that discovery and production from natural sources will not suffice.

In addition to developing incentives that will reverse the downward trend of the past 3 years in gas domestic reserves and, in fact, increase the finding rate of recent years, other supplemental sources of supply will be needed. These include overland imports from Canada, LNG—liquefied natural gas—imports from North Africa or Venezuela, use of Alaskan gas, and production of synthetic pipeline gas from coal.

There have been a number of incentives to seek new gas which have been suggested. These include deregulation of natural gas field prices, increasing gas prices substantially, relaxing controls on gas transmission industry, returning to a higher gas depletion allowance, and retaining some limitation on oil imports.

No matter what is done with these alternatives, synthetic gas from coal also will be needed in commercial quantities by 1980. If we are to meet this timetable, immediate action is required, because under the best of circumstances it is anticipated that from 6 to 10 years will be required to bring such a development into commercial operation.

THE NEED FOR FEDERAL FUNDS

The development of a technology for coal gasification presents a financing problem that is becoming increasingly common in the energy field. Stated simply, research and development must be carried on at such large scale and at such enormous costs that it is impossible for any single company, even large energy or utility companies, to assume the risks involved within the limitations upon management practices and financial capabilities.

Another serious problem with such highly complex and expensive research and development is that it is becoming more difficult for those who invest in the research to reap its benefits. This is because of antitrust laws, nonpatentability of processes, and the difficulty of maintaining exclusive positions and proprietary knowledge. Yet there can be no doubt that there is a need to develop some, if not all of the technological opportunities that are on the horizon. Examples in the energy field are coal gasification, oil from oil shale, MHD, breeder reactors, and fusion energy. Clearly, the options presented by such technologies are essential if we are to maintain economic growth while attempting to minimize adverse environmental factors. To meet this goal, research must move forward. The question is what means can be found when research projects, needed in the public interest, will not move forward in the normal workings of our competitive society.

PROPOSED ACTION PROGRAM

The legislation I am introducing today has the following purposes:

First. It would create a Government-industry, jointly supported and operated corporation with the objective of demonstrating on a commercial scale at least two alternative methods for the production of gas from coal.

Second. The corporation would have a life limited to this single objective and would be abolished when the objective was attained.

Third. Financing would be shared by Government and industry thus assuring a deep commitment by industry to the successful outcome of the effort.

Fourth. The corporation would be managed by an entity responsible to a Board of Directors made up of representatives of industry and Government. The ratio of industry to Government financial support could be used as the basis for division of membership on the board.

RATIONALE FOR ABOVE PROPOSALS

The conventional recommendation of placing this new program in an existing department has been deliberately rejected. Existing Government organizations would be unable to carry out this new project, because they are simply not equipped, either organizationally or by traditional attitudes, to translate a research project into a commercial demonstration plant. Moreover, this type of program should be staffed with personnel who have been trained to recognize when to move on to the next step in order to minimize development time and reach the point where a return can be realized on the research investment. A separate entity with one mission would be more apt to succeed in this regard.

There are other very practical reasons for establishing a separate organization. It will have statutory authority to manage a joint Government-industry program unencumbered by the myriad of administrative difficulties that arise in an established department when this type of cooperation is attempted. These problems are related to patents, regulations about expenditure of funds, administrative restrictions on the nature and type of purchases, and other bureaucratic procedures thoroughly reasonable for a normal Government departmental program but inapplicable when the objective is to bring a new technology to commercial scale plants. The corporation will need new authorities to carry out its unique assignment and the act would create them.

The corporation would be unencumbered by the type of budgetary problems endemic to Government bureaus. In any given department each bureau must struggle for its share of the budget assigned to the department by the President. Inevitably this leads to compromise between bureaus and very rarely permits a large new program to develop at an optimum rate. The budget requests therefore are stretched out, usually greatly reducing overall efficiency. In view of the importance of time in achieving the goals of this new program such a stretchout would be most unfortunate. A new corporation would be competing against no other intradepartmental projects for its budget request and would be able to avoid the normal budget pitfalls.

Placing this large new program in an existing agency would have an adverse effect on the on-going bureau. If funds are made available at the needed rates for this program the other normal missions of the agency will inevitably be distorted. Likewise a traumatic readjustment would be necessary when the programs were concluded. There would be continual attempts to retain the large budgets that the organization had grown accustomed to having and to avoid the reductions-in-force in personnel that their loss would cause.

The single mission concept would provide the necessary incentive to get the program moving. There would be no competition from other programs for either funds or the attention of the administrators. Recognizing from its creation that its life was limited would avoid the establishment of permanent additional Government overhead organization and would tend to attract personnel who would be ready to move on to the further commercialization of coal gasification when the mission was accomplished.

Joint financing of a program this size is a necessary prerequisite for its success. If it is wholly supported by Federal funds there would be no justification for industry to lend its expertise to the planning of the program—including the very difficult problem of which processes to select for large scale plants—and in administering the program. Not only would the industry funding provide a rationale for their active participation but it would assure incentive to bring the program to a quick end as soon as possible. Efficient management would reduce research costs of all participants and bring in a new process more quickly from which they would get a return.

When hearings are held on this legislation, it will be possible to determine whether any reasonable possibility exists for industry to undertake this development alone. It is my present belief, however, that a corporation of the type that this bill proposes will be a very practical and reliable way to accomplish this very vital program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks together with the articles which I mentioned earlier.

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

S. 1846

A bill to establish a Coal Gasification Development Corporation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress recognizes that—

(1) natural gas is the least polluting of the fossil fuels in that it causes no pollution from sulphur oxides and particulate and emits the least amount of nitrogen oxides per heat unit supplied;

(2) natural gas can be produced and transported with less environmental degradation than the other fuels and at costs that compare favorably with the competitive fuels for uses where the various fuels are interchangeable;

(3) for three consecutive years the amount of gas consumed in the United States exceeded new supplies found in the contiguous forty-eight States;

(4) projections of future gas demand are such that every new supply source must be developed, including natural gas by pipeline importation of liquefied natural gas from overseas sources, and the gasification of coal;

(5) gasification of coal has been tested on a small scale in a variety of processes by a number of investigators, but to achieve commercial status for any of these methods will require the construction and operation of a large demonstration plant followed by the construction and operation of a commercial sized plant;

(6) it is important to provide the cleanest fuel to the American consumer using resources that can be produced by American miners and which are secure from the vagaries of foreign supplies; and

(7) the research and development effort is too large for any single company to risk undertaking and a consortium of companies would be difficult to assemble without Federal leadership.

(b) It is therefore the policy of Federal Government to bring this technology to commercial development as quickly as possible by establishing a government-industry program jointly managed and funded to demonstrate commercial scale methods of producing substitute for natural gas.

SEC. 2. (a) There is hereby established the Coal Gasification Development Corporation (hereinafter referred to as the "Corporation"). The corporation shall have a board of nine directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Five members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the board shall be appointed by the President on the basis of recommendations received by him from any private entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the board. The President of the United States shall call the first meeting of the board of directors. Each director of the board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the board he attends. In addition, each director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the board.

(b) The board of directors is empowered to adopt and amend bylaws, consistent with the provisions of this Act, governing the operation of the corporation.

(c) The corporation shall have a president and such other officers and employees as may be named and appointed by the board. The rates of compensation of all officers and employees shall be fixed by the board. No individual other than a citizen of the United States may be an officer of the corporation.

(d) In order to assemble and organize industrial participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this Act, as the Administrator of General Services may prescribe.

SEC. 3. (a) It shall be the function of the corporation to select, on the basis of the best engineering information available the two most technically and economically feasible methods for manufacturing substitute natural gas from coal. After selection of such methods, the corporation is authorized to design, construct operate and maintain a demonstration type facility for each such method selected in order to determine the technical and economical feasibility thereof. If on the basis of the operation of each such demonstration facility the corporation determines that the method so demonstrated is a technically and economically feasible method for manufacturing substitute natural gas from coal on a commercial scale, the corporation is authorized to design, construct, operate, and maintain, for each such method demonstrated, a full scale, commercial size facility to manufacture substitute natural gas from coal by such method.

(b) Substitute natural gas produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. The Corporation shall arrange to deliver any substitute natural gas so manufactured to such buyer as may be authorized, by contract or otherwise, by the Corporation. All revenues received by the Corporation from the sale of such gas shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this Act.

(c) The Corporation shall make available, by license or otherwise, on a non-exclusive royalty free basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this Act. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 6, the Administrator of General Services shall administer such patents rights in accordance with the provisions of this subsection.

SEC. 4. In carrying out its functions under this Act, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate or contract for the operation of facilities authorized by this Act; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, and devices which it determines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this Act, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 5. The corporation shall transmit to the President of the United States and the Congress, annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such reports shall be available to the public.

(b) All reports, plans, specifications, cost and operating data of the corporation acquired by it in connection with the carrying out of its duties under this Act shall be made available by the corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgments can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the corporation on a continuing basis for examination by interested parties.

SEC. 6. On or before the expiration of six years following the date of the enactment of this Act, the board of directors shall take such action as may be necessary to dissolve the corporation. In carrying out such dissolution, the board of directors is authorized to dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the board determines are in the public interest. All assets of the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 7. (a) Each department, agency and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the corporation, upon its request, any information or other data which the corporation deems necessary to carry out its duties under this Act.

(b) The corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency or instrumentality, including any independent agency, of the Government.

(c) The corporation may procure the services of experts and consultants without regard to the provisions of title 5, United

States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 8. There are authorized to be appropriated to the corporation, for the fiscal year beginning July 1, 1971, the sum of $5,000,000, and for each of the next five succeeding fiscal years, such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this Act, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of sixty per centum of the costs to the corporation in connection with the carrying out of its duties under this Act for that fiscal year.

COAL GASIFICATION—HISTORICAL BACKGROUND

GAS INDUSTRY

Although considerable natural gas had been marketed in the U.S. prior to World War II, its use was mostly confined to geographic areas near the large gas deposits of the Southwestern U.S. because of the difficulty of long distance transport to more densely settled parts. Some natural gas was produced in many other States in small quantities and was also marketed locally.

The U.S. gas industry predates the discovery of petroleum and natural gas by many years. The first gas company was licensed in Baltimore in 1817. Gas was used originally for lighting city streets but later markets were found in public buildings and in residences. Gas lighting remained the principal use until displaced in the latter part of the 19th century by electricity, a more convenient lighting source.

Until this time, all gas that was sold was produced from coal in several different ways. In producing coke from coal, a gas with a relatively high heating value is recovered. This gas, along with gas distilled from coal and that produced by several other coal-based processes, remained the major source until early in the century.

The maximum production of manufactured gas was reached in 1947 although increasing quantities of natural gas had started to enter other than local markets as early as 1930. This was made possible by the discovery of ways to produce large diameter steel pipe at low costs that would be able to withstand the high pressure required to transport natural gas over long distances.

The two oil carrying pipelines known as the "little inch" and the "big inch" used in World War II to carry oil from the Southwest to the East coast (to reduce losses due to destruction of oil tankers by German submarines) were converted after the war to natural gas pipelines. This represented the first step in the dynamic growth of the natural gas industry. Natural gas consumption in 1947 was 4.6 trillion cubic feet per year and reserves were estimated at 165 trillion cubic feet. By 1967 reserves had increased to 293 trillion cubic feet, a 75% increase, but consumption had risen even more sharply. In 1967 over 18.2 trillion cubic feet were used—a four-fold increase over 1947.

As a result the widespread introduction of natural gas with its higher heating value and lower cost, the production of manufactured gas declined steadily until now it represents less than 0.1% of total gas consumption.

SYNTHETIC LIQUID FUELS AND COAL GASIFICATION

During the 1920's and 1930's, the Germans developed two methods for converting coal into liquid fuels. Without indigenous oil supplies and with a large coal industry, this development provided a security of supply of liquid fuels in the event of war. During World War II, German aircraft were frequently fueled with gasoline made from coal and, at the end of the war, the U.S. and other allied powers made a systematic attempt to study and understand this new technology.

At about this time (1948) the U.S. became a net importer of liquid fuels. This provided a practical reason for wanting to transfer the German technology. Although the U.S. still had large reserves of oil, these were much smaller than coal reserves. Thus, if the German processes could compete with the cost of finding new crude oil, an alternative liquid fuel supply would be available.

In one process used to make liquid fuels, coal is mixed with oil (produced earlier in the process) and is reacted at very high hydrogen pressure (10,000 pounds per sq. inch) and high temperatures in the presence of a catalyst (which speeds up the reaction but is not consumed during the process).

The second method of making liquid fuels converts all of the coal into a gas called "synthesis gas" (a mixture of carbon monoxide and hydrogen) and then passes this gas over a catalyst which helps the carbon monoxide and hydrogen to combine, forming liquid fuels.

Since both processes require a gas—in one hydrogen and in the other synthesis gas—an important requirement for attaining satisfactory economics would be better ways of producing these gases from coal than had been used to make manufactured gas.

Between 1944 and 1955 the Bureau of Mines in the Department of Interior conducted extensive investigations of both processes under the authority of the Synthetic Liquid Fuels Act. During this period approximately 60 million dollars was spent on coal conversion and 25 million dollars on producing a satisfactory liquid fuel oil shale.

In 1955 a decision was made to drop the program since by that time very large reserves of very low cost Middle East oil had been discovered with which a coal-to-oil process could not hope to compete.

Since 1955 the Bureau of Mines has continued to work on the production of both synthetic liquid and gaseous fuels from coal but on a much smaller scale. By the mid-1950's a decline in coal production led the coal industry to seek greatly increased federal research funds in order to develop new uses for coal and to restore its markets. The industry argued for and justified a much larger government investment by comparing the government research expenditures on atomic energy—coal's competitor—with the very much smaller federal investment in coal research activities. After extensive hearings the Congress created in 1960 the Office of Coal Research located in the Department of Interior. As a result of the creation of this new research organization there has been a gradual step-up in the pace of coal research. However, the necessary scale of testing has been sufficiently large that only a relatively few projects have been pursued with the funds available.

Because of the importance of coal gasification in both liquid and gaseous fuels made synthetically OCR supported 4 research projects involving gasification. One project has been dropped but the other three are still under active investigation. The HYGAS project, supported jointly by OCR and the American Gas Association, broke ground for a 3 ton per hour plant in 1969 which was completed in the fall of 1970. Operation of the plant on a continuous basis is expected in the late spring of 1971. Construction of a small demonstration plant is still underway on one of the other gasification processes and the third is still being tested in a pilot plant operation.

REMARKS OF THE HONORABLE HOLLIS M. DOLE, ASSISTANT SECRETARY FOR MINERAL RESOURCES, DEPARTMENT OF THE INTERIOR, STANFORD UNIVERSITY, PALO ALTO, CALIF., JAN. 12, 1971—AMERICA'S ENERGY NEEDS AND RESOURCES

NATURAL GAS

Over the past two decades, gas demand has grown strongly, at an average annual rate of about six percent. This was half again as fast as total energy consumption grew, which meant that gas displaced other fuels in the market during this period. By 1969, gas was contributing a third of our energy supply, and accounted for half of the energy used for household heating, nearly half of that used for industrial heat and power, and supplied a fourth of the energy consumed to generate electricity.

This long period of differential growth is now at an end, and the outlook is for gas to lose market position steadily over the coming years. It is not in the realm of reality to suppose that gas supply can expand at even the 3.4 percent annual rate projected for energy as a whole over the coming 15 years; this would mean an increase from the current annual rate of 22 trillion cubic feet to 31 trillion cubic feet in 1980. The *average* yearly supply implied by this calculation would be 26½ trillion cubic feet. This is half again the average rate of additions to proved reserves in the past five years. In the best year of our entire experience we added somewhat less than 25 trillion cubic feet to our reserves.

The hard truth of the matter is, in fact, that the finding rate for gas in 1968 and 1969 was the worst in our experience of which there is any record, and the 1970 results will continue this discouraging pattern. Since 1967 we have used up 18 trillion cubic feet more gas than we have found. This is nearly a year's supply. Even if a strong revival in gas exploration began this year, it would be several years before the results showed in increased availability to the consumer.

Beyond these disappointing figures in a long a long term decline in both exploratory activity and in returns per unit of effort expending in looking for oil and gas in the lower 48 States. For whatever reason, the fact is simply that a foot of exploratory hole finds far less oil and gas than it found prior to 1950. This is the more discouraging in view of steady advances that have been made in the technology of discovery and the discipline imposed by austere drilling budgets.

Paralleling this decline in discovery success is a decline in exploratory drilling that is now in its fourteenth year. This combination of these two trends has resulted in a steady erosion of the ratio between the amount of oil and gas found and the amount withdrawn for production. In the next chart, which shows five-year moving averages of additions to proved reserves measured against production, this decline is readily apparent in the case of both oil and gas.

FIGURE 6

In the early 1950's, well over a barrel and a half of oil was found for each barrel taken out of the ground. In the case of gas, about two cubic feet were proved up for each foot withdrawn. Now, the ratio has dropped below unity for both. We are using up our reserves of both oil and gas faster than we are replacing them.

Meanwhile, gas demand continues to rise by roughly 1 trillion cubic feet a year—somewhat more than that over the past two or three years. This means that once the effective delivery capacity of domestic gas fields has been reached—and I make this to be 1973 or before—we shall have to find additional energy sources—foreign or domestic; gaseous, liquid, or solid—to the equivalent of least one trillion cubic feet of gas *each year*. The interplay of economic factors will

of course determine the balance among these competitive sources for us even if we do not supply any direction from government. To the extent this is accomplished within acceptable criteria of national security, this is all to the good. But I submit that we ought to know what is happening, and be ready to apply such direction as may be indicated by the concerns of our national interest.

To a far greater degree than we could wish, however, policy must make the best bargain it can with the realities of where and when that govern the availability of certain important alternate energy sources. Gas from Alaska will not be available before 1975. Gas from Canada is available now, but only in limited amounts; larger volume imports from that source await discovery and development—at least another six years away even granting the success of current exploration efforts. Liquefied natural gas is already an item in world trade, and will begin to enter our own supply channels in 1974. But most of it will come from the Eastern Hemisphere. Let me elaborate a bit.

Currently, about 700 billion cubic feet of gas a year are imported from Canada by pipeline. This comprises about 3 percent of our total supply. The Canadian National Energy Board has indicated that this figure might be no more than double its present volume, say 1.4 trillion cubic feet annually, by 1985, if no new producing areas are found outside the Western Canadian Basin. If, on the other hand, discoveries of gas comparable to those on the North Slope of Alaska are made in the Canadian Arctic, gas imports from Canada might reach 3.7 trillion cubic feet annually by 1985—equal to the required annual increments of about three years.

Gas from Alaskan North Slope could begin as early as 1975 with an initial flow of, let us say, 700 billion cubic feet a year—approximately the volume we are now receiving from Canada. This could triple by the end of the period we are considering, which assumes that something on the order of 40 trillion cubic feet of non-associated reserves will be proved up on the North Slope.

Applications were filed recently with the Federal Power Commission to import 1 billion cubic feet a day of liquefied natural gas from Algeria and another 425 million cubic feet a day from Venezuela into the East Coast, with deliveries to begin in the 1974–75 period. Negotiations are under way for an additional 2 billion cubic feet a day for the East Coast, with initial delivery dates unannounced. Thus, on a yearly basis, we might expect at a minimum, some 1¼ trillion cubic feet of imported LNG to enter gas mains of the Northeastern states during the latter half of this decade. I am sure that further increments will follow. Since the total consumption of this region was just under 2 trillion cubic feet in 1969, it is easy to conclude that in the absence of any countervailing influence, the Northeast could become dependent on foreign natural gas as much as half its supply by the end of this decade.

If this should happen, another step will have been taken in the isolation of the East Coast from the energy economy of the rest of the United States. I spoke of our concern about the national security implications of the East Coast's heavy reliance upon outside sources for residual fuel. Now we see the process starting all over again in the case of gas, which carries forty percent of the residential heating load and provides one-fourth of all energy for industrial heat and power in that region. It therefore becomes pertinent to raise the question as to whether the East Coast is to become as dependent on foreign sources for gas as it now is for residual fuel oil.

The outlook for gas is accordingly for a gap to open between demand and supply from domestic sources. Whether this gap is filled in part by foreign LNG or subsumed as an added requirement in the demand for oil matters little: the essential truth remains that increased consumption of natural gas means greater reliance upon foreign sources, just as increased consumption of oil means greater reliance upon foreign sources.

NATURAL GAS PROVED RESERVES CLIMB WITH INCLUSION OF NEW ALASKA FIELD; PRODUCTION IN 1970 AT ALL-TIME HIGH

WASHINGTON, D.C., March 31.—Proved reserves of natural gas in the United States rose in 1970 with the addition of extensive new Alaskan reserves, but declined in the "lower 48" states, the American Gas Association reported today. Total proved reserves as of December 31, 1970 were estimated at 290.7 trillion cubic feet, up from 275.1 trillion at the end of 1969.

The association's Committee on Natural Gas Reserves' estimates show that the rise in the total figures was due to the inclusion of 26 trillion cubic feet of new reserves in Alaska. The new reserves in Alaska are for the Prudhoe Bay reservoir on the North Slope, which were not included in prior years because sufficient data was then unavailable.

Proved reserves of natural gas in the lower 48 United States amounted to 259.6 trillion cubic feet, down by 10.3 trillion cubic feet compared with 1969—a decline of 3.7 percent.

Reserves in other areas of Alaska remained virtually unchanged from the 5.2 trillion cubic feet reported in 1969. Proved reserves for the whole of Alaska total 31.1 trillion cubic feet.

Production of gas during 1970 was up by nearly six percent, reaching an all-time high of 22 trillion cubic feet.

The A.G.A. Committee on Natural Gas Reserves has made annual reports of proved reserves since 1946. The current chairman of the group is John C. Jacobs, senior vice president of Texas Eastern Transmission Corporation, Houston.

Rising demand for natural gas and a continuing decline in the rate of exploration for new gas have combined to create situations in some parts of the country where new requests for gas service cannot be filled.

"The reserves report points up the urgent need for construction of pipelines to transport Alaska's vast energy resources to the rest of the United States," said A.G.A. President G. J. Tankersley. "At present no Alaskan gas reaches the U.S. markets where it is most needed.

"The figures also emphasize the importance of encouraging exploration in the major gas producing areas of the country. In the lower 48 states, which supply 95 percent of our natural gas, proved reserves have now been falling for three straight years."

The two major gas producing states in the country both experienced declines in proved reserves during 1970. Texas reserves were down from 112.4 trillion cubic feet to 106.4 trillion, and Louisiana's proved reserves fell from 85.1 to 83.0 trillion cubic feet.

"Even with Alaska, total proved reserves are still about 2 trillion cubic feet less than the record 1967 high of 292.9 trillion cubic feet," said Mr. Tankersley, who is also president of The East Ohio Gas Company, Cleveland. "But production to meet expanding demand has climbed 20 percent since then.

"The gas industry's ability to meet all demands for this clean-burning efficient fuel will certainly be impaired if this trend continues."

For two years the American Gas Association has been urging the Federal government to take steps to encourage new exploration and development of the nation's gas reserves. A.G.A. favors regular sales of leases to permit producers to explore for gas in Federally-controlled offshore areas; higher wellhead prices for gas to provide economic incentives for further exploration; and legislation to ensure that once a contract for sale of gas at a given price has been approved by the Federal Power Commission, it will not be reversed by the Commission.

Canadian proved gas reserves, as reported by the Canadian Petroleum Association, climbed by 1.4 trillion cubic feet to a record high of 53.4 trillion cubic feet at the end of 1970. Canadian gas production during the year was 1.8 trillion cubic feet.

In addition to proved reserves, the gas industry cooperates in making separate estimates of "potential" reserves, which are reserves believed to exist but which have not yet been directly proven by exploratory drilling. Latest estimates have put these substantial potential reserves at 1,227 trillion cubic feet, including 432 trillion in Alaska.

The Potential Gas Committee, which estimates potential gas reserves in cooperation with the Colorado School of Mines, plans to have a new report on the nation's potential gas reserves available later this year.

In a concurrent report on petroleum reserves, the American Petroleum Institute published figures today showing that proved reserves of oil had followed the same pattern as have gas figures. Petroleum reserves in Alaska rose sharply with the inclusion of the Prudhoe Bay area, while proved oil reserves for the rest of the country fell.

AMERICAN GAS ASSOCIATION COMMITTEE ON NATURAL GAS RESERVES

SUMMARY: NATURAL GAS RESERVES

[Millions of cubic feet—14.73 psia, at 60° F.]

Total proved reserves as of Dec. 31, 1969	275,108,835
Extensions and revisions of previous estimate during 1970	6,058,447
New reserves discovered in 1970	31,137,912
Net changes in underground storage during 1970	402,018
Total proved reserves added and net changes in underground storage during 1970	37,598,377
Total proved reserves as of Dec. 31, 1969, and additions during 1970	312,707,212
Deduct productions during 1970	21,960,804
Total proved reserves of natural gas as of Dec. 31, 1970	290,746,408

NATURAL GAS LIQUIDS RESERVES

[Thousands of barrels of 42 U.S. gallons]

Total proved reserves as of Dec. 31, 1969	8,143,174
Extensions and revisions of previous estimate during 1970	139,186
New reserves discovered in 1970	168,393
Total proved reserves added in 1970	307,579
Total proved reserves as of Dec. 31, 1969, and new proved reserves added in 1970	8,450,753
Deduct production during 1970	747,812
Total proved reserves of natural gas liquids as of Dec. 31, 1970	7,702,941

TABLE I.—ESTIMATED TOTAL PROVED RESERVES OF NATURAL GAS IN THE UNITED STATES

[Millions of cubic feet—14.73 p.s.i.a., at 60° F]

State	Reserves as of Dec. 31, 1969	Changes in reserves during 1970						Reserves as of Dec. 31, 1970			
		Revisions	Extensions	New field discoveries	New reservoir discoveries in old fields	Net change in underground storage [1]	Production [2]	Total gas	Non-associated	Associated dissolved	Underground storage [3]
Alabama	56,724	47,911	32,600	25,498	0	0	724	162,009	152,521	9,488	0
Alaska	5,202,143	56,308	12,500	[4] 26,000,000	5,000	0	145,200	31,130,751	4,740,760	26,389,991	0
Arkansas	2,632,773	(44,844)	87,541	44,781	45,211	(1,020)	183,768	2,580,674	2,413,572	130,905	36,197
California [5]	6,870,946	(27,278)	65,163	0	11,250	13,314	633,636	6,299,759	2,553,760	3,545,431	200,568
San Joaquin Basin	5,119,824	(82,098)	58,900	0	10,050	15,088	442,698	4,679,066	2,380,122	2,193,111	105,833
Coastal region [5]	986,460	82,348	3,350	0	700	(725)	105,911	966,222	165,980	756,570	43,672
Los Angeles Basin [5]	764,662	(27,528)	2,913	0	500	(1,049)	85,027	654,471	7,658	595,750	51,063
Colorado	1,596,286	44,215	31,575	56,262	0	5,007	104,499	1,628,846	1,473,138	131,390	24,318
Illinois	337,812	(1,308)	83	51	1	81,490	2,715	415,414	911	12,509	401,994
Indiana	77,561	(174)	68	5	1	6,287	1,074	82,674	1,580	4,233	76,861
Kansas	14,125,125	25,405	64,848	5,084	216	4,904	900,521	13,325,091	12,905,008	323,421	96,662
Kentucky	920,520	18,907	27,759	1,074	3,179	73,706	67,303	977,842	803,708	50,428	123,706
Louisiana [6]	85,056,639	1,102,469	1,962,801	193,083	2,407,798	24,351	7,790,453	82,956,688	67,761,928	5,057,199	137,561
North	4,287,202	(47,144)	34,075	9,462	19,941	24,351	464,408	3,863,479	2,571,526	1,154,392	137,561
South [5]	80,769,437	1,149,613	1,928,726	183,621	2,387,857	0	7,326,045	79,093,209	65,190,402	13,902,807	0
Michigan	750,964	45,255	1,034	108,955	52,991	20,497	40,025	939,671	211,134	112,530	616,007
Mississippi	1,410,898	(74,815)	67,837	61,722	20,985	3,706	156,428	1,333,905	1,101,209	223,653	9,043
Montana	1,110,208	12,329	7,605	5,957	143	2,275	38,594	1,099,923	793,283	141,854	164,786
Nebraska	56,594	5,594	948	2,177	20	(835)	6,330	58,168	23,887	18,660	15,621
New Mexico	14,281,503	(75,757)	121,684	56,028	13,450	(4,894)	1,101,991	13,290,023	10,670,444	2,615,209	4,370
Northwest	9,074,565	59,724	47,689	816	0	0	532,791	8,650,003	8,574,944	75,059	0
Southeast	5,206,938	(135,481)	73,995	55,212	13,450	(4,894)	569,200	4,640,020	2,095,500	2,540,150	4,370
New York	120,540	200	2,000	0	1,400	5,179	3,358	125,961	22,635	129	103,197
North Dakota	648,564	(44,463)	1,479	857	0	0	39,083	567,354	5,593	561,761	0
Ohio	809,293	0	212,835	26,000	0	19,089	73,759	993,458	420,234	137,221	436,003
Oklahoma	17,593,197	59,030	751,592	255,880	30,647	14,502	1,750,581	16,954,267	13,469,170	3,263,649	221,448
Pennsylvania	1,303,907	0	61,840	500	2,400	86,390	77,535	1,377,502	779,409	13,134	584,959
Texas [5]	112,392,622	(1,372,393)	1,952,582	844,932	756,443	(1,235)	8,219,958	106,352,993	77,717,675	28,541,957	93,361
District 1	2,127,201	(56,155)	1,558	1,326	16,534	64	135,961	1,954,567	1,686,003	268,039	525
District 2 [5]	10,445,403	98,362	35,707	42,966	72,827	(387)	634,848	10,060,030	7,665,908	2,392,443	1,679
District 3 [5]	23,751,987	86,768	49,438	366,778	204,466	0	1,645,710	22,813,727	16,858,573	5,943,154	12,000
District 4 [5]	31,215,625	(802,104)	17,438	91,154	395,682	0	1,630,564	29,287,231	21,939,886	7,347,345	0
District 5	1,428,567	22,061	1,840	28,951	19,087	(253)	106,769	1,393,484	1,182,266	179,492	31,726
District 6	5,997,201	220,452	584	8,390	7,760	0	403,647	5,830,740	3,720,654	2,110,086	0
District 7B	786,257	1,673	42,993	3,808	4,277	(187)	86,690	752,131	281,482	436,526	34,123
District 7C	3,766,150	(74,224)	115,350	22,905	19,866	69	247,150	3,602,966	2,477,350	1,123,500	2,116
District 8	17,217,339	(1,093,026)	1,408,008	187,832	12,235	0	1,628,185	16,104,203	10,756,449	5,347,754	0
District 8A	3,001,185	(176,265)	4,111	881	65	0	233,356	2,596,621	70,839	2,525,782	0
District 9	1,925,141	104,193	19,644	3,480	671	(742)	187,940	1,864,447	1,425,961	427,495	10,991
District 10	10,730,566	295,872	255,911	86,461	2,973	201	1,279,138	10,092,846	9,652,304	440,341	201
Utah	1,090,768	9,013	7,080	2,754	178	108	44,741	1,065,160	625,153	438,587	1,420
Virginia	31,438	0	4,000	0	0	0	2,927	32,511	32,511	0	0
West Virginia	2,447,324	0	168,147	10,600	4,300	37,717	231,710	2,436,378	2,002,320	57,978	376,080
Wyoming	3,937,045	110,402	510,287	12,716	12,046	1,667	340,832	4,243,331	3,399,271	800,288	43,772
Miscellaneous [6]	247,441	4,273	2,280	55,307	0	9,813	3,059	316,055	17,738	62,324	235,993
Total United States	275,108,835	(99,721)	6,158,168	27,770,223	3,367,689	402,018	21,960,804	290,746,408	204,098,552	82,643,929	4,003,927

[1] The net difference between gas stored in and gas withdrawn from underground storage reservoirs, inclusive of adjustments and native gas transferred from other reserve categories.

[2] Preliminary net production.

[3] Gas held in underground reservoirs (including native and net-injected gas) for storage purposes.

[4] This number represents the estimate of natural gas reserves in the Prudhoe Bay, Permo-Triassic Reservoir, discovered in 1968 and not previously included in this report.

[5] Includes offshore reserves. The remaining proved natural gas reserves in the Gulf of Mexico are estimated to be 37,781,044 mmcf; of which 32,093,379 mmcf are nonassociated, and 5,687,665 mmcf are associated-dissolved. As of this date the ultimate recoverable natural gas reserves in the Gulf of Mexico are estimated to be 54,519,911 mmcf; of which 45,430,264 mmcf are nonassociated, and 9,089,647 mmcf are associated-dissolved.

[6] Includes Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

Note: () Denotes negative volume.

TABLE II.—ESTIMATED PROVED RESERVES OF NATURAL GAS LIQUIDS IN THE UNITED STATES

[Thousands of barrels of 42 U.S. gallons]

State	Reserves as of Dec. 31, 1969	Changes in reserves during 1970					Reserves as of Dec. 31, 1970		
		Revisions	Extensions	New field discoveries	New reservoir discoveries in our fields	Production [1]	Total natural gas liquids	Non-associated	Associated-dissolved
Alabama	7,133	5,597	3,912	5,000	0	182	21,460	20,844	616
Alaska [2]	398	0	0	0	0	63	335	0	335
Arkansas	13,161	1,460	0	0	104	2,453	12,272	7,587	4,685
California [3]	185,932	2,812	100	0	0	18,660	170,184	6,306	163,878
San Joaquin Basin	88,505	1,531	0	0	0	8,521	81,515	562	80,953
Coastal Region [3]	44,602	1,055	0	0	0	4,935	40,822	5,744	35,078
Los Angeles Basin [3]	52,825	226	0	0	0	5,204	47,847	0	47,847
Colorado	19,925	213	21	238	0	1,601	18,796	6,588	12,208
Illinois	1,472	(118)	7	5	0	231	1,135	3	1,132
Indiana	40	0	0	0	0	6	34	8	26
Kansas	269,261	43,304	1,363	109	6	19,970	294,073	286,792	7,281
Kentucky	48,983	130	196	704	1,408	3,413	48,008	48,008	0
Louisiana [3]	2,570,298	86,231	41,188	1,446	118,246	250,429	2,566,980	2,136,591	430,389
North	119,787	10,948	1,377	267	803	18,034	115,148	54,988	60,160
South [3]	2,450,511	75,283	39,811	1,179	117,443	232,395	2,451,832	2,081,603	370,229
Michigan	4,056	2,585	27	3,011	1,385	1,161	9,903	5,437	4,466
Mississippi	20,045	(2,386)	0	6,800	240	2,048	22,651	12,068	10,583
Montana	9,881	(13)	0	0	0	1,249	8,619	1,401	7,218
Nebraska	2,268	0	0	80	0	484	1,864	945	919
New Mexico	599,675	3,064	2,641	1,809	0	48,613	558,576	357,019	201,557
Northwest	315,631	372	0	0	0	14,712	301,291	300,018	1,273
Southeast	284,044	2,692	2,641	1,809	0	33,901	257,285	57,001	200,284
North Dakota	51,604	0	0	0	0	2,347	49,257	0	49,257
Ohio	0	0	0	0	0	0	0	0	0
Oklahoma	465,694	(84,795)	11,977	4,915	562	39,750	358,603	233,464	125,139
Pennsylvania	974	0	0	0	0	78	896	896	0

Footnotes at end of table.

TABLE II.—ESTIMATED PROVED RESERVES OF NATURAL GAS LIQUIDS IN THE UNITED STATES—Continued

[Thousands of barrels of 42 U.S. gallons]

State	Reserves as of Dec. 31, 1969	Changes in reserves during 1970					Reserves as of Dec. 31, 1970		
		Revisions	Extensions	New field discoveries	New reservoir discoveries in our fields	Production [1]	Total natural gas liquids	Non-associated	Associated-dissolved
Texas [3]	3,651,939	(42,432)	34,904	10,002	11,518	335,772	3,330,159	1,859,513	1,470,646
District 1	31,928	(105)	0	5	191	3,039	28,980	23,442	5,538
District 2 [3]	147,625	(3,255)	345	1,040	1,119	13,913	132,961	106,508	26,453
District 3 [3]	742,818	2,658	555	1,732	877	62,794	685,846	499,253	186,593
District 4 [3]	678,451	(26,538)	283	1,602	7,995	64,110	597,683	468,523	129,160
District 5	87,813	104	552	928	17	5,499	83,915	74,504	9,411
District 6	453,951	(3,407)	20	77	373	27,135	423,879	119,304	304,575
District 7B	52,181	11,200 [2]	2,629	119	295	7,634	58,790	4,988	53,802
District 7C	154,537	28,589	6,336	483	312	16,763	173,494	85,632	87,862
District 8	565,936	(21,417)	15,452	1,254	162	61,422	499,965	161,929	338,036
District 8A	322,707	(26,504)	0	0	0	24,006	272,197	298	271,899
District 9	69,700	6,544	1,122	239	70	9,371	68,304	30,330	37,974
District 10	344,292	(10,301)	7,610	2,523	107	40,086	304,145	284,802	19,343
Utah	38,789	(170)	2	0	0	2,331	36,290	1,123	35,167
West Virginia	81,234	140	6,875	0	0	6,742	81,507	81,507	0
Wyoming	100,412	19,824	527	115	690	10,229	111,339	44,839	66,500
Total United States	8,143,174	35,446	103,740	34,234	134,159	747,812	7,702,941	5,110,939	3,592,002

[1] Preliminary net production.

[2] Natural gas liquids reserves for the Prudhoe Bay-Triassic Reservoir are not included because the A.G.A. reserves committee did not have sufficient data upon which it could base an estimate of such reserves as of Dec. 31, 1970.

[3] Includes offshore reserves.

The remaining proved natural gas liquids reserves in the Gulf of Mexico are estimated to be 921,569,000 barrels; of which 801,886,000 barrels are nonassociated and 119,683,000 barrels are associated-dissolved.

Note: Parentheses denote negative volume.

DOLE SAYS GAS PRICING LED TO INFERIOR USES

Government-administered pricing of natural gas has distorted regular fuel market patterns and led to inferior uses of "an untold amount of our most scarce major fuel," Assistant Secretary of the Interior Hollis M. Dole said this week.

Mr. Dole told the Midwest Gas Association in Milwaukee that "in many industrial markets where costs and prices are the determining factors, the price advantage of gas—artificially created by wellhead regulation—took markets that under free, competitive conditions would have been supplied by coal or heavy fuel oil."

Industrial markets absorb two-thirds of all gas sold, he said. The price of gas was set so low, he added, that trillions of cubic feet of it went for boiler use that coal could have supplied, "and increasingly consumers are unable to get gas at any price."

Mr. Dole said the imposition of environmental safeguards before the affected industries could adequately respond puts an additional impact on the fuel supply-demand balance. "The sulfur content restrictions on industrial fuels has forced coal out of many of its former markets," he said.

"Because gas is already in short supply, the unsatisfied demand is referred to residual fuel oil which domestic refiners are in no position to meet," he said. "So the demand is again transferred this time to foreign oil on which we are progressively increasing our dependence because of our declining supply base."

Mr. Dole urged the Midwest gas group to support President Nixon's proposal for a new Department of Natural Resources, to bring order and direction to federal resource management. He said the new department would provide a complete, integrated federal energy policy instead of the fragmented situation that exists today.

Dr. Charles F. Jones, vice chairman of Humble Oil & Refining Co., told the Midwest group that a shortage of natural gas in the next few years is unavoidable, but its impact can be softened if the producing industry is given additional economic incentives.

The gap between potential demand and total supplies of all types of gas will be 11 trillion cubic feet per year by 1985, or the equivalent of half the gas now produced, he said. He added that some studies indicate potential gas reserves are almost double the gas discovered to date, but he said that the future availability of this potential depends "primarily on the economic attractiveness of exploration opportunities to find gas."

SYNTHETIC GAS SEEN COMPETITIVE

Synthetic gas can be competitive in selected areas for future supplemental gas markets, Larry Shoemaker, a consultant with Cameron Engineers, Inc., of Denver, said this week. He told the annual meeting of the Midwest Gas Association in Milwaukee that the Institute of Gas Technology has indicated synthetic gas will be in competitive range of Arctic pipeline gas and tanker-hauled liquefied natural gas.

IGT is operating a pilot plant in Chicago for hydrogasification of coal. The HY-GAS project is supported by the Office of Coal Research and the American Gas Association.

Mr. Shoemaker said that synthetic gas should have a selling price of 60 to 90 cents per thousand cubic feet at the production site. Arctic pipeline gas will cost 74 to 82 cents delivered to various points, and LNG 47 to 79 cents delivered, he said.

A 500 million cubic feet per day synthetic gas plant based on the advanced processes under development will cost about $250 million, he said. He added, "Considering that it will be necessary to operate a prototype subcommercial plant, before building large-scale production facilities, I agree with those who see 1980 as a realistic goal for probable significant commercial syngas production by these new process approaches."

Since conventional oil and gas producers face problems of their own in providing for future oil needs, and capital is limited even for the largest companies, Mr. Shoemaker said, the gas utility and transmission companies are left with the responsibility for financing and perhaps actually operating the synthetic gas plants.

FPC STUDY SHOWS NO GAS HOLDBACK

The Federal Power Commission this week released a staff study showing that 75 large natural gas producers have made contractual commitments to sell more than 98 per cent of their proved reserves.

The gas producers' answers to an FPC questionnaire on the amount of their reserves and the amount of gas available for sale contradicts charges by some consumer groups that natural gas shortages are artificial and that producers are withholding large amounts of gas from the market to prop up prices.

The industry has blamed the FPC for gas shortages, saying the prices set by the Commission on gas for the interstate market are too low to encourage exploration for new gas.

The figures supplied the FPC show that at the end of 1969 the producers had proved gas reserves of 269.9 trillion cubic feet, of which all but 4.58 trillion cubic feet was committed to sale under contracts. By October, 1970, the amount of uncommitted gas had declined to 4.37 trillion cubic feet.

The FPC staff collected the figures in proceeding to examine the reliability of electric and gas service and to decide whether the Commission should adopt rationing procedures for the industries.

[From the Washington Star, Dec. 30, 1970]

FPC ALLOWS FIRST SERVICE CUTOFFS IN GAS SHORTAGE

(By Stephen M. Aug)

The Federal Power Commission—in the first ruling of its kind—today authorized a gas pipeline company to begin curtailing sales of natural gas because of a shortage of supplies.

The commission approved unanimously a proposed settlement between United Gas Pipeline Co. of Shreveport, La., and its customers under which United would begin shutting off gas if it cannot obtain sufficient supplies for the winter heating season.

An FPC spokesman said the decision marks the first time the commission has ruled on a curtailment proposal during the current natural gas shortage. It could, observers say, be only the first of a number of such orders.

UNANIMOUS DECISION

It is understood that although the decision was unanimous the four commissioners were seriously concerned over the manner in which the company will seek to avoid curtailment by finding gas supplies through apparently unorthodox channels.

Under the settlement, United will try to increase its available gas supply by 30 to 50 million cubic feet a day to meet the needs of its customers—individuals and industrial users in Alabama, Florida, Louisiana, Mississippi and Texas.

TO DIVERT SUPPLIES

It will attempt to obtain additional gas by diverting some of its gas destined solely for intrastate operations within Texas to its interstate pipelines. It will also try to obtain very short term emergency supplies from producers under agreements which would specify that the producers would not be bound to continue supplying gas to United after the heating season is over.

If United cannot obtain the necessary supplies shortly after the first of the new year, it will begin curtailing service. The

plan calls for curtailment first of gas supplies to industrial users. Next, gas used for production of electricity would be cut off. Gas used by domestic consumers would be cut off only after total curtailment of both industrial users and for electric generation.

United applied to the FPC this past October seeking an order which would approve its program for cutbacks under certain emergency conditions because of inadequate supplies.

Today's order provides that United may curtail gas service through March 31 if supplies are not available. But the commission will continue with hearings starting Jan. 12 to settle the issue of whether United has, under present tariffs, the legal right to cut off gas.

ALREADY CURTAILING

A spokesman for United said the company has been curtailing some gas service since the end of October. But he added it was to industrial users only and to other pipeline companies which buy gas from United for industrial users.

"We are doing and have done everything possible to acquire gas and to minimize the shortage problem," he said.

The commission itself earlier this fall asked the natural gas industry for its proposals setting up priorities in the event natural gas shortages became sufficiently acute that supplies would have to be cut off.

The nation's natural gas reserves have been declining since 1968 in response to both sharply increased demand and a downturn in drilling and exploration activity that gas industry officals say began in 1956. The industry has been pressing the FPC for rate increases on the grounds additional revenue would provide the incentive for more exploration and drilling.

[From the New York Times, Feb. 16, 1971]

NEW USERS CURBED BY GAS COMPANIES—CUSTOMERS WITH BIG NEEDS ARE REFUSED BY BROOKLYN AND THREE UPSTATE UTILITIES

(By Peter Kihss)

Problems of supplying natural gas have brought restrictions against new customers by the Brooklyn Union Gas Company and three upstate gas utilities and a priority system by a fifth, the State Public Service Commission said yesterday.

The moves seek to assure service to present residential customers, the state agency said.

Brooklyn Union, serving four million people in Brooklyn, Staten Island and half of Queens, will not accept new customers, starting this month, if the prospective customer's equipment capacity exceeds two million British thermal units an hour. The company also will not provide more service to existing customers who wish to add equipment that would bring their total use above this amount.

THIRTY-UNIT APARTMENT HOUSE

Robb Quinby, a senior vice president of the utility, said this standard was equivalent to 2,000 cubic feet an hour, about the amount needed to provide heat and hot water for an apartment house with 30 families.

"We will continue to supply all existing customers, and continue to take care of one- and two-family houses who want to use gas for heating, and small commercial and industrial plants," Mr. Quinby said.

The new restriction, he said, will affect bigger plants and housing developments. Brooklyn Union is also no longer accepting new applications from large industrial users on certain kinds of contracts for interruptible service.

Joseph C. Swidler, chairman of the Public Service Commission, began warning of tight gas supplies last spring and calling for a slowdown in the growth rate of gas use. The natural gas industry has been attacking Federal price regulations as discouraging to new exploration for gas, causing a decline in reserves while use has kept going up.

A formal investigation by the state agency has been under way since last July, with Commissioner John T. Ryan presiding, on steps to insure that the use of future gas supplies is in the public interest.

RATES RAISED UPSTATE

The commission said that, effective this month, the Central Hudson Gas & Electric Corporation had increased rates for use of more than 1.5 million cubic feet of gas and refused new nonresidential customers whose maximum use would exceed this amount.

Also this month, the Pennsylvania & Southern Gas Company, serving a Tioga County area, set a preferred status for residential and hospital use of gas.

[From the Wall Street Journal, Nov. 25, 1970]

SOUTHERN NATURAL TO BUY $3.3 BILLION OF GAS THAT EL PASO PLANS TO BRING FROM ALGERIA

SAVANNAH, GA.—Southern Natural Gas Co. has agreed to buy about $3.3 billion of liquefied natural gas over a 25-year period from El Paso Natural Gas Co., which is seeking to import the gas from Algeria.

Southern Natural becomes the third major U.S. utility to sign up for Algerian gas from El Paso. The agreement brings El Paso's sales to one billion cubic feet a day of the 1.5 billion cubic feet it is seeking to import daily from Algeria. The plans are subject to approval of the Algerian government and the Federal Power Commission.

Southern Natural plans to buy 500 million cubic feet of the frozen gas daily beginning in 1975. This is the largest liquefied natural gas transaction ever.

Southern Natural said it will pay El Paso a price of 65 cents for each one million British Thermal Units heat value of the gas, subject to contractual adjustment. At the average value of 1,125 BTU to the cubic foot for Algerian gas, this would indicate a price of about 73 cents for each 1,000 cubic feet. That compared with El Paso's price of 65.8 cents a 1,000 cubic feet, delivered in Maryland. Southern Natural said the higher price reflects a longer haul to Savannah.

Columbia Gas System Inc. previously agreed to buy 300 million cubic feet a day from El Paso, and Consolidated Natural Gas Co. has signed up for 200 million cubic feet daily. Other companies already are exporting 150 million cubic feet a day from Algeria to Britain and 140 million cubic feet a day from Alaska to Japan. A project has been completed, but not permitted to operate, which is capable of exporting 345 million cubic feet a day from Libya to Italy and Spain. At least five other projects are under way or proposed.

El Paso's liquefied natural gas would be delivered to a multimillion-dollar terminal Southern Natural plans to build in Savannah. Columbia Gas has announced plans for a one-billion-cubic-feet-a-day terminal at Cove Point, Md., which will cost about $90 million.

El Paso plans to buy the gas from Algeria's state-owned oil and gas agency, Sonatrach, and intends to transport it to the U.S. in cryogenic (super-cold) tankers. Natural gas becomes a liquid at 260 degrees below zero Fahrenheit.

Southern Natural said it doesn't anticipate any environmental problems for Savannah harbor and the surrounding area from the planned terminal, but it will make further studies and will seek guidance from experts associated with the university system of Georgia.

Southern Natural is a diversified pipeline company that sells gas chiefly at wholesale to distribution utilities in seven states. It also sells directly to industrial concerns. El Paso is also a diversified pipeline company serving 11 Western states.

[From the Washington News Digest, Mar. 15, 1971]

VENEZUELA TO RESERVE LNG EXPORT AS GOVERNMENT MONOPOLY

As expected, Venezuela's president, Rafael Caldera, announced that Venezuela will reserve its liquefied natural gas export industry as a government monopoly. President Caldera used the word "nationalization" in his address to congress, but he also said the government will continue "to respect the existing legal rights of the concessionaires." Oil industry sources said they didn't yet know whether this means Venezuela plans to pay oil companies for their natural gas. The nationalization announcement, however, did make it clear the state-owned Corporacion Venezolana del Petroleo, or CVP, will own two natural gas liquefaction plants that Venezuela hopes to have in operation by 1974.

Venezuela doesn't currently export any natural gas. But both CVP and Creole Petroleum Corp., a 95.4%-owned affiliate of Standard Oil Co. (New Jersey), have previously announced proposals for major liquefied natural gas plants. Natural gas becomes a liquid at 260 degrees below zero Fahrenheit, which would then be exported in special cryogenic vessels to U.S. East Coast utilities. President Caldera hinted that private companies may be invited to participate in development of the liquefied natural gas industry, although this again wasn't clear. He said Venezuela's two plants would have the capacity to export 1.3 billion cubic feet of gas daily. A number of U.S. utilities have previously expressed interest in buying Venezuelan gas.

[From the Wall Street Journal, Jan. 21, 1971]

SYNTHETIC PIPELINE GAS MADE FROM NAPHTHA PROPOSED BY UNITED KINGDOM FIRM—PRODUCT IS COMPETITIVE IN PRICE WITH IMPORTS OF LIQUEFIED NATURAL GAS, CONCERN CLAIMS

NEW YORK.—Synthetic gas of pipeline quality can be manufactured from imported naphtha at prices competitive with imported, liquefied natural gas, an American subsidiary of Britain's largest engineering and construction concern said at a press conference here.

Power-Gas Corp. of America, a unit of the Davy-Ashmore Group, said it is prepared to build, at a cost of between $10 million and $20 million each, plants capable of making 100 million cubic feet to 250 million cubic feet of manufactured gas a day at a cost of 64 cents to 69 cents per 1,000 cubic feet. This is in the same cost range as proposed massive imports of liquefied natural gas from Algeria.

The British group said it has outlined its process to a number of U.S. utilities, pipeline companies and oil concerns in the last two weeks and is actively negotiating for such plants with two companies. The plants would use a process developed by the British Gas Council, the state-owned gas monopoly, and licensed to Power-Gas.

Crude oil contains about 20% naphtha. In the U.S., most of this goes into gasoline or is sold to chemical plants as a basic raw material. But in foreign refineries, heating oil rather than gasoline is the major product, resulting in a surplus of naphtha available at low cost. Power-Gas estimates that imported naphtha from the Middle East and Africa would be available at a delivered cost of about six cents a gallon in the U.S.

The Power-Gas process produces about 1,000 cubic feet of pipeline quality gas from about nine gallons of naphtha. The company estimates capital and operating costs of the plants at about 10 cents to 15 cents per 1,000 cubic feet of output.

Power-Gas said it has outlined the process to the Federal Power Commission and to other government officials. Importing naphtha would require either import quotas or

special exemptions from oil import restrictions. The company said it doesn't foresee any problem in this area because of the growing shortage in the U.S. of conventional natural gas.

The company explained that the low capital cost of its proposed plants varies sharply with the $400 million to $500 million cost of building facilities in foreign lands to liquefy natural gas. And it said naphtha can be transported in small, conventional tankers, in contrast with the costly special cryogenic vessels required for liquefied natural gas.

U.S. refineries could even find it economic to add facilities to convert domestic naphtha into synthetic pipeline gas, the company said.

Power-Gas' parent has built 86 plants in Britain that make low-quality "town gas" from naphtha by the same basic process it would use to make the high heat-content pipeline gas. The new plants would produce a gas of about twice the heat content per cubic foot of the town gas.

Power-Gas added that its process can be used to make pipeline gas from raw materials other than naphtha. These include liquefied petroleum gas, heating oil and methanol, a liquid that can be made from foreign natural gas at much lower cost than liquefied natural gas.

[From the Oil and Gas Journal, Jan. 25, 1971]

SYNTHETIC-GAS PROCESSES PUSHED IN UNITED STATES

(Substitute gas processes licensed for U.S. to Power Gas Corp. by British Gas Council have been in use for years—in gas-poor areas. Prices for gas claimed competition with LNG. Feeds can be naphtha, LP-gas, or methanol.)

The U.S. natural-gas shortage has prompted Power Gas Corp. to bring a portfolio of processes to the U.S. that would have had little if any chance of acceptance here only 5 years ago. Power Gas thinks they do now.

They are processes to make substitute natural gas (SNG) from naphtha, LP-gas, and even methanol. And to make current supplies stretch further, another process is being offered for the derichment of high-heating value natural gas. All are based on technology developed by the British Gas Council and used in gas-poor areas for years.

The Gas Council has licensed Power Gas to offer the processes in the U.S. The company has been describing them and their application since early January to invited groups of executives and engineers from utilities, transmission firms, and petrochemical companies. "A couple of refiners have even asked to sit in," a spokesman for the contractor says.

Raymond J. Kenard, Jr., president of Power Gas said last week that "by 1975 we expect a daily shortage of perhaps 10 billion cu ft of gas.

Recent interviews with pipeline companies have disclosed that they already have a base-load need of from 5 to 10% of pipeline capacity for the Eastern Seaboard, Kenard declared.

"At that time," he said, "LNG will not be able to fill more than a fraction of the estimated gap." Synthetic natural gas, he said, would be competitive in price with LNG.

Although Power Gas could find no agreement among possible suppliers on the quantities of naphtha that might be available, they expect the trend to low-lead and no-lead gasoline to lower the 9¢/gal. refinery-use value now assigned naphtha. Feed and fuel estimates of 6–7¢/gal. are based on the projected price of naptha delivered from Venezuela, for example, to the East Coast of the U.S. Substitute natural gas would then cost from 66¢ to 76¢/MMBTU.

Methanol gas. Power Gas has added one new twist to the basic process schemes—make methanol overseas, ship it to the U.S. and then convert it into natural gas (Power Gas also sells a methanol process).

This route puts foreign natural gas into an easily transportable form. Compared to moving foreign natural gas in an LNG chain, it does away with liquefaction, cryogenic transportation, cryogenic storage, and revaporization facilities. However, a methanol plant would have to be built overseas to accomplish this.

Despite this, Power Gas says the system is competitive with LNG (in fact all the Gas Council processes are, it says) and gets around the bottleneck of cryogenic tanker bottoms. The company says the product obtained from methanol is virtually indistinguishable from natural gas.

The conversion of methanol is based, as are the naphtha and LP-gas based processes, on the Gas Council's Catalytic Rich Gas (CRG) process. The flow scheme is shown in Fig. 1.

Cost using naphtha *

	¢/MMBTU
Feed and fuel at 6c/gal	54.30
Boiler feedwater at 20c/1,000 gal	0.15
Catalyst	†1.60
Electricity at 1.0c/kw-hr	0.05
Operating	3.20
Capital	‡6.55
	§65.85

*125 MMscfd of MBTU gas at 100% load factor.

† Based on 205° F. endpoint naphtha. For 365° F. endpoint naphtha add 1.40c.

‡ Total capital of $15.5 million including process plant, tankage, dock, land, and working capital.

§ With feed and fuel at 7c/gal. gas cost is 75.05c/MMBTU. Source: Power Gas Corp.

Overall cost of production of synthetic natural gas from a foreign gas via methanol synthesis/reforming as taken at $4.50/ton from North Africa to the U.S. Production cost is based on 106.2 lb of methanol/million BTU. The production cost of synthetic natural gas is estimated to be 6c/Mscf exclusive of feedstock cost but including capitalization of feedstock storage.

LP-gas. To make SNG from LP-gas, feedstock is vaporized and desulfurized in a zinc oxide bed. The desulfurized vapor is mixed with steam, superheated, and passed to the CRG reactor where reforming at about 900° F. produces a gas containing about 70% methane. After heat recovery and CO_2 removal to 2%, the methane content is 83.5%. On mixing with bypassed LP-gas, a gas of 1,017 BTU/scf is obtained, Power Gas says.

Naphtha. To make 1 MMscf of gas from naphtha, Power Gas says the following important materials, utilities, and consumables are used: naphtha feedstocks, 47,700 lb; naphtha fuel, 4,370 lb; makeup feedwater, 60,700 lb; power, 66 Kwhr (net); CRG catalyst, 3-8 lb depending on sulfur level in feed. The overall thermal efficiency is 93 to 94%.

Hydrogen for desulfurization would be obtained either by reforming a small portion of the gas from the exit of the unit's hydrogasifier in a conventional tubular reformer or by recycling a much larger fraction of the gas from the exit of the CRG reactor.

Derichment. The derichment process, also based on CRG, would have application, Power Gas says, in areas where a distributor is delivering gas on a volume basis that has a heating value considerably higher than the 1,000 to 1,025 BTU/scf commonly specified. Process converts such natural gas to the lower BTU level.

By Mr. HUMPHREY:

S. 1847. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain drugs under the insurance program established by part A of such title. Referred to the Committee on Finance.

PRESCRIPTION DRUGS FOR HOME PATIENTS UNDER MEDICARE

Mr. HUMPHREY. Mr. President, I introduce a bill today to fill one of the major gaps in medicare coverage for the elderly—prescription drugs for home patients.

We have seen the studies and recommendations of professional and governmental bodies. And we have seen the urgent medical needs of the patients.

This proposal is financially feasible, administratively workable and humanely desirable.

As an early proponent of medicare, I take great pride in the fact that this program is furnishing benefits to 20 million of our older citizens. It is a godsend to them—and to their children, who are receiving help in meeting the burden of growing medical expenses of their parents as well as their own.

But that does not mean it cannot be improved. In fact, that is just what will be done by the bill I am introducing today—expand medicare from nursing home and hospital coverage to include more out-patient, or what I prefer to call all-patient care.

My bill covers all categories of prescription drugs deemed necessary by the individual patient's physician.

Coverage will be under part A of medicare to permit the individual to pay for his drug insurance during his working years, rather than later when his income is sharply reduced due to retirement. It will assure that nearly everyone over 65 will benefit, without having to pay monthly premiums, keep records or file claims.

The patient will pay $1 for each prescription filled and refilled, and the Federal Government will meet the remaining expense based on the cost of the drug and the pharmacy's cost of filling that prescription.

Reimbursement will be on the basis of actual acquisition cost plus a dispensing allowance to cover such elements as cost of overhead, professional services, and a fair profit. Dispensing allowances would tend to vary among pharmacies, depending on operational costs and professional services provided.

The only exceptions to the coverage are those particular drugs whose cost substantially exceeds the average cost of other drugs of the identical chemical composition and quality available from other sources.

The Secretary of Health, Education, and Welfare will be responsible for determining qualified drugs and establishing detailed reimbursement provisions, but only after consulting with representatives of those most directly involved—the physician who writes the prescription, the pharmacist who fills it, and the patient who pays for it and uses the medicine. They, along with two representatives of the Department of Health, Education, and Welfare, will constitute an Advisory Council on Drug Coverage.

The patient is probably the most important member of the Council. It is

time—in fact we should have started long ago—to give the consumer, the taxpayer, a bigger direct voice in public programs most directly affecting him. In my particular bill, I provide for the appointment of consumer representatives who are entitled to medicare benefits and who are not physicians or pharmacists and who have no financial interest in the manufacture or sale of drugs.

My bill also provides new protection for the private merchant, in this case the pharmacist, doing business with the Federal Government. If the pharmacy is not reimbursed by the Government within 60 days after filing its claim, the pharmacy will be entitled to interest on the debt, at an annual rate of 6 percent, starting on the 60th day. This is the same interest rate the Government would charge if the situation were reversed and the pharmacy were late paying its bill—such as taxes—to the Government.

Prescription drugs represent the largest single personal health expenditure that the aged must meet almost entirely from their own resources.

About 20 percent of all private health care expenditures for the aged are for prescription drugs, and most of this drug expenditure is paid directly out-of-pocket by the aged. Annual per capita expenditures for drugs on the part of the elderly are more than three times those of people under age 65.

The need for this bill is readily apparent when we realize that drug therapy is carrying more and more of the burden of restoring people to health and usefulness. With the advent of the "miracle drugs" in the late 1940's, we became cognizant of just what a difference effective drug therapy could make in treating disease and illness. The trend toward better, more effective and more specific drug therapy has continued throughout the ensuing decades and there are no signs that the trend will abate at any time in the near fuure as we approach cures for cancer and other dread and usually fatal diseases.

A medicare recipient is furnished an array of health care services but not drugs unless that recipient is institutionalized in a hospital or extended care facility. In the usual case of a patient with some sickness requiring medical attention but not hospitalization, we provide every basic health care service but then leave him to fend for himself in finding the last and perhaps most essential service—drug therapy.

It seems to me that we are wasting millions of dollars on diagnostic work, physicians' services, and other of the essential health care services provided social security recipients, when the objective of much of the effort is to determine what drug therapy is indicated and then fail to provide the drug therapy thereby discovered to be necessary.

We have established, as a national policy, that health care, and an adequate level of health care, is the right of every citizen. For the social security beneficiary, we attempted to define that right by the enactment of medicare. Yet without also providing the essential ingredient of drug therapy coverage, can we claim to have anything less than an inadequate job? That is why I seek to remedy this defect in health care coverage under the Social Security Act.

Right now, a medicare beneficiary can go to his physician, to a hospital, or other facility, and find that he has protection and coverage. But when it comes to drugs, he has four choices: do without, use his own funds, if any, rely on friends and family to purchase the drugs, or qualify under the medicaid or some other public assistance program.

If this provision that I propose today had been written into the law originally, we probably would not have hospital costs going so high or medicare premiums increasing so much.

But because of this gap in coverage, we have witnessed elderly persons hospitalized simply because that is the only way they could get the medication they need.

This means loading on the taxpayer the extra cost of hospital care instead of going to the neighborhood drugstore.

The negative aftereffects are many. Costs to the Government go up—and are reflected in medicare premium increases—because of this needless overutilization of hospital facilities.

A person in the hospital, simply to get a prescription filled, is taking up a bed that may be sorely needed for someone who is very ill.

The costs are more than financial. They are very human.

A hospital stay—for most of us, but especially the elderly—is a depressing experience. For too many elderly persons hospitals are not temples of healing but places to go and die.

This psychological burden is totally unnecessary, and my bill would eliminate it.

There is no need for an elderly person on medicare to spend several days in a hospital simply because he doesn't have the money to go to his neighborhood druggist and have a prescription filled.

The need is clear. There can be no question about it. There is an urgent necessity for medicare home drug legislation. The subject has been studied, restudied and overstudied—always with the same conclusion: do it now.

I urge the Congress to act promptly in the interest of the health and well-being of 20 million older Americans.

By Mr. HARTKE:

S. 1848. A bill to provide for uniform and full disclosures of information with respect to the computation and payment of interest on certain savings deposits. Referred to the Committee on Banking, Housing, and Urban Affairs.

TRUTH-IN-SAVINGS ACT

Mr. HARTKE. Mr. President, today I introduce legislation which would establish a simple and fair method of disclosing vital information on consumer deposits in savings institutions. Americans place more than $40 billion of disposable income into savings each year. This is money saved for emergencies, for children's education, for a new home, and for many other purposes. Yet, few Americans realize the importance of the decision to place their money into a savings institution. Just as an individual shops for the best buy when purchasing a new car or a washing machine, so must he shop when opening a savings account.

Unfortunately, at the present time, the consumer does not have adequate information at his disposal before he opens an account. He is confronted by confusing claims in newspaper advertisements and a variety of technical information which is difficult to understand. According to a recent study of the American Banking Association, there may be more than 100 different methods of earnings computation in use today. They include LIFO, FIFO, low balances, day-of-deposit to day-of-withdrawal accounts, daily interest and grace days combined with the infinite possibilities of compounding which include semiannually, quarterly, daily, and continuously. While I do not suggest that the Federal Government impose uniformity in earnings calculation methods, I urge that the Congress enact legislation which will make it possible for the consumer to compare and choose the most advantageous opportunity for investing his money consistent with his needs and preferences.

Differences in earnings rates and methods of calculation are important to the average consumer. Mere differences in the method of calculating earnings can result in a monetary difference of as much as 180 percent over a 6-month period. In light of this, the consumer must have information at his command which makes it possible for him to make a rational judgment on the best institution with which to place his funds.

One of the major sources for consumer confusion can be found in the use of such terms as "annual percentage rate" and "annual percentage yield."

The term "annual percentage rate" means the nominal annual percentage rate used to compute earnings. Use of this term assists the consumer to understand the concept of rates as applied both to savings and credit. Credit and savings are mirror images of each other. The credit consumer borrows from the savings institution; the savings institution borrows from the consumer. The use of common terminology is, therefore, logical and desirable.

"Annual percentage yield," on the other hand, includes the resulting effect of the compounding of earnings. Whether earnings are compounded on a daily, monthly, quarterly, or semiannual basis will affect this annual percentage yield measurably.

My bill, therefore, makes it a requirement that each savings institution disclose to potential depositors its annual percentage rate, its annual percentage yield, the minimum length of time a deposit must remain on deposit to earn interest at the annual interest rate, the periodic percentage rate and the method used to compute the balance to which this rate will be applied, the number of times within a year that interest is earned, and the dates on which earnings are payable. Each of these disclosures involves basic information which must be made available in order for the consumer to invest his money wisely.

The bill also requires the institutions

to disclose their periodic percentage rate. It is this figure which is critical if a consumer is to understand the true potential earnings for his money. If the savings institution compounds earnings daily, then the periodic percentage rate will be a daily rate; if it compounds quarterly, the periodic rate will be a quarterly rate; and so on. Armed with this information, and with the knowledge of what earnings calculation method a savings institution uses, the consumer can make an informed choice from among several savings alternatives.

Some savings institutions make provision for grace days. Under this option, a consumer may place a deposit in the institution after the first of the month and yet that deposit will accumulate earnings as if it had been deposited on the first of the month. Other institutions impose a charge on excessive withdrawals from an account. My bill requires that this type of information must also be disclosed to the potential depositor.

In addition to making such basic information available to the consumer who has yet to open an account, my bill also requires that disclosures be made to existing depositors. At the present time, the consumer has very little information at his disposal to verify bank earnings calculations. He may send in his passbook to have earnings credited to his account, but how does he know that a mechanical or human error has not been made by the savings institution?

To minimize the possibility for error and misunderstanding, my bill requires that savings institutions make annual disclosures to their depositors of the amount of earnings payable, the annual percentage rate, and the method used to calculate the amount of interest payable.

Most depositors are unaware of which method their bank is using and are, therefore, unable to verify the amount of earnings credited to their accounts.

At this point in my statement, Mr. President. I ask unanimous consent to have printed in the RECORD two exhibits to illustrate the importance of knowing by which method a savings institution calculates earnings. The information contained in the two exhibits comes from a master's thesis done by Miss Jackie M. Pinson of the Department of Family Economics of Kansas State University. Working under the supervision of the head of her department, Prof. Richard L. D. Morse, Miss Pinson was able to highlight the confusion confronting consumers. She developed her comparisons using the hypothetical account in exhibit A and a 6-percent annual interest rate.

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

EXHIBIT A

Date	Withdrawal	Deposit	Balance (without interest)
Jan. 1, 1970			$1,000
Jan. 10, 1970		$2,000	3,000
Feb. 6, 1970		1,000	4,000
Mar. 5, 1970	$1,000		3,000
Mar. 20, 1970	500		2,500
Mar. 30, 1970	500		2,000
Apr. 1, 1970			2,000
July 1, 1970			2,000

Although Miss Pinson applied forty different methods of interest calculation to this hypothetical account, Exhibit B makes use of only seven of these.

EXHIBIT B

System	Yield
Low Balance: Compounded and credited semiannually	$29.75
Low Balance: Compounded quarterly and credited semiannually	29.97
Low Balance: Compounded and credited quarterly	44.93
First in-first out applied to beginning balance: Compounded and credited quarterly	52.44
First in-first out applied to first deposits: Compounded and credited quarterly	53.93
Last in-first out: Compounded and credited quarterly	58.44
Day of deposit to day of withdrawal: Compounded and credited quarterly	75.30

Using these seven examples, there is a 150% difference in earnings over a six-month period. While a different pattern of deposits and withdrawals could alter these findings, these two exhibits make it clear that the policies of savings institutions do differ and that these differences are quite important to the consumer.

Mr. HARTKE. Mr. President, to supplement the disclosure requirements of my bill, basic requirements are also established for advertising. All advertisements relating to earnings payable on an individual savings deposit must state with equal prominence the annual percentage rate and the annual percentage yield as well as any minimum amount and time requirements. No advertisement will be permitted to include any indication of percentage rate or percentage yield which is based on a period in excess of 1 year or on the effect of any grace period. These requirements are in accord with existing Federal Reserve regulations.

Mr. President, the American public deserves to have all the facts needed to make a prudent choice among savings institutions. This bill puts such information at their disposal. It is based on the premise that the best-protected consumer is the best-informed consumer. In no way does it tell financial institutions what they should pay or how they should pay it. They are free to compete. It merely provides that financial institutions tell in clear and meaningful language what they are doing for the consumer.

I have been pleased to have the assistance of the banking industry in drafting this legislation. They have been anxious to eliminate any sources of misunderstanding for depositors. In the coming days, I look forward to working with a variety of organizations representing savings institutions in a common effort to strengthen my bill. What is most important is that we develop a national concern for the problems of consumer depositors, and then translate that concern into positive legislative action.

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

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

S. 1848

A bill to provide for uniform and full disclosures of information with respect to the computation and payment of interest on certain savings deposits

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Truth in Savings Act."

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that economic stability would be enhanced and competition among savings institutions would be improved by the full disclosure of the terms and conditions under which earnings on savings deposits are payable. It is the purpose of this Act to require a meaningful disclosure of the terms and conditions of the payment of earnings on individual savings deposits so that the individual will be able to compare the various savings programs available to him.

DEFINITIONS; APPLICABILITY

SEC. 3. (a) For the purpose of this Act—

(1) "Board" means the Board of Governors of the Federal Reserve System;

(2) "individual" means a natural person;

(3) "individual savings deposit" means any deposit or account which consists of funds (A) deposited to the credit of one or more individuals, or (B) in which the entire beneficial interest is held by one or more individuals, and upon which earnings is payable, and such term includes regular, notice, or time deposits or share accounts and any other such deposit or account whether or not evidenced by a negotiable or nonnegotiable instrument;

(4) "earnings" means any amount payable to or for the account of any individual as compensation for the use of funds constituting an individual savings deposit and such term includes dividends and interest on any individual savings deposit;

(5) "payable", when used with respect to a certain date or period of time, means the date on which or the period of time after which an absolute right to earnings exists;

(6) "savings institution" means any person who in the regular course of his business receives, holds, and pays earnings on individual savings deposits; and

(7) any reference to this Act, to any requirement imposed under this Act, or to any provision thereof includes reference to the regulations of the Board under this Act or the provision thereof in question.

(b) Nothing in this Act applies to any transaction involving—

(1) a deposit of funds if the principal purpose of that deposit is to secure or guarantee the performance of a contract or the conditions of a contract for the sale or use of goods, services, or property;

(2) interest payable on premiums, accumulated dividends, or amounts left on deposits under an insurance contract;

(3) a deposit of funds of a principal amount in excess of $25,000; or

(4) any obligation issued by any Federal, State, or local government, or any agency, instrumentality, or authority thereof, except that the Board may prescribe rules and regulations to require disclosures by any agency, instrumentality, or authority of the Federal Government.

DETERMINATION OF ANNUAL PERCENTAGE RATE, PERIODIC PERCENTAGE RATE, AND ANNUAL PERCENTAGE YIELD

SEC. 4. (a) The annual percentage rate applicable to any individual savings deposit is that nominal annual percentage rate which will yield a sum equal to the amount of earnings payable in 1 year when that rate is applied to the principal amount (excluding any earnings theretofore paid or credited in that year) of an individual savings deposit.

(b) The periodic percentage rate is the annual percentage rate divided by the number of compounding periods in one year.

(c) The annual percentage yield applicable to any individual savings deposit is that nominal annual percentage rate which will yield a sum equal to the amount of earnings payable in 1 year when that rate is applied to a sum equal to the principal amount of an individual savings deposit plus any earnings theretofore paid or credited to that deposit in that year and not withdrawn during that year.

REGULATIONS

SEC. 5. (a) The Board shall prescribe regulations to carry out the purposes of this Act. These regulations shall provide for clear, concise, and uniform disclosures of information required by this Act, and may contain such classification, adjustments, and exceptions as the Board determines are necessary or proper to effectuate the purposes of this Act. All disclosures required by this Act shall be made only in terms as defined or used in this Act, as defined or used in the Truth in Lending Act or in regulations prescribed under that Act, or as such terms are further defined by the regulations of the Board. The Board may authorize the use of tables or charts for the disclosure of information required by this Act.

(b) The Board may prescribe such other rules and regulations as it determines to be necessary or appropriate to carry out the purposes of this Act.

GENERAL REQUIREMENTS OF DISCLOSURE

SEC. 6. (a) Each savings institution shall disclose in writing to any individual at a time before he initially places funds in an individual savings deposit in such savings institution the following information with respect to individual savings deposits:

(1) the annual percentage rate;

(2) the minimum length of time a deposit must remain on deposit so that earnings are payable at that percentage rate;

(3) the annual percentage yield;

(4) the periodic percentage rate and the method used to compute the balance to which this rate will be applied;

(5) the number of times each year earnings are compounded;

(6) the dates on which earnings are payable;

(7) any terms or conditions which increase or reduce the rate of earnings payable above or below items (1) or (3);

(8) any charges initially or periodically made against any deposit; and

(9) any restrictions and the amount or method of determining the amount of penalties or charges imposed on the use of funds in any deposit.

(b) Each savings institution shall disclose annually and at the time any earnings payment or report is made to an individual with respect to his individual savings deposit—

(1) the amount of earnings payable;

(2) the annual percentage rate;

(3) the periodic percentage rate;

(4) the principal balance to which the annual percentage rate was applied, and the method by which that balance was computed;

(5) a detailed explanation of the difference, if any, between the amount of earnings payable and the maximum amount of earnings that would have been payable if the terms and conditions for such maximum payment had been met; and

(6) any charges made against the principal of the deposit during the period covered for purposes of computing the payment of earnings or making the report.

(c) The Board may, by regulation, authorize or require the disclosure of periodic percentage rates, tables of periodic factors which reflect compounding, and such other information as it determines to be necessary or appropriate in order to facilitate the individual's ability to verify the computation of earnings payable on any individual savings deposit.

(d) Not less than 10 days before a savings institution adopts any change in policy or procedure with respect to any item of information required to be disclosed under this section, that institution shall notify each individual depositor of each such change.

DISCLOSURES IN ADVERTISING

SEC. 7. (a) Every advertisement relating to the earnings payable on an individual savings deposit shall state with equal prominence (1) the annual percentage rate, and (2) the annual percentage yield, with respect to such deposit. If that rate or yield is payable only on a deposit which meets certain minimum time or amount requirements, those requirements shall be clearly and conspicuously stated.

(b) No such advertisement, announcement, or solicitation shall—

(1) include any indication of any percentage rate or percentage yield based on a period in excess of one year or on the effect of any grace period; or

(2) make use of the term "profit" in referring to earnings payable on such deposits.

ADMINISTRATIVE ENFORCEMENT

SEC. 8. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of the law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

RIGHT OF RECISSION ON TIME DEPOSITS

SEC. 9. In the case of any individual savings deposit subject to a time requirement, the individual shall have the right to a full return of his deposit with earnings therein at the advertised annual percentage rate until midnight of the thirtieth day following the making of that deposit or the delivery of the disclosure required under this section and section 6(a) of this Act, whichever is later. The savings institution shall clearly and conspicuously disclose to any individual subject to this section his rights under this section.

CIVIL LIABILITY

SEC. 10. (a) Except as otherwise provided in this section, any savings institution which fails in connection with any transaction subject to this Act to disclose to any individual any information required under this Act to be disclosed to that individual is liable to that individual in an amount equal to the sum of—

(1) twice the amount of the interest in connection with the transaction, except that the liability under this paragraph shall not be less than $100 nor greater than $1,000; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

(b) An institution has no liability under this section if within 15 days after discovering an error, and prior to the bringing of an action under this section or the receipt of written notice of the error, the institution notifies the individual concerned of the error and makes whatever adjustments in the appropriate deposit are necessary.

(c) An institution may not be held liable in any action brought under this section for a violation of this Act if the institution shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(d) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION

SEC. 11. Whoever willfully and knowingly (1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this Act, or (2) otherwise fails to comply with any requirement imposed under this Act shall be fined not more than $5,000.

VIEWS OF OTHER AGENCIES

SEC. 12. In the exercise of its functions under this Act, the Board may obtain upon request the views of any other Federal or State agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of savings institutions subject to this Act.

EFFECT ON OTHER LAWS

SEC. 13. (a) This Act does not annul, alter, or affect or exempt any savings institution from complying with, the laws of any State relating to the disclosure of information in connection with individual savings deposits, except to the extent that those laws are inconsistent with the provisions of this Act or regulations promulgated under this Act,

and then only to the extent of the inconsistency.

(b) This Act does not otherwise annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State, including, but not limited to, laws relating to the types, amounts or rates of earnings, or any element or elements of earnings, permissible under such laws in connection with individual savings deposits, nor does this Act extend the applicability of those laws to any class of persons or transactions to which they would not otherwise apply.

(c) Except as specified in section 9, this Act and the regulations promulgated under this Act do not affect the validity or enforceability of any contract or obligation under State or Federal law.

REPORT TO CONGRESS

SEC. 14. The Board shall report to the Congress each year concerning the administration of its functions under this Act, and shall include in its report an assessment of the extent to which compliance with the requirements under this Act is being achieved and such recommendations as it deems necessary or appropriate.

SEPARABILITY

SEC. 15. If any provision of this Act, or the applicaton of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION BY SECTION ANALYSIS OF A BILL TO PROVIDE FOR UNIFORM AND FULL DISCLOSURES OF INFORMATION WITH RESPECT TO THE COMPUTATION AND PAYMENT OF INTEREST ON CERTAIN SAVINGS DEPOSITS

SHORT TITLE

SECTION 1. This Act may be cited as the "Truth in Savings Act."

FINDINGS AND PURPOSE

SEC. 2. Declares that economic stability would be enhanced and competition among savings institutions improved by full disclosure of the terms and conditions under which earnings on savings deposits are payable. Declares purpose of Act to be meaningful disclosure of terms and conditions of the payment of earnings on individual savings deposits.

DEFINITIONS; APPLICABILITY

SEC. 3. Establishes definitions for such pertinent terms as "Board", "individual", "individual savings deposit", "earnings", "payable", and "savings institution" so as to make the Act applicable to consumer deposits in savings institutions. Specifically excludes deposits of funds in excess of $25,000 and funds placed with concerns which are not in normal usage considered to be savings institutions. Specifically excludes any obligation issued by any Federal, State or local government, or any agency, instrumentality, or authority thereof, except that the Federal Reserve Board may issue regulations to require disclosures by any agency, instrumentality, or authority of the Federal Government.

DETERMINATION OF ANNUAL PERCENTAGE RATE, PERIODIC PERCENTAGE RATE, AND ANNUAL PERCENTAGE YIELD

SEC. 4. Establishes the method to determine annual percentage rate, periodic percentage rate, and annual percentage yield.

REGULATIONS

SEC. 5. Confers on the Federal Reserve Board authority to issue appropriate regulations which provide for clear, concise and uniform disclosures and regulations which provide for such classifications, adjustments, and exceptions as the Board determines are necessary.

GENERAL REQUIREMENTS OF DISCLOSURE

SEC. 6 (a) Establishes disclosure requirements to be applied to any individual at a time before he initially places funds in an individual savings deposit in a savings institution. The information which must be disclosed includes—

(1) the annual percentage rate;

(2) the minimum length of time a deposit must remain on deposit so that earnings are payable at that percentage rate;

(3) the annual percentage yield;

(4) the periodic percentage rate and the method used to compute the balance to which this rate will be applied;

(5) the number of times each year earnings are compounded;

(6) the dates on which earnings are payable;

(7) other terms and conditions and restrictions pertinent to the account.

(b) Establishes disclosure requirements to be applied to the current depositors of a savings institution. The information which must be disclosed includes—

(1) the amount of earnings payable;

(2) the annual percentage rate;

(3) the periodic percentage rate;

(4) the principal balance to which the annual percentage rate was applied, and the method by which that balance was computed;

(5) other pertinent information

(c) Authorizes Federal Reserve Board to establish additional disclosure requirements.

(d) Requires a savings institution to notify its depositors 10 days in advance of any change in policy or procedure with respect to any item of information required to be disclosed.

DISCLOSURES IN ADVERTISING

SEC. 7. Requires advertisements relating to the earnings payable on an individual savings deposit to state with equal prominence the annual percentage rate and the annual percentage yield. Prohibits any indication of any percentage rate or percentage yield based on a period in excess of one year or based on the effect of any grace period.

ADMINISTRATIVE ENFORCEMENT

SEC. 8. Establishes the governmental agencies which have responsibility for enforcing compliance with the requirements of the Act.

RIGHT OF RECISSION

SEC. 9. Confers on individual depositor the right to a full return of his deposit with earnings therein at the advertised annual percentage rate until midnight of the thirtieth day following the making of that deposit or the delivery of the disclosure requirements of the Act, whichever is later.

CIVIL LIABILITY

SEC. 10. Establishes civil liability of a savings institution which fails to comply with this Act to be twice the amount of the interest in connection with the transaction (with a minimum liability of $100 and a maximum liability of $1,000) and, in the case of any successful action to enforce the foregoing liability, court costs and attorney's fee. Permits savings institution to avoid liability if it notifies individual of error within 15 days of discovery or if preponderance of evidence shows that error was unintentional and resulted from a bona fide error.

CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION

SEC. 11. Provides maximum of $5,000 fine for willful and knowing violation with the requirements of the Act.

VIEWS OF OTHER AGENCIES

SEC. 12. Authorizes Board to obtain the views of any other Federal or State agency exercising regulatory or supervisory functions with respect to any class of savings institutions subject to this Act.

EFFECT ON OTHER LAWS

SEC. 13. Limits effect of the Act on pertinent State laws and on the validity and enforceability of any contract or obligation under State or Federal law.

REPORT TO CONGRESS

SEC. 14. Requires Board to make an annual report to Congress concerning the administration of its functions under this Act.

SEPARABILITY

SEC. 15. Provides for the continued validity of the remainder of this Act should any provision be held invalid.

By Mr. TOWER:

S. 1851. A bill to amend the Internal Revenue Code of 1954 to prohibit the deduction of illegal bribes and kickbacks. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, I introduce today for appropriate reference a measure which is designed to correct what must be one of the most glaring oversights in the present Internal Revenue Code: Section 162(c). This section allows a deduction from income for tax purposes of bribes and illegal kickbacks incurred in the course of business. This section puts the Government of the United States on record as encouraging this type of practice by, in effect, subsidizing such bribes and illegal kickbacks which are in contravention of State and Federal law on the subject.

Mr. President, regulations of this sort have become a laughing matter in the press recently, but it is truly not funny in the least bit. It is a matter of great concern to me, and I am sure to every American, that the public tax collections suffer at the expense of these illegal bribes. Those who work hard and long for their money simply cannot understand why those engaged in illegal activities are given a special tax break at their expense.

I am certain that my colleagues in this body agree with me that this change is necessary and should be considered as quickly as possible. I would hope that we would be able to put a stop to this unbelievable practice at the earliest possible date.

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

S. 1852. A bill to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

GATEWAY NATIONAL RECREATION AREA

Mr. ALLOTT. Mr. President, on behalf of the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) and both of the Senators from New Jersey (Mr. CASE and Mr. WILLIAMS), I send to the desk for appropriate reference a bill to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey.

This draft proposal was submitted and recommended by the Department of the Interior and I ask unanimous consent that the letter from the Secretary of the Interior accompanying the bill be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., May 10, 1971.

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

DEAR MR. PRESIDENT: There is enclosed a draft bill "To provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes."

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

This Department believes that the quality of urban life is one of the most pressing problems facing our Nation today. It is our policy to foster the creation of open space areas with recreational opportunities in and near large metropolitan areas. Meeting the recreation needs of our urban populations is an undertaking that must involve government at all levels. While primary responsibility for local, community, and district parks should be in municipal governments, there are special instances where the direct involvement of the Federal Government is necessary to provide adequate protection of resources and to assure that the recreation potential of these resources is developed in such a manner that the areas are accessible to all income groups.

As the President noted in his Message on the environment of February 8, "the acquisition and development of open space, recreation lands and natural areas accessible to urban centers is often thwarted by escalating land values and development pressures." In that same message, President Nixon announced a "comprehensive effort to preserve our natural environment and to provide more open spaces and parks in urban areas where today they are often so scarce."

Nowhere are the needs for open space and recreation opportunities more pressing than in the New York Metropolitan Area. In May of 1969, this Department undertook a study of the New York Harbor area to identify how best to heighten the quality of urban recreation by use of available resources, which includes key units of undeveloped land and water having a variety of unique natural values.

The enclosed draft bill is based on a thorough review of the findings of that study.

The Gateway National Recreation Area concept which we recommend envisions the use of Federal resources and management to create a wide variety of year-round recreational, educational, and other cultural opportunities in a natural environment, by joining three geographically dispersed units in a single park serving a metropolitan area of more than 14 million people. Administered as a national recreation area with the access facilities we propose, visitation to the area is expected to be about 225,000 people per day when it is fully developed. A ferry shuttle system linked with existing land mass-transit systems would provide access to its facilities for millions of area residents and others who, because they do not own automobiles, are unable to enjoy this Nation's large regional and national parks.

The State of New Jersey and New York City have indicated that they will not be able to realize fully the recreation potential that these areas possess, even with Federal grants and subsidies. Further, we feel strongly that management economies can best be achieved by a single coordinated effort in planning, development and use of the existing units.

The major elements of this proposal are: (1) suitability of the available land and water resources; (2) access to the three units which would comprise the National Recreation Area; (3) acquisition of property; (4) development and management of the resources; and (5) costs. A discussion of these elements follows:

RESOURCES

About 7,000 acres of land and 16,000 acres of marsh and submerged land would be included in the National Recreation Area. It would contain ten miles of ocean beach and natural and historic features of great significance. The three units are geographically separated, but they are all accessible by the waters of New York Harbor.

The *Jamaica Bay Unit* contains 14,000 acres of land and water. Despite the inroads of civilization, Jamaica Bay remains an ecological treasure. Except for several dredged channels, its waters are shallow and there are no beaches now suitable for intensive recreation use. The chief significance of this unit is its relatively natural character. Jamaica Bay offers the fisherman a chance to land bluefish, striped bass, porgies, and other varieties of gamefish. Twenty-nine species of waterfowl and 70 species of wading, shore, and marsh birds depend upon the marsh water habitat. Within this unit is the 9,170-acre Jamaica Bay Wildlife Preserve, which is administered by the City of New York, and the 1,200-acre Floyd Bennett Field, presently under the jurisdiction of the Department of the Navy.

The *Breezy Point Unit* contains about 4,250 acres, of which about 2,900 acres are water area. It includes four miles of ocean beach, and sufficient space for both recreation development and retention of undeveloped open space. The acreage consists now of City parks, the Department of the Army's Fort Tilden, and a residential community, the Breezy Point Cooperative. Breezy Point will be the most heavily developed of the three units comprising Gateway.

Sandy Hook, the third unit of the proposed National Recreation Area, contains about 4,650 acres, of which about 2,930 acres are water area. It includes about six miles of broad, sandy ocean beach and more than two miles of sandy beach on Sandy Hook Bay. On Sandy Hook is the Nation's oldest operating lighthouse and a 460-acre New Jersey State park. Developments will permit the widest possible range of recreational uses, from hiking along the dunes to bathing, fishing, and surfing. Particularly significant is the relatively unspoiled natural character of the resources of this unit, which offers visitors opportunities for nature study and other types of leisure enjoyment.

A map which depicts the relative location of each unit is attached for ready reference.

ACCESS

Presently, access to all three units is either limited or inconvenient due to traffic congestion. Except for Broad Channel Island, which can be reached by automobile, bus, or subway, the marshes and islands in Jamaica Bay are accessible chiefly by private boat. Principal access to Sandy Hook is over State Route 36 and the Garden State Parkway, both of which are severely overtaxed on peak summer weekends. Access to Breezy Point and Floyd Bennett Field is by automobile via the Marine Parkway Bridge, also inadequate to carry peak summer traffic.

Our studies indicate that more than half of the people in the area to be served by this proposal do not own automobiles. Accordingly, reliance on road access would deny full recreation opportunities to a substantial number, including the inner-city population to which a recreation experience is so important.

All three units of the proposed National Recreation Area are water oriented. The great majority of people in the region live near the Hudson River or its tributaries. Miles of waterfront are devoted to piers and ferry terminals. A boat trip is in itself a very pleasant recreation experience. Moreover, except for docking and terminal facilities (some of which are already in existence and can be leased), and for the necessary boats, transportation by boat requires moderate capital outlay in comparison to air, ground, or underground transportation.

For these reasons, we propose a ferry shuttle system to provide visitor access to the Gateway National Recreation Area. Shuttle docking areas would be located initially near the existing mass transportation terminal at Coney Island and at Belford on the south shore of Raritan Bay, New Jersey. The Department plans to develop appropriate schedules of admission, user, parking, and ferry fees.

PROPERTY ACQUISITION

Section 2(a) of the enclosed draft bill authorizes the Secretary to acquire lands and waters or interests therein by donated or appropriated funds, or exchange. Federal property may be transferred to the Secretary with the concurrence of the administering agency. Of the land within the proposed national recreation area, all but 443 acres is publicly owned, either by the Federal Government (3,245), the State of New Jersey (12), or the City of New York (3,000). Most of these publicly owned lands will be acquired by transfer or donation. Floyd Bennett Field, the Department of Commerce and Coast Guard lands on Sandy Hook, and the Nike sites and related areas in Fort Tilden and Fort Hancock would not be transferred until they are no longer needed for Coast Guard or Defense purposes.

The 403 acres of private land within the area are owned by a single corporate owner, the Breezy Point Cooperative. This property contains about 2,800 summer or year-round residences, 25 commercial establishments, and beach and recreational land in the heart of the Breezy Point Unit. Under the terms of the bill, no property owned by the cooperative, except the recreational beach area and adjacent lands which the Secretary feels are needed to assure public access along the beach, will be acquired without the owner's consent.

DEVELOPMENT AND MANAGEMENT

Development of the proposed Gateway National Recreation Area will take place in two phases: In the initial phase, we will concentrate on providing water-oriented mass recreation facilities on the publicly owned lands that will be transferred soon after the area is authorized, and access for their use by the public; in the second phase, we will develop related facilities for environmental education, outdoor theaters, and land-based recreation. Breezy Point will be the most intensively developed unit in the proposal. Here there will be a central activity area, with overnight accommodations, outdoor theater, concession-operated facilities and organized sports areas. Beach centers, linked to each other and to the central activity area by a boardwalk and shuttle system, will be spaced along the ocean. All of these will contain bath houses, refreshment pavilions, first-aid stations, and sundecks. Fishing piers will be constructed, and some beach areas will be set aside for surf fishing. Open, natural areas, with trails and toilets, will be located away for the beach activity.

Jamaica Bay will be lightly developed to retain its natural character, with facilities for environmental education. Development will be concentrated on Broad Channel Island and at Floyd Bennett Field, when it becomes available, leaving the other islands and marshes in their natural state. Fishing, hiking, and nature study will be encouraged. The north shore of Jamaica Bay is included within the boundaries of the national recreation area to assure protection of the Bay resources.

At Sandy Hook, beaches will be developed for surfing, swimming, and fishing. Facilities will be provided for the sale and rental

of fishing equipment. Particular care will be taken to preserve the unspoiled natural character of this unit. Inland from the beach, hiking, trails, picnic shelters, and an environmental study area will be provided. Samples of officers' housing built in 1900 on Fort Hancock, together with the tree-lined walks and parade grounds, will be preserved and interpreted.

COSTS

Development of the proposed National Recreation Area would be undertaken over a 20-year period. We anticipate that land purchases will be limited to the Breezy Point beach and a small acreage in the vicinity of Belford, New Jersey, to provide a ferry terminal, entrance road and parking facilities. All the other property to be acquired is in public ownership. Total development costs are estimated to be $98.148 million. During the first 5 years, development costs are estimated at $71.211 million. During the fifth year, annual operating costs are estimated to be $4,384,400.

The land acquisition cost of $39.1 million is proposed to be obligated early in the program in order to preclude price escalation. Additionally, normal increases or decreases in future construction costs will be taken into account in appropriation requests by virtue of the reference in section 6 of the draft bill to applicable engineering construction cost indices. In this manner a flexible ceiling, reflecting current costs at the time funds are requested, will be assured for the necessary developments. The man-year and cost data statement (based on current assumptions and estimates) required by 5 U.S.C. 2953 when annual expenditures exceed $1 million, is enclosed.

While the foregoing costs do not include the cost of pollution control and abatement, cleaning these waters is not impossible, and development and use of the Gateway National Recreation Area is not solely dependent on total pollution abatement. Action has already begun to raise the water quality to acceptable standards. The waters of some areas in the proposal are presently either unsafe or only marginally safe for swimming. This Department proposes to continue a coordinated and concentrated effort to bring about the creation of recreation facilities in the Gateway area which can actually be enjoyed to their full potential. To do this will require action not only on recreation development, but vigorous pollution abatement efforts at the same time. We anticipate close cooperation with the Environmental Protection Agency in attaining these mutual objectives.

As outlined above, our proposal for the establishment and development of a Gateway National Recreation Area affords a unique opportunity to preserve open space while providing water-oriented recreation for all residents of the Nation's most densely populated metropolitan area. No program so comprehensive in scope can be undertaken without a significant expenditure of Federal funds. We strongly believe that the investment herein proposed will provide immeasurable benefit to present and future generations of Americans.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

By Mr. ALLOTT (for himself, Mr. BENNETT, Mr. JAVITS, and Mr. STEVENS):

S. 1853. A bill to terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve No. 4, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. ALLOTT. Mr. President, on behalf of the senior Senator from Utah (Mr. BENNETT), the senior Senator from New York (Mr. JAVITS), the senior Senator from Alaska (Mr. STEVENS), and myself, I introduce for appropriate reference a bill to terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve No. 4, and for other purposes.

Mr. President, this legislation was submitted and recommended by the Department of the Interior. I ask unanimous consent that the Executive Communication from the Secretary of the Interior accompanying this draft proposal be printed in the RECORD.

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

DEPARTMENT OF THE INTERIOR,
Washington, D.C., April 20, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve Numbered 4, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

The oil blowout which occurred in January 1969 on one of the Federal leases in the Santa Barbara Channel brought into focus the vulnerability of the Marine environment to oil pollution, and the problem of extracting this needed natural resource while at the same time preserving the beauty and quality of our environment in this area.

When it was realized that the lands beneath the Santa Barbara Channel contained rich oil deposits, concern for the environment led the State of California, in 1955, to declare 16 miles of scenic coastline a sanctuary, closed to all oil exploration and development. The State waters on either side were open to petroleum development.

About a decade later, the Federal government opened the Federal waters seaward of the State Sanctuary to leasing for petroleum development, leaving a two-mile buffer zone between the leased area and the State Sanctuary. A total of 72 Federal leases had been issued when the blowout occurred in January 1969. Following that environmental misfortune, the Interior Department, with concurrence by the President and the Department of Justice, ordered all wells closed and drilling halted by all the companies operating under Federal jurisdiction in the Santa Barbara Channel.

The Secretary immediately initiated a broad safety review of all Outer Continental Shelf regulations. Department engineers began studying drilling procedures and revising the rules and regulations which were in effect in the Santa Barbara Channel at the time of the blowout. Oil companies were invited to look at a draft of the Departmental proposals to see if the industry itself could suggest ways of improving the regulations—and they did in fact propose some tougher guidelines and rules. The State of California likewise commented.

The Secretary ordered a moratorium on all scheduled oil leasing on the Outer Continental Shelf, and a review of the criteria upon which decisions to lease offshore land are made.

At the same time, a second major action was taken. An order was signed which converted the existing two-mile buffer opposite the Santa Barbara State Oil Sanctuary into a permanent ecological preserve. Until this order was signed, the area which covers 21,000 acres, had no special legal status.

The enclosed bill proposes a more permanent solution to the problem. It would terminate 35 of the Federal leases and place the area covered by them, as well as certain other adjacent areas, into a National Energy Reserve. The reserve shall be available for lease only as determined by the President.

The Act authorizes the Secretary to unitize three producing oil leases in the same area when he finds that such unitization is necessary or desirable in the interest of good conservation and to prevent or minimize oil spillage, leaks, or other pollution.

The bill provides a method for payment of compensation to the holders of the leases terminated by this Act. The amount of compensation will be determined by the United States District Court for the Central District of California in suits initiated by the lessees. To pay the judgments, upon certification of the Department of Justice, a Petroleum Reserve account will be created and funded with proceeds from the sale of oil extracted from the Naval Petroleum Reserve Numbered 1, California. In the event the Petroleum Reserve account is insufficient to satisfy outstanding judgment and compromise settlements, the bill authorizes an appropriation to enable the Secretary of the Treasury to advance funds to satisfy such judgment and compromise settlements, with the Petroleum Reserve account subsequently reimbursing the Treasury for such advances.

The bill authorizes the Secretary of the Navy to sell sufficient oil from Naval Petroleum Reserve Numbered 1, California, to provide funds to pay the claims arising from the terminated leases as well as certain related expenses. Also, as a means of exploring the potential oil deposits on Naval Petroleum Reserve Numbered 4, the bill further authorizes the Secretary of the Navy to sell sufficient oil from Naval Petroleum Reserve Numbered 1 to provide funds to pay for such exploration.

We believe that the proposed bill offers an equitable solution to the problem created by the "blowout" in the Santa Barbara Channel area of the Outer Continental Shelf. It recognizes and protects the important environmental values of the Santa Barbara Channel, offers a mechanism for determining and paying just compensation to the lessees and preserves the resources.

In support of a similar Departmental proposal introduced in the 91st Congress, President Nixon stated:

"This proposal for Santa Barbara illustrates our strong commitment of use of offshore lands in a balanced and responsible manner . . . This recommendation is based on the belief that immediate economic gains are not the only, or even the major, way of measuring the value of a geographic area. The ability of that area to sustain wildlife and its capacity to delight and inspire those who visit it for recreation can be far more important characteristics. This proposal recognizes that technology alone cannot bring national greatness, and that we must never pursue prosperity in a way that mortgages that nation's prosperity."

The Office of Management and Budget has advised that the enactment of this proposed

legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

STATEMENT ON ENVIRONMENTAL IMPACT

The following statement supplements the Department of the Interior's proposal "To terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve Numbered 4, and for other purposes," and is submitted in conformance with section 102(2)(C) of the National Environmental Policy Act of 1969. The proposal, prior to its being submitted to Congress, was transmitted to the interested Federal agencies for their review. No adverse comments relating to the impact of the proposal on the environment were received. Our findings as to the impact of the proposal may be stated as follows:

1. *Impact on the Environment*—The proposed termination of the 35 Federal leases and the creation of the National Energy Reserve would enhance the environment in the area of Santa Barbara, especially that 16-mile area bordering the State Sanctuary extending from that Sanctuary across Santa Barbara Channel to the vicinity of Santa Cruz Island, California. A group of leases in the vicinity of San Miguel Island would also be terminated. The principal environmental impact would result from the stopping of all oil and gas exploration and drilling activities within that area, except for those leases which the Secretary is authorized to utilize. The creation of the National Energy Reserve would prohibit oil exploration and development activities, but at the same time assure the availability of oil and gas to meet a National emergency.

2. *Adverse Environmental Effects* — We know of no adverse environmental effects that would result from the enactment of this legislation.

3. *Alternatives to Proposed Action*—One alternative would be no proposal at all. This could have serious adverse environmental effect in that at some point in the future there would be oil exploration and drilling activity on most of the 35 leases terminated by this proposal. If oil discoveries were made, this activity would cause the erection of additional drilling platforms which would adversely affect the scenic qualities of the area. The exploration and drilling activity could have an adverse effect on the marine life in the area.

Another alternative is to terminate the three producing leases as well as the other 35 leases. We are certain that this alternative, involving the termination of activity on the damaged geological structure would assure continued and increased oil seepage from the structure, thereby causing pollution of the water and beach in the area and endangering the marine life.

A third alternative is to terminate all 72 leases in the Santa Barbara Channel. We believe that this alternative besides being very expensive is not necessary. We believe that the proposal honors the commitment to the people of California by extending the State created Sanctuary across the Federal portion of the Santa Barbara Channel while at the same time allowing the development of the petroleum resources in other portions of the Santa Barbara Channel.

4. *Relationship of Short-term Uses vs. Long-term Needs*—The objective of the proposal is to provide both a short-term and long-term solution to the possibility of environment pollution caused by the leasing of this areas of the Santa Barbara Channel for oil exploration and development. The short-term use is that the Government agrees with the State of California in the need for a Sanctuary free of oil operation in the Santa Barbara Channel off California. The long-term needs are that the Sanctuary will be kept development-free except for the leases on which production must be maintained by the creation of the National Energy Reserve. At the same time the need of the Nation to develop its petroleum resources in the event of a National emergency requiring such development will be met through the provision that the President may, in the event of an emergency, open this area for leasing. In the absence of exploratory drilling at this time needed information will not be available in case of emergency.

5. *Irreversible Commitment of Resources*—Commitment of this area as a Sanctuary free of oil operation is an illustration of a commitment by this Government toward a balanced use of our offshore land. This bill extends the earlier decision of the people of California to set aside part of our coastline as a Sanctuary by extending that Sanctuary across the Santa Barbara Channel to Santa Cruz Island, at the same time allowing an efficient method of relieving the pressure in the damaged structure to prevent further oil leaks that will pollute the area. The bill also provides a method for allowing the exploitation of petroleum resources in the area in the event of a National emergency requiring such exploitation.

By Mr. HOLLINGS:

S.J. Res. 96. A joint resolution expressing the support of the Congress that a Conference of Experts be convened in early 1972 to make recommendations on ocean dumping to the 1972 United Nations Conference on the Human Environment. Referred to the Committee on Foreign Relations.

Mr. HOLLINGS. Mr. President, the recent hearings held by the Subcommittee on Oceans and Atmosphere regarding ocean dumping convinced me that much stronger measures must be taken internationally to regulate ocean dumping. Important steps can be taken by the United States alone to regulate, and in some cases prohibit, the dumping of the wastes of our society. But it is not sufficient that the United States act alone. We can only control our own vessels. We can only control those wastes which originate in the United States. We can only control those wastes which might be dumped in the narrow band of territorial sea and contiguous zone around our country.

There are similar steps that can be taken by other countries, if they will. There are steps that can be taken by international agreement to regulate dumping; to develop criteria for the banning of dangerous or toxic substances from ocean dumping; to establish criteria to permit selective dumping of material which will not unreasonably degrade or unreasonably endanger human health or the world's oceanic environment; to develop programs of scientific research on ocean pollutants; and to select alternative locations and methods of waste disposal.

The 1972 U.N. Conference on the Human Environment should have firm recommendations before it for national and international measures that can be taken to regulate ocean dumping. Therefore, today I am introducing a resolution calling for a conference of experts to be convened early in 1972 to make recommendations on ocean dumping to the 1972 U.N. Conference. The time is adequate if we act immediately. We must act now to halt indiscriminate dumping of man's wastes into the global oceans.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 434

At the request of Mr. PROUTY, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 434, the National Institute of Education Act.

S. 988

At the request of Mr. PROXMIRE, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 988, the Truth in Dairy Products Bill.

S. 1123

At the request of Mr. PROUTY, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 1123, the Higher Education Opportunity Act of 1971.

S. 1243

At the request of Mr. PROUTY, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1243, the Manpower Revenue Sharing Act of 1971.

S. 1326

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1326 relating to the retirement of civilian members of the teaching staff of the U.S. Naval Academy.

S. 1385

At the request of Mr. PACKWOOD for Mr. DOMINICK, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1385, designating the first Monday after the first Sunday of November as Election Day and providing for a uniform closing time for polling places in Federal Elections.

S. 1437

At the request of Mr. CANNON, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1437, a bill to amend the Airport and Airway Development and Revenue Acts of 1970.

S. 1669

At the request of Mr. PROUTY, the Senator from Maryland (Mr. BEALL) and the Senator from Florida (Mr. GURNEY) were added as cosponsors of S. 1669, the Education Revenue Sharing Act of 1971.

S. 1729

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that the Senator from Texas (Mr. TOWER), the Senator from Utah (Mr. BENNETT), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of S. 1729, the Fast Freight Systems Transportation Act of 1971.

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

S. 1828

At the request of Mr. PACKWOOD, for Mr. DOMINICK, the Senator from Michigan (Mr. GRIFFIN) was added as a co-

sponsor of S. 1828, the "Act To Conquer Cancer."

SENATE JOINT RESOLUTION

At the request of Mr. MANSFIELD, his name was as a cosponsor of Senate Joint Resolution 95, a joint resolution relating to the authority of the President to use the Armed Forces of the United States in armed conflicts.

SENATE CONCURRENT RESOLUTION 25—SUBMISSION OF A CONCURRENT RESOLUTION TO CALL FOR AN INTERNATIONAL MONETARY CONFERENCE

Mr. JAVITS. Mr. President, I am planning to speak about the monetary crisis which is affecting the world, and this follows a precedent of 2 years ago when I, on this floor, suggested the idea of a two-tier gold system which removed the official U.S. gold stock from the need to back up private speculation in gold.

I believe now that we must begin thinking in very broad terms about the future of the monetary system of the world which is built around the dollar. I must say I am not particularly happy about the fact that the United States so far does not seem to have reacted positively to the monetary crisis abroad and almost appears to have the attitude that "This is not our crisis; it is theirs." Unfortunately, it is not theirs alone; it is also ours, and in a very big way. This will become evident when we buy from foreign sources, the products which are essential for the operation of the American economy.

In addition, our whole stance in the world has been made on the basis of an open trading world, with free exchange of goods, capital, and ideas; and the present crisis is hardly compatible with that.

Finally, and very importantly, it has a very grave impact on the foreign relations and security policies of the United States. We are now facing, right in this Chamber, a move to very materially revise the relationships of the United States with the other NATO countries in terms of U.S. troops on the Rhine—a move which is precisely related to the balance-of-payments position of the United States.

So we are very, very deeply involved, and we have to begin to think about what this crisis means to us, because, in an important sense, it is a vote of "no confidence" in the economic and financial leadership of the United States.

My own opinion is that the Europeans have jumped at that conclusion much too fast, but there is enough to their judgement to require very, very thoughtful consideration on our part.

And so today, to get that consideration underway, and only to get it underway, without any feeling that this is by any means the last word, I am going to make a few suggestions, and I am also going to submit a concurrent resolution on behalf of myself, the Senator from Illinois (Mr. PERCY), and the Senator from Iowa (Mr. MILLER). Representative REUSS will introduce this resolution in the House today. This resolution is designed to focus attention on the need for a new Bretton Woods Conference to revise the Articles of Agreement of the International Monetary Fund, or to otherwise deal with this crisis. The concept of this concurrent resolution is that it will be a new focal point for debate and discussion as to what the United States ought to do about this particular matter.

I send the resolution to the desk for appropriate reference.

The ACTING PRESIDENT pro tempore (Mr. CHILES). The resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 25) was referred to the Committee on Foreign Relations.

Mr. JAVITS. Mr. President, I ask unanimous consent that the text of the concurrent resolution be printed in the RECORD.

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

S. CON RES. 25

Whereas the United States has had a deficit in its international balance of payments almost every year since 1950; and

Whereas, largely as a result of these deficits, United States short-term dollar liabilities to foreigners totaled $43,743,000,000 of which official foreign dollar holdings totaled $21,059,000,000 at the end of January, 1971; and

Whereas these liabilities constitute a potential claim against the United States gold stock whose value as of March 31, 1971 was only $10,963,000,000; and

Whereas massive unregulated international currency flows such as the Eurodollar threaten the very stability of the world's international monetary system as well as the domestic economic policies of sovereign governments; and

Whereas the viability of the SDR creation is threatened by the structural deficit of the United States which is running at $3 to $4 billion annually; and

Whereas the liberal trading system of the free world faces unprecedented challenges in the form of new tariff and non-tariff barriers and the principle of Most Favored Nation treatment among the countries of the free world is being eroded through proliferating preferential regional arrangements; and

Whereas the continued health of our domestic economy and the strength of the dollar and its ability to serve as a key international reserve currency depends upon the early elimination of the balance of payments deficit and the establishment of improved arrangements to serve the liquidity needs of an expanding international trade and payments system: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress of the United States that achievement of balance-of-payments equilibrium in a manner consistent with the dollar's role as a key international reserve currency should receive higher priority in the formation of national economic policy; and be it further

Resolved, That the maintenance of equilibrium in its international accounts should be a continuing and major goal of United States international economic policy; and be it further

Resolved, That the President be requested to consider calling for an International Monetary Conference to review the long-term international monetary arrangements among nations including:

Parity relationships between currencies;

The international liquidity system including the present role of gold in this system;

The functioning of international financial institutions; and

The effect of these systems and institutions on international trade;

The establishment of new mechanisms or institutions to deal with problems such as Eurodollar flows and the activities of multinational corporations;

The increased sharing of economic aid for development; and

Other relevant international economic problems placed before it by a pre-preparatory committee for such a Conference; and

That foreign exchange markets be closed during the duration of this conference.

Mr. JAVITS. Now, Mr. President, a few observations about the situation.

As the world emerges from its fifth monetary crisis in the last 3½ years—a crisis that has been characterized as the worst monetary crisis since World War II—the underlying factors causing this periodic instability are being permitted to remain unaffected. As in the past, the actions that now have been taken will allow the international monetary system again to hobble along for a limited period of time and as the crisis recedes from immediate public attention, the feeling will again spread that all is well since the patient lives.

But the world's economic stability demands an answer to the question whether the nations of the world again are just taking interim actions to prop up a basically rotten monetary system and whether this existing system will be able to survive the next crisis.

For, while the next crisis may again take the form of monetary difficulties, it could take the form of a trade war between the major industrialized countries of the world or of the splitting of the world into protectionist-oriented regional trading blocs.

In my view, the makeshift remedies that have now been agreed to in Europe do not come to grips with the basic problem—namely that the world is on a dollar standard and not a gold standard; and that the gold standard is a fiction and regressive and, indeed, impossible to maintain. It is the growth of dollars, not of gold which has financed the dramatic and beneficial growth of world trade and investment since World War II. The inevitable result of this export of dollars to finance the growing liquidity needs of the world has been that our dollar liabilities to foreign official institutions now substantially exceed the value of our gold reserves.

In this setting the solemn U.S. pledge to exchange dollars presented by foreign central banks for gold is obsolete. We ought to recognize this fact and work with our trading partners to develop public acceptance of this obvious fact; and confidence in an ability to live better with it. Since the U.S. gold window has been closed for all practical purposes since 1968—that is to say the U.S. gold stock has existed at the sufferance of foreign governments—it would not be a drastic step to close officially the gold window. Alternatively, to lend credance to these obvious facts, the U.S. could declare that it was willing to see its gold stock at existing prices dealt with in the context of the International Monetary Fund or other international means. I do not suggest that the U.S. act unilater-

ally—in fact, I would be opposed to such unilateral action—nor is this suggestion necessarily my last word on the subject, but I put these suggestions forward as deserving serious consideration of the international community.

I would then look to a world conference along the lines of the Bretton Woods Conference of 1944 to make the necessary decisions concerning the establishment of a new international reserve system, and the role of gold, if any, in this system. This conference could also address itself to the future disposition of U.S. gold holdings which could include the folding of U.S. gold into a new International Reserve System as a reserve component of a new international reserve currency.

Again, I put this suggestion forward as a possible focal point of present and future discussions which would involve the full Congress and its appropriate committees.

Only the establishment of an International Reserve System empowered adequately to finance the world's growing liquidity needs would be able to confront, over time, the need to separate the dollar from its reserve currency function or conversely to bring an acceptable level of international management and public confidence and acceptability to the dollar standard.

This proposal that I am today floating as a trial balloon to alter the functioning of the gold window, may appear to some as being radical. However, an earlier proposal I made in 1968 to establish a two-tier gold system was also severely criticized by some policymakers and academics as being injurious to the international monetary structure. Nevertheless the events of the past years have provided ample justification for the establishment of the two-tier gold system. The establishment of this two-tier system also cleared the way for the proposal I am now making—namely to disestablish the presently existing link between the dollar and gold.

It must also be recognized that the SDR creation was a major step in the direction of providing an internationally acceptable reserve unit not tied to any national currency. However, it is also true that under the present rules of the game, future SDR creation is increasingly threatened by the recurring U.S. balance-of-payments deficits and the resultant heavy export of dollars. It would indeed be unfortunate if SDR creation was the principal casualty of the 1971 monetary crisis.

To move toward the implementation of my recommendations, I am today introducing the following resolution:

That the President be requested to consider calling for an International Monetary Conference to review the long-term international monetary arrangements among nations including parity relations between currencies; the international liquidity system including the role of gold in this system; the functioning of international financial institutions; the establishment of new mechanisms or institutions to deal with problems such as Eurodollar flows and the activities of multinational corporations; the effect of these systems and institutions on international trade; the increased sharing of economic aid for development; and other pressing international economic problems placed before it by a pre-preparatory committee for such a conference.

I reiterate that I view this resolution as a possible focal point for subsequent discussions in the Congress and elsewhere.

The submission of such a concurrent resolution does imply a vote of no confidence in existing institutions. The most recent currency crisis does raise fundamental questions about the functioning of the International Monetary Fund. It must be remembered that the IMF was established in 1944 to protect the freedom of trade and capital movements. Both these freedoms are increasingly threatened by the present workings of the International Monetary System. The actions governments are taking to deal with currency crises increasingly take on the appearance of slapping makeshift patches on a leaky tube—rather than furthering the basic objectives of freedom of trade and freedom of capital movements.

In turn, the General Agreement on Tariff and Trade—GATT—shows increasing difficulties in confronting such obstacles to trade as nontariff trade barriers. Also the principle of MFN is being eroded progressively as the countries of the Common Market go down the road of negotiating proliferating trading agreements with neighboring states in the Mediterranean and Africa.

In addition to the erosion of the efficacy of these institutions, other problems that have emerged since Bretton Woods that are difficult to deal with through existing institutional mechanisms include the Eurodollar problem and the lack of an institutional framework to deal with private foreign investment. These problems are exacerbating increasingly the relationships between nations.

Another important reform of the International Monetary System which is long overdue is increased liberalization of exchange rates. Although the drafters of the Bretton Woods Agreement placed prime reliance on a system of fixed par values and slightly fluctuating exchange rates, they never contemplated the present system wherein par values are changed only when utter disaster threatens.

It is this ossified structure of exchange rates which led directly to the long-existing structural deficit in the U.S. balance of payments which is running to $3 to $4 billion annually, and which has created a Eurodollar market in excess of $50 billion. It has undermined the competitive position of many U.S. goods and services in the international marketplace. It leads directly to the growing strength of the trade protectionist forces in the United States and the increased difficulties the administration is encountering in the Congress in adequately funding our bilateral and multilateral aid programs.

Several proposals have been advanced to improve the system but suffice it to say that if currencies had been able to fluctuate against each other over a wider range—wider bands—over the past year, many of our present problems would not have come about. Most of our dollar outflows of the past few months have been short-term funds whose international movement is sensitive to differences in interest rates determined by the monetary and fiscal policies of sovereign governments. But with bands of, say 3 percent on each side of par, money managers in one nation seeking a greater return on their investment through the export of capital to another nation having higher interest rates would be deterred. They would have to weigh the advantages of the greater return against the possibility that the exchange rate of the dollar vis-a-vis another currency could vary as much as 6 percent.

The report of the IMF last autumn on exchange rate flexibility concluded that wider bands was a form of exchange rate flexibility which deserved further study. I believe we must now bite the bullet and take further, concrete steps to impart increased flexibility to the system of exchange rates. Otherwise we again may find events going beyond our capability to deal with them.

My proposals look to the long run. Pending their adoption, there are short-run problems which the latest monetary crisis has aggravated and which deserve priority attention.

First. The United States should regard this latest crisis as a dire warning that the international competitiveness of the American economy is being severely challenged. Over the past decade, our international competitive position has deteriorated and our economy faces increasing difficulties in attracting sufficient funds from abroad in the form of export sales, private foreign capital investment in this country, tourism, and so forth, to balance our outpayments.

The crisis brings into better focus fundamental questions as to the efficacy of the American productive plant relative to the productive plant of other nations. Increasingly our policymakers and lawmakers will have to take steps to improve the credit worthiness of the United States and to place greater emphasis on improving the productivity in competitive terms of the U.S. economy. In turn, a successful national effort to improve our productivity must command the attention of all Americans—workers, farmers, managers, service employees, in addition to our elected leaders and officals in our National, State, and local governments.

The urgency of the task before us requires that the long delayed plans for a Presidential Conference on Productivity be expedited and finalized. In turn, measures aimed at improving the competitive position of our corporations and economy—such as the administration's proposal to put revised depreciation schedules into effect—should be implemented.

And as we contemplate the weakness of the dollar in 1971, let us keep foremost in our minds the fact that military expenditures overseas constitute the single, largest adverse contribution that the Government makes to our continuing balance-of-payments deficit. It is worth noting that the amount of our military expenditures in 1969 and 1970—about $4.8 billion annually—closely ap-

proximates the structural deficit in the U.S. balance of payments. The Vietnam war, has been an important factor in burgeoning U.S. military expenditures abroad and in turn the war has contributed directly to the weakening of the U.S. dollar. In addition, in this year's report of the Joint Economic Committee, the majority and the minority agreed that "the United States can reduce its military expenditures by withdrawing troops stationed abroad, by consolidating headquarters, and by curtailing military aid." Such actions should be implemented.

Second. We immediately need a formal device for resolving incompatibilities in central bank policies. Here the analogy with our open market committee is a useful one: I believe that confidence in the international monetary system would be significantly strengthened if the group of 10 central bank presidents and finance ministers were to agree monthly—in a communique to be published 90 days thereafter—on the proper thrust of their monetary policies. Should we fail to take such a step as this, we shall soon find ourselves trying to cope again with an attack on the international monetary system of massive, very interest sensitive, flows of funds with weapons which were developed long before such flows were ever a part of the international monetary scene.

Third. This action by West Germany and other European governments will focus increased attention on the Japanese yen which increasingly gives the appearance of being overvalued. As considerations regarding the eventual appreciation of the yen go forward, Japan must carefully consider the short- and long-term implications its decision will have on its trade relations with the United States which are already deteriorating.

I recognize that Japan faces legitimate grievances concerning the import restrictions maintained on Japanese goods by West European nations and am also cognizant of Japan's concern regarding the soaring costs of raw materials needed to sustain the Japanese economy. It must also be recognized that Japan is concerned about the effect that a U.S. withdrawal from Vietnam will have on dollar flows to Japan and what it means in terms of increased Japanese burden sharing in Asia including defense expenditures. However, I would contend that Japan may be underestimating its present and future economic strength and that an unrealistic feeling of economic insecurity and the concomitant cautious approach this may foster holds clear and present dangers to Japan's relations with the United States and other industrialized countries.

To be blunt the most recent West European action in aligning their currencies, aggravates the serious problems already being caused by the present parity value of the yen in relation to other currencies. Failure to realine the value of the yen could have serious tradeoff effects in terms of the market access of Japanese products to other markets.

Fourth. As is widely recognized, the monetary turmoil of the past week by straining past agreements on agricultural farm price supports and currency relationships, could affect unfavorably the negotiations that the world hopes will lead to the expansion of the Common Market to include the United Kingdom. Such a development would indeed be unfortunate and not in the broader interests of the free world, let alone in the long-term interests of France, West Germany, or the United Kingdom. If the United Kingdom's bid does not succeed, the present members of the European economic community should contemplate the possible future ramifications of Chancellor Brandt's Ostpolitik and the possible long-term implications of the Ostpolitik on Intra-EEC relations. These contemplations must also consider possible future moves of a Soviet Union confronted by the changing relationships between the United States and the Peoples' Republic of China and perhaps by a volatile and rapidly changing scene in the Middle East. Failure of the United Kingdom bid would also open the possibility of a new trade alinement in an Atlantic Free Trade area of the United States, Canada, the United Kingdom and perhaps others.

Taking a more optimistic view of the effects of this latest crisis on the negotiations going forward toward the expansion of the Common Market, the currency realinement will strengthen the United Kingdom's export base and, in turn, its long-term balance-of-payments position. Also, an agreed to currency realinement may make more viable the formula for moving toward a closer tying of the currencies of the Common Market which was scheduled to take effect later this year.

Finally, Mr. President, it is man's propensity to select short-term stopgap measures over sweeping reform proposals. In the case of our international monetary structure and in the light of the recent history of recurring monetary crises which have now contributed to the crises facing the structure of international trade, stopgap short-term measures are no longer adequate. The latest adjustments have bought us precious but little time to restructure the existing monetary system to meet the needs of the 1970's. These changes must take account of the changed circumstances that the government leaders could not have foreseen in the Bretton Woods conference of 1944. We must act now to revise and modernize the Bretton Woods agreements.

The purpose of my concurrent resolution, joined in by Senators MILLER and PERCY, and of my statement today is to get the United States thinking about this situation, and our congressional committees to hold hearings about this situation, as active participants and not just as interested lookers-on, which is the impression we have given the world up to now.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT—AMENDMENT

AMENDMENT NO. 89

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. BENTSEN. Mr. President, today I am submitting amendments to S. 976, the Motor Vehicle Information and Cost Savings Act.

I am in substantial agreement with many provisions of the bill introduced by the distinguished senior Senator from Michigan (Mr. HART). Auto safety has long been a concern of his, and his contributions in the field have been considerable.

There are, however, certain sections of S. 976 which, in my view, require strengthening if the final bill is to reflect a major advance in our effort to encourage the development of a safe automobile.

In particular, I am distressed that section 125(c) of the present bill sets a damageability standard for automobile bumpers which is unnecessarily weak. Indeed, Ralph Nader, in his testimony before the Commerce Committee Monday called the standard "virtually obsolete."

Mr. President, S. 976 provides that the Secretary of Transportation shall promulgate standards which require that no later than January 1, 1975, automobiles be manufactured which will withstand 5-mile-per-hour impacts with a fixed barrier "with a minimum amount of damage as may be determined by the Secretary."

The standard is weak for a number of reasons. In the first place, the speed level is too low. Dr. William Haddon, director of the Insurance Institute for Highway Safety, said in testimony before the Commerce Committee on March 10 of this year that—

> There is no question that bumpers able to manage energy without damage to vehicle structures at barrier crash speeds up to and above ten (10) miles per hour are now and for some time have been well within the state of the art.

Indeed, Mr. President, at least two manufacturing firms, Energy Absorption Systems in Chicago and Menasco Manufacturing in California are presently developing bumpers that could take crashes at well above 10 miles per hour without property damage. In view of recent technological developments, I see no reason to be satisfied with the bumper standards presently in S. 976. I believe we can and should do better.

In the second place, the last phrase in section 125(c) opens the door to administrative discretion in an area in which the record of discretionary administrative authority is not at all promising. Mr. Nader's testimony Monday documented a long list of administrative delays on auto safety standards that do not bode well for giving additional discretionary enforcement authority to the Secretary of Transportation. I am suggesting that the standards be set down in black and white in the legislation to prevent this kind of administrative delay which has proved to be so costly in the past.

Mr. President, on February 24 of this year, prior to the introduction of the Hart bill, I introduced S. 949 setting a 10 mile per hour damageability standard for auto bumpers with a deadline of January 1, 1973, allowing for a 1-year extension if the Secretary of Transporta-

tion finds the deadline to "unfeasible." In my opinion, that leaves sufficient discretion to the Secretary. Moreover, my bill is not vague about the bumper standards to be enforced. It says quite plainly that the auto must withstand an impact with a fixed barrier "without property damage or injury to the occupants of such vehicles."

Mr. President, I have had S. 949 modified and redrafted as amendments to S. 976. I believe it is sensible and necessary legislation. In view of the January 1, 1975, deadline in the Hart bill, I have extended the deadline in my bill to January 1, 1974, with a possible 1-year extension granted to the Secretary.

Witnesses before the Hart committee have testified to the billions of dollars in unnecessary repair costs being borne by the car-driving public. In addition, they have pointed to the close relation between bumper durability and safety for the occupants of the automobile.

I believe that S. 976 in its final form should incorporate these amendments, and I have notified the Commerce Committee of my desire to have the amendments considered during the committee markup sessions.

I ask unanimous consent that my amendments to S. 976 be printed in the RECORD.

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

AMENDMENT NO. 89

On page 5, strike out lines 14 through 24.

On page 5, line 25, strike out "(d)" and insert in lieu thereof "(c)".

On page 7, line 23, strike out "125(d)" and insert in lieu thereof "125(c)".

On page 14, between lines 13 and 14, insert the following:

"FEDERAL SAFETY COLLISION STANDARDS

"SEC. 15. The Act is amended by adding at the end thereof the following new title:

" 'TITLE V—FEDERAL SAFETY COLLISION STANDARDS

" 'SEC. 501. (a) The Secretary shall establish by order appropriate Federal motor vehicle safety collision standards dealing with the capability of motor vehicles to collide without property damage or injury to the occupants of such vehicles in accordance with the provisions of this title. Not later than January 1, 1974, the Secretary shall establish such standards for collision of both the front and rear of a motor vehicle with a fixed impact barrier at a speed of ten miles per hour.

" '(b) If, prior to January 1, 1974, the Secretary determines that compliance with the requirements of subsection (a) of this section is unfeasible, he may extend the date for establishing such standards, but such extension shall be no later than January 1, 1975.

" '(c) Standards established under this title shall be based upon findings of the Society of Automotive Engineers.

" 'SEC. 502. Except as provided in section 108(b) of this Act, no person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle manufactured on or after one hundred and twenty days from the date an order under this title is issued unless it is in conformity with such standards.

" 'SEC. 503. Unless inconsistent with the objectives of this title, a standard shall be prescribed and an order shall be enforced in the same manner and to the same extent as a Federal motor vehicle safety standard established under title I of this Act and all the provisions of that title shall apply to orders under this title.

" 'SEC. 504. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this title such sums as may be necessary'."

On page 14, line 14, strike out "TITLE V."

On page 14, line 17, strike out "SEC. 501" and insert in lieu thereof "SEC. 16".

On page 16, line 11, strike out "SEC. 502" and insert in lieu thereof "SEC. 17."

On page 17, line 8, strike out "section 501" and insert in lieu thereof "section 16."

On page 17, line 20, strike out "section 501 of this title" and insert in lieu thereof "section 16 of this Act."

On page 17, line 23, strike out "section 501" and insert in lieu thereof "section 16."

On page 19, line 13, strike out "SEC. 503" and insert in lieu thereof "SEC. 18."

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 76

At the request of Mr. SCHWEIKER, the Senator from Rhode Island (Mr. PELL) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Amendment No. 76, intended to be proposed to H.R. 6531, the Military Selective Service Act.

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 legislative clerk proceeded to call the roll.

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

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

THE UTILIZATION OF FACILITIES AT FORT DETRICK FOR THE CONQUEST OF CANCER

Mr. MATHIAS. Mr. President, I noted with a great deal of satisfaction that the President of the United States yesterday issued a very significant statement on the program of this administration for the conquest of cancer. I am heartened by the President's personal attention to this aspect of one of his six great goals—the goal of improving the standards of health care in America. However, I would like to call particular attention to one line that the President used in his message.

That line is that he hopes and that he feels—quoting directly—"It is important that this program be identified as one of our highest priorities and that its potential for relieving human suffering not be compromised by the familiar dangers of bureaucracy and red tape."

Mr. President, I would like to call to the attention of the Senate that there is an institution which belongs to the Federal Government, operated by the Army, called Fort Detrick.

The people of America have invested one-quarter of a billion dollars in real estate and scientific equipment at Fort Detrick for the purpose of developing the awesome science of biological warfare.

The President on the advice of the National Security Council has renounced biological warfare. I support President Nixon's decision in so doing. However, let me say that that decision was taken in November of 1969, and the facilities at Fort Detrick have, except for some defensive studies, been without a mission for 18 months.

I am told reliably that, of the $185 million worth of scientific equipment, $100 million worth of that equipment could be used today to start on this cancer program.

For some reason, however, which the President, I think, has adequately identified as bureaucracy and redtape, no decision has been made to do it; $100 million worth of scientific equipment is available to culture viruses, which is one of the first ingredients necessary for a national cancer program.

More than that, we have a team of scientists and trained personnel who, for 18 months, have been without a job, without a mission. All they need is a phone call today saying, "Go to work and help find a cure for cancer."

I hope that phone call will be made today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I yield my 3 minutes to the Senator from Maryland.

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

Mr. MATHIAS. Mr. President, I am very grateful to the distinguished Senator from West Virginia for giving me his time to pursue this subject a little further.

Mr. President, I am disturbed that there has been a delay. I am disturbed because I think it reflects on the efficiency of the Government when we can have a large institution like Fort Detrick drift along for 18 months without a mission.

I say that I take some responsibility for it, because, when the original decision was made in November of 1969 to renounce biological warfare, I went to the Defense Department and said, "Don't fire those people. This is an important national defense problem. This is a question of high policy. Do not let the whole burden of this fall on the shoulders of a little group of people employed there. We can spread this burden over the whole American society by keeping the people on the payroll until a decision has been made to put Fort Detrick to work at some other goal or purpose."

At that time I was hopeful that the program would be the national cancer program. So I said, "Don't fire them until we have made a policy decision on what we will do with the fort." I little thought that it would be for a period of 18 months.

I do not know what the total costs have been to the American people for this delay in making an important decision. I have been told that the payroll, prior to the beginning of this year, had run up to more than $10 million. So, a rough estimate, I would suppose, is that we

have spent $15 million in payroll for people who really have not had an assigned job.

Mr. President, think of it. If that $15 million worth of highly skilled effort, highly professional effort, had been directed toward this goal of finding a cure for cancer, we might have been well down the road that the President started us on yesterday.

So, I think that the President should not only be praised for his very timely statement on the subject of finding a cure for cancer, but that we should also give weight to his caution against the delay which can occur because of what he says is the familiar danger of bureaucracy and red tape. We have had an example already, an expensive and frustrating example. I hope that under the impetus of the President's warning yesterday this example will be promptly removed and that we can put Fort Detrick to work because if we do not we will have to build another installation like it at a further cost of hundreds of millions of dollars to the American people.

THE MILITARY SELECTIVE SERVICE ACT—PROPOSALS REGARDING U.S. MILITARY PERSONNEL IN WESTERN EUROPE

Mr. MANSFIELD. Mr. President, will the Senator from Maryland yield to me on another matter?

Mr. MATHIAS. I am very happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Would the Senator be willing to discuss with the chairman of the Committee on Armed Services, the distinguished Senator from Mississippi (Mr. STENNIS), and the equally distinguished Senator from Maine, the ranking minority member of that committee (Mrs. SMITH), the possibility of voting on the Mathias substitute sometime very shortly so that we can get this matter of troops in Europe resolved?

I am saying this because I have no desire to delay or stall the administration's draft extension proposal which, as the Senator knows, has a termination date of June 30. I would like to do what I can, with the Senator's approval and the approval of the other Senators just mentioned, to face up to this amendment and other amendments as expeditiously as possible and bring them to a vote and the consideration of the bill, hopefully, to a conclusion.

Mr. MATHIAS. I would be very happy to talk with the chairman of the Committee on Armed Services and the ranking minority member of that committee immediately. The Senator and I have been studying this problem over a long period of time, and as we discussed yesterday, the issue is very clearly defined.

Mr. MANSFIELD. It is very clear.

Mr. MATHIAS. There is very little shade of meaning one can add to it. It is a stark decision that has to be made.

I am willing to discuss the matter with the Senator from Mississippi and the Senator from Maine at any time and report back to the majority leader at the earliest possible time.

Mr. MANSFIELD. I appreciate the comments of the distinguished Senator from Maryland, who is always most helpful, accommodating, and understanding.

I wish to express my hope that we can expedite consideration of the pending measure, which is an administration proposal, as rapidly as possible, because we have other measures coming up which will take some time. If the House acts, as it might, in restoring the SST funds for the continuation of that program, that issue will take some time in this body. The question of a loan to Lockheed will take some time in this body. We will have other appropriation bills coming in. As the Senator knows we will be in recess from August 6 to September 8.

Therefore, it would behoove us to get on with the business of the moment and to do so without undue delay. I know the Senator is in accord with my views. I just wanted to make it possible for us to indicate our desire to go ahead with other amendments.

Mr. MATHIAS. I join with the majority leader in this hope. I am entirely ready to act today. I hope this will be more than a pious hope.

Mr. MANSFIELD. Yes, because the matter is clearcut and it should not take too much more deliberation on the part of Senators, and I hope not too much deliberation on the part of the administration downtown either.

Mr. SCOTT. Well——

Mr. MATHIAS. If I may interject one further thought, I must say there is a note of pessimism in a bill I have introduced today.

Mr. MANSFIELD. I think the Senator has a good idea in making use of a present facility to do what the President said he intends to do.

Mr. MATHIAS. The bill to which I have referred is on another subject and it leads to my pessimism in expediting these matters. The bill I have introduced, which leads to my pessimism is a bill to reimburse the city of Frederick, Md., for money paid, saving harmless and valuable military and hospital supplies owned by the U.S. Government, which grew out of an incident during the Civil War. These matters do drag on.

Mr. MANSFIELD. I do not believe in looking too much to the past. We have too much confronting us today and tomorrow. There are exceptions which prove the validity of the rule.

Mr. SCOTT. Mr. President, who has the floor?

Mr. MANSFIELD. The Senator from Maryland.

Mr. BYRD of West Virginia. Mr. President, who has the floor and how much time is remaining? Are we proceeding under the 3-minute agreement?

The PRESIDING OFFICER. The Senator from Montana had the floor for 3 minutes and his time has expired.

Mr. MANSFIELD. I must apologize. I did not realize we were still in the morning hour.

Mr. SCOTT. Mr. President, may I be recognized for 3 minutes?

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, my hope is that we can consider, in addition to the Mansfield amendment, any amendments or substitutes thereto. There is a good deal of discussion going on as to possible sense-of-the-Senate declarations, or possible amendments which might enable us to avoid what some of us already fear would be a disastrous course here.

We recognize the concern and the deep sincerity of the distinguished majority leader. We know that there is a great weariness with the commitments of the United States in different parts of the world. On the other hand, we are negotiating, it is well known, on mutual and balanced reduction of forces with the other side.

Passage of this amendment, in my judgment, could well jeopardize these negotiations, because I think it would be misread as to the genuine intent of the measure. It would be misread by those who wish to misread it.

I think our undertaking with our allies would be thrown into some disarray if they felt we were proceeding unilaterally after we gave them various assurances that we are proceeding within the framework of NATO.

I would like to see a time when the Warsaw Pact countries and the NATO countries withdraw down to a lower level for the purpose of the reduction of tension, but I am afraid interpretation abroad would be that the United States is withdrawing to the ancient isolationism which some of us lived through in the 1930's and the early 1940's. I would hate to see that sort of thing develop again.

In this country we go from highs to lows and from heavy involvement to a move toward noninvolvement; and every time we get to noninvolvement, we are confronted with a new crisis and we have to make sudden movements toward expensive and massive rearmaments.

It happened in NATO. I was at Orly Field when they were closed; and within a month it was reopened, because of the Korean war. We close installations and reopen them and at 10 and 20 times the original cost.

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

Mr. SCOTT. I yield.

Mr. MANSFIELD. The Senator mentioned Orly Field. He recognizes the fact that since that time General de Gaulle, after giving his country 3 years' notice, and this country not taking notice of the notice, abruptly withdrew from NATO, in a certain sense, at least to the extent of telling us we could no longer maintain our troops, equipment, and logistical support, including a very expensive pipeline running through France up through the vicinity of the Rhine and beyond.

The Senator is also aware of the fact that Canada, under Prime Minister Trudeau, one of the great statesmen of this hemisphere, if not the world, is also in the process of reducing the Canadian contingent to NATO by approximately half.

Certainly the Senator does not envision that we should remain in Europe for an undetermined period of time. We have been there more than a quarter of

a century after the end of the Second World War.

As far as mutual withdrawal is concerned, why can we not withdraw and let the European powers take up the slack? They have the manpower and the money.

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

Mr. JAVITS. Mr. President, I yield 1 minute of my time to the Senator from Pennsylvania.

Mr. SCOTT. I thank the Senator from New York.

Mr. President, in the minute I have, I would like to say the action of the French Government, in my opinion, was largely influenced by De Gaulle's thinking that the American people were volatile, therefore our foreign policy is undetermined; it cannot always be determined; that the Congress frequently frustrates the President, and vice versa. I think partly the actions of the United States may explain the otherwise inexplicable action of the French.

I do think we have been in Europe a long time, and I do think we should move toward getting out, but I think we should not move toward getting out in circumstances which upset the delicate negotiations with the other side and which would definitely work to create, again, the impression upon our allies that we are not to be relied on, not to be trusted; and when, what is most unfortunate, as any Senators who have served as members of the NATO delegations are well aware, reduction-in-force problems have been and are being discussed, and the ways in which it should be achieved. I want them reduced, but I want them reduced in such a way that we do not disrupt and cause a 180-degree turn in the foreign policy of the United States on an amendment on which we have not had hearings.

I thank the Senator from New York.

Mr. JAVITS. I thank my colleague. I, too, have not taken an active part in this debate, but I think I shall have to now, because I have been in the "NATO business" for 15 years in a very active way.

I am not afraid of withdrawing troops from NATO, and I am sure we have to do it, and I am sure a quarter of a century is enough time; but the European nations are facing a monetary crisis and a crisis in the European Economic Community. If we hit them with this one, we are likely to collapse the whole structure created into the Atlantic Community, with respect to security and cooperation. I think that is dangerous; and if it is done, we should do it in an intelligent way.

The thing that worries me about the provision proposed by the Senator from Montana (Mr. MANSFIELD)—and I know he is very thoughtful, and we have debated it before—is the cut-off date of December 31, 1971. I believe the concept of mutual reduction is also a concept that can be extended to our European allies, but we have to give them an opportunity not to discount the United States as much as they have in money, which they are doing right now.

We can shake them up, and I am inclined to think it is high time we did, but it is one thing to shake them up and another thing to dismantle the whole structure, because if we dismantle it, it is likely to stay dismantled and we are likely to upset our security and that of the whole world in an irremedial way. I do not like to sound alarming, but it is a situation which can shake up the whole world.

For my part, I wish to devote myself, in a prayerful way, to the thesis of the Senator from Montana, and be sympathetic to it, in the hope that we may find a way to bring about his goal through legitimate observations and suggestions, and not dismantle the structure of what I think is essential to mankind's future.

Mr. MANSFIELD. Mr. President, I appreciate the comments of the distinguished minority leader and the distinguished senior Senator from New York and the tone in which they were expressed; but there are others in this Chamber who have had experience with NATO down through the years, who have been members of delegations to the NATO conference.

I would point out that every time this question is raised, there is always a "crisis." It could be a German election a year and a half away, but it is still a crisis.

Now the Senator from New York talks about the financial situation as it affects the nations of Europe. I am talking about the financial situation as it affects this country, and I would point out again that $14 billion out of the defense budget is spent on the maintenance of forces, dependents, and installations in Europe today, that the balance of payments there is most unfavorable to us, that the dollar has been suffering considerably in the past several years. They made it very plain that this is only a corollary factor. The basic tenet, as far as I am concerned, is one of principle—325,000 troops, 200,000 dependents, 525,000 altogether, a quarter of a century after the end of the Second World War still being maintained in Europe today. The only country which is approximating the maintenance of its full obligation I should say is the United States of America.

When are we going to stop these adventures of ours? We have only about 200 million people in this country. Our resources are not unlimited. We ought to be realistic. And I was not surprised to hear the word "isolationist" raised for the first time today, because I expect to hear it more in the days ahead. Nobody can be an isolationist any more. However, I would hope we will be realists and recognize that we are limited as far as people are concerned. I would hope we could recognize that our resources, I repeat, are not unlimited, that we cannot patrol all the parts of the world, that we are not the world's policeman, to repeat a phrase which has been used time and time again.

It is my belief that if we would reduce our forces in Europe by one-half, they would be twice as effective combatwise. We have headquarters on headquarters on headquarters. We have useless headquarters. We have superfluous headquarters. We have 128 general or flag officers, or one general or one flag officer for every 2,343 men in Europe. Think of it. That is the way they describe the Mexican Army of the last century. That is the way they describe the Spanish Army of the last century.

This is something which I think we have to face up to, and as far as I am concerned, I am willing to vote at any time—win, lose, or draw. I do not intend to be a party to any stalling as far as any amendment to this bill, an administration bill, is concerned, nor to the bill itself; but I do think we ought to face up to the realities of today and tomorrow, and update policies which may have been good 20 or 25 years ago, and recognize that the world changes and that as it changes, we too must change—contrary to the old French proverb that the more the world changes, the more it remains the same.

I would say, in addition, that the Army is now carrying on a $10 million publicity campaign to entice recruits into the U.S. Army. The Army does not want to join these people that they are appealing to; it wants these youngsters to join it. And what is the Army promising them? That following basic training their first 16 months of service will be spent in West Germany and other parts of Western Europe. There must be a reason behind it. Of course, after 16 months, if we are still in Vietnam—heaven forbid—that is where they will end up.

So I am ready, willing, and able at any time to vote on the Mathias amendment or any other amendment to the Mansfield amendment, on the Mansfield amendment itself, on any other amendment outside of that area, or on the bill—I say on the bill; I do not intend to vote for it. I only seek to bring matters to a head, because we have other important business to attend to.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENSON). The time for the transaction of routine morning business has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business, with statements therein limited to 3 minutes, be extended for an additional 12 minutes.

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

ADMINISTRATION SETS GOAL FOR FULL EDUCATIONAL OPPORTUNITY FOR HANDICAPPED CHILDREN

Mr. PROUTY. Mr. President, the administration has taken a most significant initiative which is especially pleasing to me as the ranking minority member of the Education Subcommittee and as one who has long been very much concerned with the education of handicapped children. Commissioner of Education Sidney P. Marland recently announced that he has designated education of the handicapped as one of the five major priorities of the U.S. Office of Education for

the next fiscal year. For the first time, a U.S. Commissioner of Education has formally accepted the role of providing leadership to the Nation in bringing about full educational opportunity for the handicapped. Dr. Marland merits the approbation of all for the historic step forward.

There are now some 6 million schoolchildren and 1 million preschool children who are handicapped. Three out of every five of these youngsters receives no special education at all. Yet, they have the potential of developing into productive citizens, useful to themselves and to their communities, rather than burdens upon their families and upon society.

I endorse Dr. Marland's initiative on behalf of the handicapped child. He will long be remembered for this effort. I trust that he will receive from the Congress and from the American people the support the administration requires in carrying forward this important new effort.

I ask unanimous consent that there be printed in the RECORD as part of my remarks the Office of Education statement on Commissioner Marland's announcement and the address before the convention of the Council for Exceptional Children by Dr. Edwin W. Martin, Associate Commissioner, Bureau of Education for the Handicapped, detailing the administration's new goals for education of the handicapped.

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

SIDNEY P. MARLAND, JR., U.S. COMMISSIONER OF EDUCATION, TODAY URGED THE ADOPTION OF A NATIONAL GOAL TO PROVIDE FULL EDUCATIONAL OPPORTUNITY FOR EVERY HANDICAPPED CHILD IN THE NATION BY 1980

"The right of a handicapped child to the special education he needs is as basic to him as is the right of any other young citizen to an appropriate education in the public schools," Dr. Marland said. "It is unjust for our society to provide handicapped children with anything less than the full and equal educational opportunity they need to reach their maximum potential and attain rewarding, satisfying lives."

Dr. Marland pointed out that he has designated education of the handicapped as one of the five major priorities of the Office of Education for fiscal 1972.

He also announced that he has assigned to Dr. Terrell H. Bell, Deputy Commissioner for School Systems, and Dr. Edwin W. Martin, Associate Commissioner for Education of the Handicapped, responsibility for planning toward the 1980 goal.

Today there are an estimated 6 million school-age and one million preschool age children who are handicapped. Only 40 percent of these children receive any special education at all. As many as half of them, the Bureau of Education for the Handicapped estimates, could develop in regular educational classrooms if they had the support of part-time special education services.

Dr. Marland has already established target objectives for the education of the handicapped in fiscal 1972. They are:

To provide appropriate special educational programs to an additional 250,000 school-age children, raising the total number to nearly 3 million.

To provide 250,000 teen-age handicapped students already receiving special education with appropriate career education programs, including placement and employment services.

To produce in 1972 through Office of Education-supported college and university training programs the 17,000 trained teachers, teacher trainers and leadership personnel needed to support the additional special education programs.

Efforts will also be made to train 12,000 teachers to work with handicapped children in their regular classrooms, Dr. Marland stated.

Along with the education of the handicapped, Dr. Marland has given Office of Education priority to the following areas for fiscal 1972:

1. Career education for all who can benefit.
2. Quality education and equality of educational opportunity for disadvantaged children.
3. Elimination of racial and cultural isolation.
4. Innovation and renewal wherever they can strengthen education.

FULL EDUCATIONAL OPPORTUNITY FOR EVERY HANDICAPPED CHILD: A NATIONAL GOAL

(By Edwin W. Martin)

The other night we went to see "Hair" which opened recently in Washington, and is now assured of a long and highly successful run. It's a little disconcerting to reflect on the fact that "Hair" is just now arriving in Washington. It does not seem to advance our reputation as being an avant-garde community. In any event, "The Age of Aquarius" is dawning in the nation's Capitol and, in a very real sense, I think a new era is beginning with respect to the role of the Federal government in education for the handicapped.

In reviewing the history of the national government's interest in education of the handicapped there are a number of eras, beginning over a hundred years ago with Federal support for Gallaudet College and the American Printing House for the Blind. The second step was a long time coming, finally arriving in the late 1950's in the form of support for training leadership personnel in the area of mental retardation, initiation of the Captioned Films for the Deaf program, and support of research in education of the handicapped under the Cooperative Research Act. In the middle 60's we moved for the first time into assistance to the States for the providing of increased educational programming for handicapped children, and these various patterns of support have been expanded and diversified over the years.

In the past, there have been numbers of spokesmen representing increased education for handicapped children in the various levels of the Office of Education and the administrative structures they represented may be seen in terms of various stages of development. We have had educational specialists, sections chiefs, Branch Chiefs, Division Directors, and Bureau Chiefs playing the role of advocate for the handicapped. This year, for the first time, we will have the United States Commissioner of Education formally accepting the role of providing leadership to the nation's schools and to the national community at large in bringing about full educational opportunity for handicapped children. In a release to the press in Washington today, in conjunction with this opening session of the Council for Exceptional Children's 49th Convention, Sidney P. Marland, Jr., United States Commissioner of Education calls for "the development of a national goal to provide full educational opportunity for every handicapped child in this country by 1980".

Dr. Marland also says:

"The right of a handicapped child to the special education he needs is as basic to him as is the right of any other young citizen to an appropriate education in the public schools. It is unjust for our society to provide handicapped children with anything less than a full and equal educational opportunity they need to reach their maximum potential and attain rewarding, satisfying lives."

Dr. Marland has designated education of the handicapped as one of the five major priorities of the Office of Education for the Fiscal Year which will begin July 1st and has assigned to Dr. Terrel H. Bell, Deputy Commissioner for School Systems, and to me, as Associate Commissioner for Education of the Handicapped, the responsibility of planning toward the 1980 goal. To bring this message to you concerning our 1972 objectives he has prepared a special film message which I would like to share with you. But first, I want to tell those of you who may not know the Commissioner a little bit more about him.

Sidney P. Marland is the 19th Commissioner in the 103-year history of the Office of Education. For more than 20 years, he has been an educational planner, a consultant, and an administrator of public school systems. He has been Superintendent of schools in Darien, Connecticut, and Winnetka, Illinois, and in Pittsburgh, Pennsylvania. He has been a visiting Professor and lecturer at Harvard, Northwestern, and New York Universities, and at the national college of education. He holds a B.A. and M.A. degree from the University of Connecticut and his Ph.D. from New York University. In 1967, he was awarded an honorary LL.D. degree by the University of Pittsburgh. His reputation as an administrator, as an educational innovator is widely known. As I have known him in the past months, I see a rare blend of decisionmaker, of activist, and of the greatest importance to us, today, as a humanist, he is the first Commissioner of Education to declare that the education of handicapped children is a major priority of the United States. (Show Film)

Now that we have seen the Commissioner's film I would like to review with you some of the factors leading to this new objective and to discuss with you some of what I believe it can mean for those of us interested in education of handicapped children. I would also like to share with you some of our plans and hopes for the future.

The development of Federal efforts to support education for the handicapped has made it possible for us to watch more closely the growth in State and local efforts to provide special education for handicapped children. We have been able to develop an awareness of the national patterns in the provision of these services, to assess the need for trained manpower in the rural areas and inner cities, including such aspects as the availability of resources to teachers in terms of materials and methods of instruction. In essence, the development of a national perspective has made certain truths more clear.

First, the States report that approximately 6 million school-age children need special education. They report further that only 2.6 million of these children are now receiving special education services. These estimates are generally based on the estimate that approximately 10 percent of school-age children are handicapped, although in some instances they reflect more detailed analyses of State and local populations. Furthermore, the 10 percent figure, once felt to be a generous estimate, is increasingly being seen as a conservative measure of the numbers of children who actually will require adaptation of the educational system if they are to succeed.

As one example, in discussing these figures with me, Commissioner Marland has said on several occasions that his experiences as a school superintendent has made him confident that there are seven or eight per-

cent of school-age children who show behavioral and emotional problems sufficient to require additional special education or related services. This figure coincides well with the analyses of the Joint Commission on Mental Health and contrasts with the 2 percent we include as seriously emotionally disturbed in our 10 percent estimate. Similarly, increasing emphasis on identifying the learning characteristics of children who are seen as having specific learning disabilities suggests larger numbers of these children than the 1–2 percent of the 10 percent overall estimate allows. I recognize that in discussing these needs we are not talking about special class programming for all of this broad range of youngsters, any more than modern thinking holds that special class programming is essential for all handicapped children under our older estimates. What is increasingly apparent, however, is that we have offered far too few children the supplementary services that are necessary; there has been too little modification of the system to many many children's learning needs.

As a second index of need, we commissioned a survey of school districts as part of the development of our computerized information center and had responses from more than 15,000 school districts. Of these, about 7,500 offered special education programming. And in those instances the largest majority offered only classes for the educable retarded and/or speech and hearing therapy—by no means a full range of services for other handicapped children. Another 10–15 percent of the districts made similar arrangements with nearby school districts or State schools.

Another pattern is apparent—the range of children being served in terms of percentage of the need met varies widely across the country, with some States reporting less than 20 percent of their handicapped children in special education programming. At the maximum level, one State reports about 75 percent of handicapped children enrolled in special education programs. This inequity of service suggests a national problem—if a child lives in one State he is four times more likely to receive assistance than if he lives in another.

We have also become increasingly aware of the burden on parents of children who are multiply handicapped or who have serious emotional problems. These children are frequently excluded from *all* educational opportunity. There has been a growing sensitivity to this intolerable burden which has been placed on parents whose children have been excluded from the educational system. Two weeks ago I was in Seattle and was interested and encouraged by legislation stimulated by parents and concerned citizens called the Education for All Bill. It was then pending in the Washington legislature and expected to be approved; and I have learned today it has passed all but the fund step. The bill has the support of State officials and will clarify the mandate that the State of Washington has for educating all of its handicapped children. Although Washington has a well-developed special education program, in fact, it is the State reporting 75 percent of children served, a survey of school districts to identify children who were not enrolled by the schools quickly came up with approximately 4,000 children now receiving no educational assistance.

And so each year since 1967, when BEH was organized we have reviewed our Federal efforts to stimulate increased educational opportunity for handicapped children against these needs, that is, at least 3 million school-age children requiring additional services; approximately one million preschool age children who should receive special attention to prevent or reduce later handicapping conditions; and the requirement for perhaps 200,000 teachers and aides to help provide increased educational opportunity.

To capsulize this review, let's look at the growth in Federal support efforts as it has increased from the $50 million level in 1967 to over $220 million in this Fiscal Year [overhead]. As you can see, the basic education for the handicapped appropriations has been growing in small but steady increments. This includes grants-to-the States under the Education of the Handicapped Act, the Teacher Training support funds, and our Research and Demonstration and Media activities. Growth of a similar magnitude has come from Title I funds for institutionalized children, from Title III funds in innovation and from Vocational Education funds. Each one of these larger programs has had a legislative specific set-aside for handicapped programming. On a voluntary basis, the Bureau of Educational Personnel Development has put a share of its funding into increasing the ability of regular educators to deal with handicapped children. While this growth has been encouraging, $200 million for 7 million handicapped children represents approximately $30.00 per child. Clearly that level of support called for a catalytic rather than a basic support strategy for the expenditure of Federal funds, and we developed a catalytic or multiplier strategy.

As we reviewed this year these national needs and the combined Federal State and local efforts our conclusion is that the nation is making progress, the catalyst is working, the State and local efforts are growing, but our progress across the country is not fast enough—our services do not reach enough children—the quality of our efforts is not all it should be. Nationally, there is no profound and fundamental commitment to full educational opportunity for handicapped children. There seems to be, instead, a pattern of "let's do a little bit more as we can see our way clear to do so". And so in recent months, we have added to our strategy by emphasizing the intrinsic right of all children to an education by declaring that education of handicapped children can no longer be a charity activity, a magnanimous gift bestowed upon the "have-nots" by the "haves".

Rather, providing educational opportunity to every handicapped child, assuming the burden of this responsibility with the family, has to be seen as a basic American tenet, even if it has not been a tenet that we have lived out successfully.

In the first generation of the Bureau of Education for the Handicapped management by objectives developed a little over a year ago, we decided to give special attention to this question of the attitudes of society toward the rights of handicapped children and to attempt to help develop acceptance of equal opportunity programming. We felt that appropriate public attitudes were critical for the success of any large scale effort to educate handicapped children.

Robert Louis Shayon, the television critic of the Saturday Review labeled one set of obstacles facing us as "Funds, Fatalism, and Fear." Essentially, our problem with lack of funding is a problem of insufficient priority, not insufficient dollars. This week, it came to my attention that a decrease in the education budget in a near-by county had resulted in the cut-back of transportation services for orthopedically handicapped children. Incredibly, this cut-back in transportation preceded similar cut-backs for non-handicapped children. Such a cut could only be based on the underlying presumption that programming for handicapped children was an extra, perhaps a desirable extra if funds were available, but not a fundamental commitment by the schools. I believe this failure to recognize the intrinsic rights of handicapped children to an education is based in part on the other two F's—fatalism and fear. First, I think that many people have failed to understand that educational programming for handicapped children works, that deaf children, that blind children, that retarded children, can in fact learn, can in fact receive education and training that will allow them to become productive members in society. I think, perhaps, that many members of the general public see handicapped children only in terms of stereotypes, the most severely retarded child, the most manifestly emotionally disturbed child, the most critically physically handicapped child, and while those of us in special education realize that what they are picturing represents only the extreme 5 or 10% of the population, these assumptions make it seem as though special education is a nice thing to do, a type of kindly busy-work or baby sitting. Because of our historical pattern of isolation of handicapped children and adults, many handicapped persons represent an unknown commodity to the general public and so they are to be feared as are blacks, foreigners, and people of different religions. The very fact that children may be overtly handicapped and that enormous burdens may be placed on them and on their families also is anxiety producing. This problem may become something which is too painful to be held in consciousness and so better repressed and avoided.

The interactions of these various factors, the recognition of need for additional services, the awareness of the burden on parents, the recognition that the positive public attitudes were critical for the development of additional programming and the general awareness of a need for a more flexible education system which is accountable to the child have combined to produce a call for more insistent and powerful leadership. It seemed necessary to establish a broader conceptual goal, to develop a statement of a proper course of action. To provide a moral climate in which development of full educational opportunity for handicapped children will become possible. In making education for handicapped children a major priority of the Office of Education and in urging the development of a national goal of full educational opportunity for handicapped children, by 1980, Commissioner Marland is attempting to provide a concept which can bring unity to State, local, and Federal efforts. We recognize as you do that the United States Commissioner of Education cannot mandate the activities of State and local schools but he can offer a statement of national purposes of moral and educational leadership. He can focus attention on a critical national need, can create a policy which guides the development of future Office of Education efforts. For those of us in the Bureau, our objectives year-by-year can now be plotted as steps toward the goal of full education opportunity. Our strategies may be developed in terms of the role that we can play in supporting State and local efforts toward their specific goals for handicapped children. There must be specific objectives developed in every State which bring together special educators, regular educators, parent groups, and other segment of the public who may not have been specifically concerned with handicapped children, but who believe in the principle of full educational opportunity for every child. As educators and as CEC members you should play a key role in the development of State goals.

In some States new legislation will be required, in others current legislative provisions may be adequate, but there may be various barriers to implementation. In each instance cooperative efforts will be necessary to specify the objectives in a given State and to enlist the support of citizens and policy makers toward the fulfillment of those objectives. Communication system must be developed so that we can share in the prog-

ress State-by-State, and so that the successes of one State will add to the momentum of the total movement toward the national goal. Successes in one State will strengthen and reinforce activities in other States.

This unification of purpose and target at the State level by various groups must be marked in our national efforts as well. In addition to the objectives within the Bureaus of Education for the Handicapped, the Commissioner's new objectives will have Office of Education wide implications. We can expect complimentary objectives in Education Personnel Development, in Vocational Education, in Elementary and Secondary Education, in the development of Educational Technology and Communication Systems, and so on. We also will be concerned with developing more effective programming for handicapped children in other HEW organizations. We already have begun joint activities with the National Institutes of Mental Health, and will in the next few weeks make grants for a number of model child advocacy projects designed to help children secure whatever services are necessary for their full development so that they may maximize their potential. Next year, the Rehabilitation Services Administration will join us in funding a second round of child advocacy projects and our efforts are also underway toward cooperative planning with the Rehabilitation Services Administration on State-wide activities.

Development of fuller participation of handicapped children in all of HEW supported day care and preschool activities is another objective. Ed Zigler, Director of the Office of Child Development, who will be speaking to us later this week has already promised to work with us toward this end. The Department of Health, Education, and Welfare Secretary—Elliot Richardson has been particularly interested in developing a disposition among HEW agencies toward planning for the provision of full and comprehensive patterns for the delivery of service at local levels. We are recommending the review of all HEW programs assisting handicapped children to achieve this end: improved strengthened and coordinated services available when and where they are needed.

The day has passed when we as educators can be concerned only with education and when our colleagues in mental health can be concerned only with mental health clinics and our physicians with medical care. We can no longer have unassigned responsibility for the integration of services, no one responsible to the parents for assisting the child with the whole range of his needs.

In the months remaining of this fiscal year which ends in June, and in the early months of 1972 we will be actively planning for the implementation of the 1972 objectives. We hope to involve many people in thinking and planning with us, so that these objectives, true national objectives, will grow out of mutuality of planning and are not solely Federal efforts. Similar efforts at the State level must be established or expanded.

The National Advisory Committee on Handicapped Children met several weeks ago and strongly endorsed the development of this national goal. They will provide general counsel and over-sight to the Bureau and to the Office of Education in the pursuit of the goal. The Committee has elected Jack Matthews, of the University of Pittsburgh as its Chairman, and Dr. Matthews has agreed to spend extra time with us in developing and implementing our future plans.

Our CEC president, Sam Ashcroft, has also agreed to work with us and to help us think about the role that professional organizations should play. John Melcher from Wisconsin has agreed to think with us about the role of State Education Agencies, and Ernie Willenburg of Los Angeles, has agreed to work with us on the specific needs of the cities. Jim Gallagher will work with us toward the development of increased services for preschool children, and Elizabeth Boggs of the National Association for Retarded Children will help us with our planning for cooperative activities with parent groups. And, of course, many more people will be involved as we progress toward the goal.

In addition, we hope to be able to meet with hundreds of people interested in special education, handicapped persons, educators, parents, legislators, and the general public, in a series of regional meetings in which the Bureau of Education for the Handicapped personnel and our advisors will discuss this new initiative with people across the country gathering their advice, and requesting their support, and hopefully providing some assistance to the development of local efforts.

As I close, I want to express particular appreciation to the Council for Exceptional Children for the great leadership that you have given in developing educational programming for handicapped children. Your services in the schools have been inspirational, your support of legislative activities at the State and Federal levels have made possible the climate in which a national goal might be articulated. Your call for a national commitment to handicapped children joined our Bureaus' similar call to become a major recommendation of President Nixon's Task Force for the Physically Handicapped.

In the months and years ahead, we all recognize there will be no easy victories. The mere articulation of the national goal will not make it occur. Without concerted work in every State and in many communities, there is little hope for this realization of full educational opportunity. We have a new rallying point.

This last week, as I have thought of the great lessons that mankind has learned, over thousands of years which are expressed in our religious traditions of Passover and Easter, I realized that we have a great need for, and that there is great joy in new beginnings and new arisings of the spirit, in new starts toward promised lands. I have said on many occasions that I believe the work we do in struggling to provide education for handicapped children is an important work. Victor Frankl, in his writings, pointed out the importance of having goals to give meaning to our lives. He recognized that the importance of having purposeful work which brings dignity to our existence. Helping assure the intrinsic right of children to an education in the United States is a noble work. It is a work which reflects the best in the American spirit. It is a work which strives toward unity rather than division, toward light rather than darkness, toward hope rather than fatalism. If even one child is excluded from school we are all excluded; if one child is denied his rights, all of our rights are lessened, I believe that our goal of full educational opportunity is a just goal and a realistic one. I ask you to join me in accomplishing it.

The PRESIDING OFFICER. Is there further morning business?

ADDITIONAL STATEMENTS

STAGGERING BUILDUP OF SOVIET STRATEGIC POWER

Mr. GOLDWATER. Mr. President, many of us who take a special interest in the military establishments of our country have become increasingly alarmed in recent weeks over the staggering buildup of the Soviet Union's strategic power.

Many of us also have been accused by critics of the military-industrial complex, and of the Defense Establishment, of engaging in scare tactics. The argument which comes at us from the liberal side of this Senate contends that the advocates of a strong military system are attempting to frighten the Congress into approving the defense spending recommendations of the Nixon administration.

In fact, Mr. President, to hear some of the scoffers talk, you would begin to suspect that the enormous buildup of Soviet ICBM's and in expanding Soviet naval capabilities are strictly figments of our imagination.

Mr. President, we have reason to use scare tactics at this point in history. The proven advances which the Soviet Union has made in strategic capabilities are frightening in their very essence. They contain a genuine cause for alarm, despite the pooh-poohing of our liberal defense critics.

This brings me to a document entitled "Supplemental Statement to the Report of the Blue Ribbon Defense Panel on the Shifting Balance of Military Powers." This statement, Mr. President, was submitted by the blue ribbon panel to President Nixon and Secretary of Defense Melvin Laird. It contains in its summary the following startling conclusion:

> If observable trends continue the U.S. will become a second rate power incapable of assuring the future security and freedom of its people. Neither the facts concerning these trends nor the ultimate danger is generally understood by the public, which for the most part remains uninformed and hence apathetic.

Mr. President, I submit that this is a startling conclusion when we consider that it was reached, not in some office at the White House, or by some committee of generals and Pentagon officials, but rather by a blue ribbon panel made up of distinguished American leaders.

Because of the overriding importance of this document and the alarming message which it contains for the American people, I ask unanimous consent that it be printed in the RECORD.

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

THE SHIFTING BALANCE OF MILITARY POWER

(Supplemental statement to report of Blue Ribbon Defense Panel, submitted to the President and the Secretary of Defense, September 30, 1970)

The Blue Ribbon Defense Panel, appointed by the President in July 1969, submitted its Report on July 1, 1970. At that time, members of the Panel reserved the right to submit supplemental statements on areas not addressed by the Panel's Report.

This Supplemental Statement dated September 30, 1970, and signed by the seven members of the Panel listed below, was not released by the Defense Department until March 12, 1971. It is not known why release of the Statement was delayed so long.

The central thrust of this Statement is as relevant and significant today as it was on September 30. It identifies and discusses trends which, if continued, will result in the United States becoming a second-rate power incapable of assuring the future security and freedom of its people.

The Panel members who joined in the Supplemental Statement are as follows:

William Blackie, Chairman of the Board,

Caterpillar Tractor Company, Peoria, Illinois.

George Champion, President, Economic Development Board of New York; New York, New York.

William P. Clements, Jr., President, Southeastern Drilling, Inc., Dallas, Texas.

John M. Fluke, President, John Fluke Mfg. Co., Inc., Seattle, Washington.

Hobart D. Lewis, President, Reader's Digest Assn. Inc., Pleasantville, New York.

Admiral Wilfred J. McNeil, Director and Advisor, Fairchild-Hiller Corp., New York, New York.

Lewis F. Powell, Jr., Lawyer, Richmond, Virginia.

PREFACE

The Blue Ribbon Defense Panel, appointed by the President and the Secretary of Defense in July 1969, submitted its Report on July 1, 1970. Members of the Panel reserved the right to submit supplemental statements on areas not addressed by the Panel's Report. This is submitted, pursuant to that reservation, by the Panel members named below.

The statement which follows deals with the balance of strategic military power at a time when the convergence of a number of trends indicates a shifting of this balance against the United States. In the course of the Panel's study during the past year, it became increasingly clear to the undersigned that if these observable trends continue the United States will become a second-rate power incapable of assuring the future security and freedom of its people.

The President and the Secretary of Defense are fully aware of the trends which cause deep concern, and have brought these to the attention to the Congress and the public in formal reports and addresses. Yet much of the public remains uninformed and apathetic. This supplemental statement is submitted with the hope that it will contribute to public discussion and in the end to the informed public understanding which is essential in a democracy.

Now a word about the scope of this statement: It does not purport to be an exhaustive assessment of the comparative military capabilities of the U.S. and the Communist superpowers, as this can best be done by intelligence experts. Nor does it address directly the specific defense and foreign policy issues which must be resolved by the Administration and the Congress. Rather, the statement deals generally with the disquieting trends which affect adversely the strategic posture and influence of this country. with the continuing buildup of Soviet and Red Chinese nuclear capabilities, including an apparent Soviet preemptive strike capability; with the vital issue of technological supremacy; and with attitudes on the domestic front which tend to inhibit the needed public debate and thoughtful reexamination of defense policies and priorities.

It is hoped that this statement will help stimulate this debate and reexamination, with a resulting wider public understanding that the balance of military power is shifting against the United States, and that the first duty of the national government is to "provide for the common defense" of our country (* Preamble to U.S. Constitution).

SUMMARY

The principal points in the accompanying Statement may be summarized as follows: [1]

The Converging Trends. The convergence of a number of trends indicates a significant shifting of the strategic military balance against the United States and in favor of the Soviet Union.[2] These trends include: (i) the growing Soviet superiority in ICBM's; (ii) the Soviet commitment of greater resources than the U.S. to strategic offensive and defensive weapons, with the continued deployment thereof; (iii) the possibility that present U.S. technological superiority will be lost to the Soviet Union; (iv) the convincing evidence that the Soviet Union seeks a preemptive first-strike capability; (v) the rapidly expanding Soviet naval capability; and (vi) the mounting hostility of segments of the public towards the military, the defense establishment and "the military-industrial complex," without due recognition that sustained irresponsible criticism could undermine and weaken the only forces which provide security for the U.S.

A Second-Rate Power. If these observable trends continue the U.S. will become a second-rate power incapable of assuring the future security and freedom of its people. Neither the facts concerning these trends nor the ultimate danger is generally understood by the public, which for the most part remains uninformed and hence apathetic.

A Soviet World Order. Since World War II a degree of world order has been maintained by the dominance of U.S. strategic military strength. This American preserved world order is now disintegrating, as doubts arise as to our will and strength to preserve it. There is reason to believe that the Soviet Union envisions a new era which it will dominate, employing superior military power and the threat of its use to achieve long-cherished political, economic and even military objectives.

The End of U.S. Superiority. In a dramatic shift in the balance of power, largely unnoticed by the public, the quarter century of clear U.S. strategic superiority has ended. The Soviet Union has moved significantly ahead of the United States in ICBM's, the principal weapons system of the nuclear age. The U.S. retains, for the time being, a substantial edge in the smaller, short-range SLBM's launched from Polaris submarines. Yet, the Soviet Union has a major submarine construction program which by 1973–74 could nullify this advantage. The U.S. subsonic B–52 bomber force still out numbers the Soviet strategic bombers by a three to one margin, but both nations recognize the relatively obsolete character of this weapons system.

There are, of course, other elements in the equation of strategic military power. In some of these—such as MIRV and Poseidon—the U.S. is ahead of the Soviet Union. In others—such as strategic defense against missiles (ABM's) and against bomber attack—the Soviets are significantly ahead.

But however one may view the balancing, no informed person now denies that the period of clear U.S. superiority has ended. The Soviet SS–9 ICBM force alone is capable of delivering a megatonnage of nuclear warheads several times greater than that of the entire U.S. force of ICBM's and SLBM's.

A Soviet First-Strike Capability. Our planners in the 60's assumed that if both superpowers had an adequate retaliatory capability neither would prepare for or risk a first strike. The evidence is now reasonably conclusive that the Soviet Union, rejecting this assumption, is deploying strategic weapons systems designed for a first-strike capability. This evidence includes: (i) the continued Soviet production and deployment of ICBM's *after* having attained a clear numerical and megatonnage advantage; (ii) the emphasis on SS-9's designed as counter-force weapons capable of destroying U.S. hardened missile silos; (iii) the development of MRV with warheads also designed as counter-force weapons, and of MIRV by 1971–72; (iv) the development of a fractional orbital missile which significantly minimizes warning time; (v) the construction of a Y-class atomic powered submarine SLBM launching fleet capable, with no effective warning, of destroying our national command centers and much of our B–52 bomber force; and (vi) the continued Soviet emphasis on strategic defense systems against both missiles and bombers—an emphasis without parallel in this country.

The characteristics of these offensive and defensive weapons systems, which the Soviets continue to expand, are consistent only with a preemptive strike capability. Such a weapon mix and volume are not required for effective retaliation.

A Challenging Soviet Navy. The Soviet navy, modern and rapidly expanding, is now challenging U.S. naval superiority in every category except aircraft carriers. This Soviet naval buildup is a major element in the shifting balance of military power.

Retreat from the Threat of the 70's. The situation which our country faces is without precedent. As we enter the 70's, the strategy of American superiority has given way to the concept of deterrence by maintaining an assured retaliatory capability. But there is no longer any certainty that our nuclear deterrent will remain credible to a Soviet Union which apparently seeks a preemptive strike capability, and which is moving rapidly into the role of the world's dominant military power. Red China, bitterly hostile to the U.S., also is acquiring a significant ICBM capability. It is not too much to say that in the 70's neither the vital interests of the U.S. nor the lives and freedom of its citizens will be secure.

Yet, many of our most influential citizens respond to this unprecedented national peril, not by a renewed determination to assure an adequate national defense, but rather by demands for further curtailment of defense measures which can only increase the peril.

Cutback in Defense Spending. Although the President has submitted for FY 1971 a "bare bones" defense budget, reflecting the largest single cutback since the Korean War, public and political pressures are mounting for even more drastic reductions. As the U.S. defense spending goes down, the trend of spending by the Soviet Union continues steadily upward. Its total military funding about equals that of the U.S., although its gross national product is barely half that of this country. The mix of Soviet spending is especially meaningful. Without the drain of a Vietnam War or public pressures to curtail defense funding, the Soviet expenditures in dollar equivalents on strategic offensive and defensive weapons significantly exceed those of the U.S.

Threat to Technological Superiority. U.S. qualitative superiority in weapons, due to its advanced technology, has afforded a decisive advantage over the past years. This advantage is now being eroded away, as the U.S. falls behind the Soviet Union in the support of R&D and in the training of scientists and engineers. There is an ever present risk of disastrous technological surprise in major weaponry where an open society is in competition with a closed Communist society. We are neglecting, by inadequate support and planning, to minimize this risk.

Negotiations—Trap or Opportunity? Since the end of World War II repeated attempts have been made by the U.S. to negotiate limitations on the "arms race." Negotiations for sound enforceable limitations should be continued and hopes are now high for the success of the current SALT talks. But the total experience of negotiating with Communist nations suggests the utmost caution and the need for the most critical analysis of the possible consequences of any proposed terms. Not only is the security of this country at stake, but it is possible that a limitations agreement as to strategic weapons could have the effect of neutralizing the U.S. as a strategic power, leaving the Soviet Union and Red China relatively free to employ their superior tactical capabilities wherever this seems advantageous.

Hostility Towards the Military. At this critical time, when the balance of military

[1] This Summary is necessarily incomplete and reference should be made to the full Statement for the views of the authors.

[2] The principal threat to U.S. security for the 70's is the Soviet Union, and this paper is addressed primarily to that threat. By the late 70's and beyond, the most menacing country in the world may be Red China.

power is shifting, it is uniquely unfortunate that public hostility toward national defense and the military is at an unprecedented level. This attitude reflects a broad spectrum of opinion from honest pacifists and dissenters over Southeast Asia to New Leftist revolutionaries. But the base is sufficiently broad, and the voices supporting various aspects of it sufficiently powerful, to have a profoundly adverse effect upon almost every aspect of national defense. In a democracy, national defense suffers when there is inadequate public understanding and support. It may be fatally undermined when a significant segment of public opinion is not merely negative but irresponsibly hostile.

A Viable National Strategy. Unless the American people wish to accept irrevocably the status of a second-rate power—with all of the probable consequences—the only viable national strategy is to regain and retain a clearly superior strategic capability. This can be accomplished by reversing the trends identified above, and by eschewing agreements which freeze the U.S. into a second-rate status. The margin of our overall strategic strength must be sufficient to convince the most reckless aggressor that, even after a surprise first strike, the capability to retaliate will in fact survive and be adequate to impose unacceptable destruction on the aggressor nation. This course of action is not incompatible with continued negotiations for arms limitations. Indeed, it will significantly enhance the chances of negotiations being genuinely fruitful without constituting a trap.

The Consequences of Second-Rate Status. Basic Communist dogma contemplates the employment—over such time spans as may be necessary—of the entire arsenal of pressures against the U.S. as the strongest democratic power. Despite discord among Communist states, there has been no amelioration of this doctrinal goal. Throughout the past quarter century, when the Soviet Union was relatively weak strategically, it precipitated or supported crisis upon crisis—directly or through puppets and satellites—designed to extend its influence and to create disarray within the U.S. and the Free World.

It is irrational to think, with the balance of military power shifting in its favor, that the policies of the Soviet Union will be less hostile, disruptive and imperialistic.

The consequences of being second rate, even if national survival is not threatened, could be seriously detrimental to the most vital diplomatic and economic interests of this country.

Weakness—The Gravest Threat to Peace. The road to peace has never been through appeasement, unilateral disarmament or negotiation from weakness. The entire recorded history of mankind is precisely to the contrary. Among the great nations, only the strong survive. Weakness of the U.S.—of its military capability and its will—could be the gravest threat to the peace of the world.

THE SHIFTING BALANCE OF MILITARY POWER

The Blue Ribbon Defense Panel's assigned mission, though broadly defined, was related primarily to the organization and functioning of the Department of Defense and the Armed Services. The Panel was not requested to consider matters of national policy such as strategic posture, force levels, weapons systems and defense spending.

But one cannot spend a year studying the defense structure of this country without considering the vital questions of national defense policy. In the course of this study, it became increasingly clear that the balance of strategic military power is continuing to shift against the U.S.

In his Foreign Policy Report, President Nixon said:

"The overriding purpose of our strategic posture is political and defensive: to deny other countries the ability to impose their will on the United States and its allies under the weight of strategic military superiority. We must insure that all potential aggressors see unacceptable risks in contemplating nuclear attack, or nuclear blackmail, or acts which could escalate to strategic nuclear war, such as a Soviet conventional attack on Europe." [1]

If observable trends continue—in this country and abroad—there is grave doubt whether this purpose can be attained for the 1970's and beyond. The warning by Secretary Laird that the U.S. could be "in a second-rate strategic position . . . by the mid-1970's" appears to be fully justified.[2] Indeed, if these trends continue, the U.S. will become a second-rate power incapable of assuring the future security and freedom of its people.

TRENDS WHICH ENDANGER U.S. SECURITY

The trends which are combining to shift the strategic balance of power in favor of the Soviet Union include:

1. The Soviet deployment of types and numbers of offensive and defensive nuclear strategic weapons which threaten the security of this country.

2. The Soviet commitment of greater resources than the U.S. to strategic offensive and defensive weapons and weapons systems.

3. The Soviet commitment of greater manpower and resources than the U.S. to military-related research and development (R&D), thus threatening to end U.S. technological superiority.

4. The evidence that the Soviet Union seeks a preemptive first-strike capability.

5. The Soviet deployment of a fleet capable of challenging the U.S. fleet.

6. The abandonment by the U.S. of its former policy of maintaining strategic superiority.

7. The state of mind of much of the U.S. public which tends to inhibit necessary defense measures and even the full and rational discussion of the need for such measures.

8. The tendency of many to attack and criticize, whether justified or not, the military, the defense establishment, and "the military-industrial complex," without due recognition that sustained irresponsible criticism could undermine and weaken—at a critical time in history—the only forces which provide security for the U.S. and the free world.

It is appreciated, of course, that opinions differ as to the extent and significance of these trends. Some will think these views do not appropriately weigh such counter trends as may exist. But national defense policies in the nuclear age should be formulated conservatively, based on the most realistic assessment of potential enemy capabilities.[3] It is imprudent, indeed even reckless, to formulate such policies on the basis of subjective judgments as to Soviet and Red Chinese intentions rather than their known military and technological capabilities.[4]

Where the issues are the security of our country, the preservation of the values of a free society, and possibly the life or death of tens of millions of our people, responsible government cannot afford to run the risk of miscalculation on the optimistic side. The lessons of history abundantly teach that nations do not survive by trusting other nations to be rational or by setting examples of unilateral restraint in self defense.

THE GENERAL WORLD POSTURE

Genuine peace, the professed goal of all mankind, is as remote today as at any time since World War II.

The Asian Continent

On the Asian continent, the war in Southeast Asia drags on. Communist aggression continues in South Vietnam and Laos, and now threatens the national existence of Cambodia. With Red China building a military road across northern Laos directed toward Thailand, apprehension mounts in that ancient kingdom.

North Korea, reckless and arrogant, attacked an American ship and plane with impunity and constitutes a threat so serious that some 60,000 American troops remain in South Korea 17 years after the tenuous armistic there.[5]

Despite internal convulsions, Red China maintains the world's largest ground forces and is acquiring a significant nuclear capability. Its despotic regime harbors and promotes the most virulent hatred of America.[6] Its ambitions within Asia—beyond Taiwan—remain obscure, although already it has conquered Tibet, conducted border incursions against India, and indicated a continuing covetousness toward Southeast Asia.

Some think the greatest threat to peace in Asia lies along the Soviet-Chinese border where ancient hostilities have been exacerbated. However this may be, Asia is a continent of discord and unrest with military strength mounting in the four Communist powers. There is no peace or prospect of it.

The Middle East

The situation in the Middle East, in terms of possible escalation into major confrontation, appears to be even more serious. A state of undeclared but active war existed between Israel and its Arab neighbors until the August 1970 cease fire. Although the Arab states have an implacable hatred of Israel they are incapable of waging modern war without the weapons, technicians and economic support provided by the Soviet Union.

The strategic significance of the Middle East is profound. The petroleum resources there are vital to the economic well being of much of the Free World. Effective control of these resources—at least to the extent of being able to deny them to the Free World—is an obvious Soviet strategic objective. Perhaps a less obvious objective is the reopening and control of the Suez Canal. This waterway, as important to the Soviet Union as the Panama Canal has been to the U.S., would provide the cheapest and most effective transportation route between the Soviet heartland in Europe and the Soviet far east. The critical importance of this sea link is evident in relation to a possible U.S.S.R. confrontation with Red China.[7] These strategic considerations explain the willingness of the Soviet Union to incur the gravest risks of escalation. In addition to building up United Arab Republic and Syrian capabilities, the Soviet Union has deployed in the UAR some 100 Mig 21–J's and a substantial number of SAM–3 sites, all operated by Soviet personnel.[8]

The cease-fire plan appeared initially to afford an opportunity for negotiations. But this hope was dashed, perhaps irretrievably, by Soviet and UAR duplicity in deploying SAM's within the agreed truce zones.[9]

In view of Israeli-Arab hostility and Soviet ambitions in the Middle East, including its desire to out-flank NATO in the Mediterranean, there is no prospect of genuine peace in this explosive area.

Western Europe

The situation in Western Europe, the area of our most vital interest, remains relatively precarious beneath the superficial aura of peace. The Berlin Wall and the Iron Curtain still stand. NATO forces, including some 300,000 Americans, are confronted by a larger and better equipped Soviet force. This cold-war type confrontation, without precedent in history in terms of duration and scale, has lasted more than two decades with no end foreseeable.[10] One has to visit Allied bases in West Germany to comprehend even dimly the tenseness and tragedy of hundreds of thousands of armed men facing each other

Footnotes at end of article.

night and day, with air crews alert, ground units in position, command posts staffed, and the flight of every aircraft monitored.

Berlin, that indefensible symbol of freedom which we nevertheless are committed to defend, remains surrounded by Communist forces which periodically block or harass access routes by land and air. Berlin has assumed crisis proportions a number of times in the past. No one can be sure that the future will be different.

Other areas

The foregoing are the more visible and active danger areas in a troubled world, but ruptures of peace could come anywhere. A war was concluded in Africa earlier this year with heavy loss of life and infinite human suffering. There are few stable governments in either Africa or South America, where plots and revolutions and terroristic activities are commonplace. Cuba, now an armed and erratic Communist power, is a major base for subversion, the export of revolution, and possibly for Soviet naval operations.

Communist have common objective

It is true that the solidarity of the international Communist movement has been fractured. The friendship between the Soviet Union and Red China has dissolved. Even the boasted unity of the Warsaw Pact members depends nakedly upon the military might of the Soviet Union and its openly avowed "right" to employ this might against any recalcitrant member.[11]

But this disunity among Communist powers does not necessarily enhance the chances of peace for the Free World. The hate propaganda of both the Soviet Union and Red China against the United States exceeds that leveled against each other. Each has always proclaimed that the principal enemy is "imperialistic America." The Marxist dream of unity among Communist countries may have faded, but the Marxist purpose of communizing the world remains the goal of every Communist party.

This, is briefest summary, is the disordered state of the world at the beginning of the 1970's. Rational persons, familiar with the lessons of history, would hardly choose this time to undermine our own military forces either by irresponsible criticism or unilateral reductions in defense capabilities.

World order maintained by U.S.

Since World War II a degree of world order has been maintained almost solely by the dominance of U.S. strategic military strength. But for this strength and our will to assert it to preserve freedom, few doubt that the Soviet Union would have imposed Communist regimes on a number of other countries. It had the ambition to subjugate Greece and much of Western Europe just as it did the Eastern European satellites. But for American military strength there also would have been Communist incursions and aggressions—beyond those we have experienced—in Asia, Africa and even in this hemisphere.[12]

This world order which we have attempted to preserve has been precarious and far from effective in many instances. But at least the principal objectives have been attained. The freedom and independence of Western Europe and the opportunity of the countries there to restructure themselves economically were assured. Many nations around the world, including the emerging new nations in Africa, were encouraged to pursue courses of nonalignment. The prospect of worldwide Communist domination—a likely one in the absence of American deterrence—was not a realizable goal. But most important of all, a fragile peace was preserved between the great powers and there was no employment of nuclear weapons.

Footnotes at end of article.

A new era—Communist world order?

This American preserved world order is now disintegrating. We no longer have the power to preserve it. Nor do we appear to have the will, as a new neo-isolationist fever dims the perception of our people. The Communists everywhere applaud this end of an era, and even many in our country seem to welcome it.[13]

Whatever one's views on this point may be, the critical question now is what sort of world order will exist in the years ahead. There is every reason to believe that the Soviet Union envisions the new era as one which it will dominate, employing its military power and the threat of its use to promote and attain its own imperialistic objectives.

Second best in troubled world

Thus, as we enter the 1970's America is confronted with an inherently unstable world situation in which "little wars and revolutions" can escalate and major wars develop on short notice. We face a world in which the military balance of power is shifting from the West to the East, and the world order sustained by dominant American power is fading away. In the most optimistic view, a precarious order will continue as the two superpowers maintain an uncertain balance of deterrence. A less optimistic view, and one supported by the weight of the evidence, is that the United States will become a "second rate" power subordinate to manifest Soviet military superiority. In that case, the world order of the future will bear a Soviet trademark, with all peoples upon whom it is imprinted suffering Communist repressions.[14]

THE END OF U.S. MILITARY SUPERIORITY

The facts set forth in the Reports of the President and the Secretary of Defense, mentioned above, clearly foreshadow the end of U.S. military superiority.[15] This was predetermined by decisions made in the 1960's, which resulted in the reduction, postponement and abandonment of strategic defense measures and weapons systems. These decisions reflected the budgetary priorities of the Vietnamese war as well as a desire to de-escalate the strategic arms race by an example of self-imposed restraint.

In an event, the U.S. is now face-to-face with the fruits of this unilateral strategic arms slowdown.

Soviet missile superiority

The Soviet Union has attained for the first time a superior strategic capability—where it counts the most—in ICBM's. The U.S. froze its ICBM's at 1,054 in the mid-60's when the Soviets had less than 250 ICBM's. While we imposed a limitation on additional strategic weapons, the Soviets pressed forward to overtake and pass us. Intelligence estimates indicate that they now have over 1,250 operational ICBM's, and will have about 1,300 by the end of 1970.[16]

More than 275 of the operational Soviet ICBM's are SS–9's, each capable of delivering 25 megatons as compared to the one megaton payload of the U.S. Minuteman missile.[17] The major portion of the remainder of the Soviet ICBM's are SS–11's and SS–13's, each capable of a payload as large as that of Minuteman.[18]

More serious than the numerical superiority is the substantial megatonnage advantage enjoyed by the Soviet Union. The enormous payloads of the SS–9's have a destructive capacity incomparably greater than any U.S. missile; they have a wider margin of error; they are effective against hardened missile silos as well as population and industrial centers; and their launch vehicle is capable of far more extensive MIRV systems than any U.S. missile.

Although the U.S. has frozen the number of its ICBM's at 1,054, we have commenced to deploy Minuteman III with MIRV warheads. This is a significant qualitative advance in missile technology. The Soviets are believed already to have deployed MRV's in some SS–9's,[19] and they have recently tested what appears to be a MIRV system for the SS–11 missile, indicating an early capability comparable to Minuteman III.[20]

The qualitative lead of the U.S. in MIRV's and guidance systems may prove to be short lived in view of Soviet success and the scale of its efforts. The Soviet Union's advantage in numbers and megatonnage of missiles also seems certain to increase, as it continues to construct and deploy ICBM's at a rate that could result in a force more than double that of the U.S. by the Mid-70's.[21] At that level of superiority, the Soviet Union would have the capability of effectively destroying both the U.S. ICBM and bomber forces as well as our cities.[22]

Polaris—A vital but limited response

The U.S. is fortunate to have its Polaris force, consisting of 41 atomic powered submarines capable of launching a total of 656 missiles (SLBM's). As in the case of ICBM's, we froze the number of Polaris submarines in the mid-60's and no new ones are authorized.

We have commenced the conversion from Polaris to the Poseidon configuration, increasing the size and range of the SLBM warheads. The Defense Department projects the ultimate conversion of 31 submarines, although only eight have been authorized by the Congress.

The U.S. superiority in this category of strategic weapons is also being challenged. The Soviet Union is now engaged in a priority construction program for its Y-class atomic powered submarine which is superior in some respects to Polaris. Ten of these submarines are believed to be operational, each with 16 SLBM's, and the Soviet Union is producing as many as eight to ten new vessels per year in two shipyards. By 1974–75, if this program continues, the Soviet Union will have some 50 Y-class subs with a missile capability greater than our present Polaris force.

Y-class submarines are already patroling the U.S. coast. Their deployment constitutes an ever-present threat to the survivability of our national command headquarters, to most of our major cities, and increasingly to the bomber element of our deterrent.[23]

Balancing the two SLBM forces against each other is not meaningful without considering the relationship of other strategic weapons systems and their survivability following a preemptive strike. If, as indicated above, the Soviet ICBM force attains the capability of destroying or neutralizing our ICBM and bomber forces, the only remaining retaliatory strategic weapon system would be Polaris.

But is it prudent, by tolerating an increasing Soviet ICBM superiority together with a rapidly expanding SLBM capability, to risk the security of the U.S. on a single retaliatory system which we do not plan to enlarge (except qualitatively) and which has definite limitations? Of our 41 Polaris submarines, a significant number are always in port and nonoperational. This means that at any given time our Polaris "assured retaliation" is considerably less than the specified total capability. Soviet strategists may conclude, as their ABM system is extended and improved, that—following a massive preemptive first strike—the damage potential of our SLBM response would be an acceptable risk.

Moreover, there can be no assurance that the presently assumed invulnerability of Polaris will continue.[24] As the Senate Armed Services Committee has said: "We cannot assume that our Polaris system will be the first weapon in history to remain invulnerable."

STRATEGIC BOMBERS

The third element of the U.S. strategic force consists of about 550 B–52 bombers,

as compared with some 200 Soviet strategic bombers. Although a vital weapons system for many years, the subsonic and obsolescing B–52's are approaching the end of their effectiveness as a major strategic system. Both the U.S. and the Soviet Union are gradually minimizing their reliance upon existing strategic balance of power for the 70's, one must discount the role and significance of these aircraft.[25]

The misleading "numbers game"

There is a pervasive public misunderstanding as to the comparative strategic capabilities of the U.S. and the Soviet Union. This may well result in major part from the widespread practice—among some of the media and among others who minimize the need for national defense measures—of treating nuclear warheads as if they were fungible. This has sometimes been referred to as the "numbers game," namely, the mere counting of warheads without analysis of megatonnage, range, accuracy, survivability and reliability of delivery.

The typical presentation of comparative strength simply totals "the number of warheads deliverable by the U.S. and Soviet strategic systems." An example, which made first-page news, was a tabulation taken from The Strategic Survey showing the U.S. capable of delivering 4,235 nuclear warheads as against only 1,880 by the Soviet Union.[26] The tabulation apparently added together all ICBM's, SLBM's and each warhead which U.S. and Soviet bombers are capable of carrying. Thus, a single bomb or one air-to-ground missile on a B–52 was equated with a Soviet 25-megaton ICBM.[27] This simplistic type of comparison creates the illusion of abundant security, if not U.S. over-kill capability.

It would be difficult to conceive of a better way to mislead the public than to present—without precise definition and analysis—comparative figures of this kind. Those who present such distortions contribute to the confusion rather than enlightenment of our people.

If one wished to make a dramatic comparison indicating precisely the opposite result, the basis could be deliverable megatonnage rather than numbers of warheads. The 300 Soviet SS–9's, expected to be operational by the end of this year, will be capable of delivering 7,500 megatons with a destructive capability several times greater than the total warhead capacity of our entire ICBM and SLBM forces. While such a comparison would be far more meaningful than the "numbers game," it also would be an oversimplified presentation of vastly complex relationships and components of strategic military power.

Other weapons systems

There are, of course, aircraft carriers and other tactical means (by fighter bomber aircraft and short-range missiles) of delivering nuclear warheads. This is not the place to discuss or balance these out in details.[28] But analysis of the comparative numbers, types and probable employability of these weapons in a time of national or international peril is not reassuring.

The available tactical means of delivery do significantly augment the U.S. strategic forces. It must be remembered, however, that the Soviet and Warsaw Pact tactical forces deployed against NATO possess overall capabilities superior to those of NATO.[29]

This tactical superiority is fortified by the rarely mentioned Soviet intermediate range ballistic missile force (IRBM), a type of weapons system we no longer possess. The Soviet Union has deployed more than 700 IRBM's targeted against Allied and U.S. military forces and the cities of Western Europe. Following a preemptive first strike, with these and shorter range missiles, there would be little American or Allied retaliatory capability remaining there. Indeed, in view of the threat of certain destruction of much of Western Europe posed by Soviet IRBM's, one may question whether NATO would be willing to employ tactical nuclear weapons even against a Soviet attempt to overrun Western Europe with conventional forces.

In short, if the U.S. no longer possess the strategic superiority which has been the ultimate "shield" protecting the European democracies, the tactical imbalance against the West could result in profound new military and political problems.

A Soviet first-strike capability

Our planners in the 60's assumed that if both super-powers had an adequate survivable retaliatory capability neither would risk a first strike. They further assumed that the Soviet leadership would be content with this "balance of deterrence," especially if—by freezing our own program—we permitted the Soviet Union to attain a rough parity of strength. Little consideration appears to have been given to the possibility that the Soviets would not "buy" such a rational program, but rather would seek a capability to neutralize the effectiveness of our retaliatory response.

It now appears that the Soviet Union is developing just such a capability. It is producing and deploying offensive nuclear weapons with the capability, when sufficient are deployed, to destroy the ICBM and bomber elements of our retaliatory forces. At the same time, the Soviet Union is pressing ahead with an anti-ballistic missile system designed to provide a strategic defense against such U.S. retaliatory missiles as might survive a first strike.

It is to be remembered that, with the possible exception of our obsolete B–52 force, our strategic weapons are designed primarily for retaliation against enemy centers of population. They are not designed as counter-force weapons and with their limited warheads are not an effective weapon for destroying Soviet ICBM's in hardened silos. This is in accord with America's irreversible commitment never to make a first strike, and to rely—as a deterrent—on having enough operational missiles *after* an enemy strike to destroy its population centers.

This entire theory becomes untenable if the enemy develops (i) an offensive first-strike capability against our means of delivering retaliatory missiles and (ii) a defensive capability of protecting much of its heartland from such U.S. missiles (e.g. Polaris) as survive the preemptive strike.

The evidence is reasonably conclusive that the Soviet Union is planning precisely these capabilities. This is not to say that a preemptive first strike is intended, but rather that weapons systems which are needed *only* for such a purpose are being deployed:

SS–9 missiles. These missiles, with 25-megaton warheads capable of destroying American ICBM's in hardened silos, are designed as a counter-force, preemptive strike weapon. Warheads of this size are not needed for retaliation against even the largest city. The Soviets are continuing to produce and deploy these monster missiles.

SS–9 with MRV. This multiple reentry vehicle contains a cluster of three warheads each capable of delivering five megatons. Our MIRV warheads for Minuteman III are pigmies by comparison, delivering only 200 kilotons, and are designed—not as counter-force weapons—but to penetrate ABM defenses of enemy cities.[30]

SS–11's buildup. The Soviets also are continuing to produce and deploy SS–11's, despite having attained missile superiority over the static U.S. force. They have now tested what appears to be a MIRV system for their SS–11's, which—when deployed—will escalate the ratio of superiority.

Soviet ABM deployment. The Soviet Union is committing large resources to strategic defense systems, both against missiles and bombers.[31] The Moscow population and industrial area are already protected by the Galosh system, with 67 launchers for multi-stage missiles with megaton warheads.[32] The Soviets are also deploying at about half-a-dozen points around the Soviet Union giant "Henhouse" radars for ballistic missile defense acquisition and tracking. As the radar installation is the long lead time component, it is possible that the Soviets are extending their Galosh ABM system to protect many other areas. They are some five years ahead of the United States in this vital element of strategic power.[33] To the extent that Soviet cities and industrial areas are protected (while ours remain unprotected), the credibility of our retaliatory threat diminishes.

FOBS. The Soviets are developing a fractional orbital nuclear weapons system designed to minimize warning time.[34] This weapon is consistent with a first-strike strategy, as it virtually precludes the possibility of enough warning to fire our missiles or get our bombers off the ground.

Soviet SLBM's. The Y-class submarines described above will have the capability of eliminating most of our B–52 bomber force.[35] Also these SLBM's will constitute a grave threat to Washington, D.C., and to our national command centers.

It is clear from the foregoing and other evidence that the Soviets never have accepted the assumption upon which American strategic planning has been based. The structure of both their offensive and defensive forces strongly indicates that they have planned—and are moving to achieve—a first-strike capability of destroying our urban centers *and* neutralizing our retaliatory weapons except such Polaris submarines as happen to be on station.[36]

In contemplating what risks responsible officials and members of Congress are willing to assume on behalf of the American people, it is well to remember that we have no defense whatever against Soviet ICBM's and SLBM's which now have the capability of killing perhaps half of our population—more than 100 million people—by a surprise first strike.

Soviet "blue water" navy

The weapons described above relate to the Soviet Union's strategic nuclear capability. The growing Soviet Navy is a threat of a different kind, and yet it confirms Soviet intentions to be the world's dominant military power.

For centuries, both under the Czars and more recently under Communist rule, Russia was a land power with limited capability at sea. Virtually landlocked, it was not a maritime power in a "blue water" sense. This has changed strikingly in recent years, as the Soviet Union has now achieved a challenging naval capability. It has the largest conventional submarine fleet; it is moving rapidly to overtake the U.S. in ballistic missile submarines; it has by far the strongest force of surface-to-surface missile-launching ships; and it leads the U.S. in numbers of cruisers, destroyer escorts and patrol boats. Only in aircraft carriers—presumably considered by the Soviets to be vulnerable to missile-launching vessels and aircraft—has the Soviet navy failed to challenge the U.S.

More important than numbers is the quality of the vessels. Although our carrier force is formidable indeed, the U.S. has failed to maintain a balanced navy of modern surface ships. The majority of our fleet vessels are more than 20 years old, many with obsolescing weapons and equipment. By contrast, most of the Soviet fleet is relatively new and modern,[37] often with vessels of greater speed, fire power and more advanced electronics than comparable vessels in the U.S. fleet.[38]

The Soviet naval buildup, like its strategic missile deployment, is a major element in

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the shifting balance of military power. Although not itself a direct threat to the continental United States except the submarines), the new and growing Soviet naval strength affects adversely the diplomatic and economic position of the United States throughout much of the world. It also threatens an historic American policy, namely, freedom of the seas.

The U.S., traditionally a sea power, has extensive worldwide commitments. These range from the defense of U.S. states (Hawaii and Alaska), and its territories and bases, to the protection of American citizens and investments in scores of countries. These commitments also include treaty obligations to our allies, and the supplying of U.S. Armed Forces abroad. Our extensive international trade is essential to the continued prosperity of our people. U.S. commitments in all of these respects can be fulfilled only by maintaining control of the seas, now being increasingly challenged by Soviet naval power.

For some three centuries the British navy preserved freedom of the seas and fostered international trade. There were also other naval powers, including the U.S., Japan, Germany, France and Italy. All of this has changed beyond recognition in a dramatic shift of sea power. All of these navies (except that of the U.S.) have ceased to exist as blue water fleets. England has dismantled its great bases around the world, and the vacuum thus created is being filled by the Soviet Union. The Indian Ocean and the Mediterranean east of Malta are already dominated by Soviet naval power. There are no limits to the seas in which the Soviet navy now operates, as demonstrated by its naval maneuvers.[39]

In the new era—in which a Soviet world order is envisioned by its Communist rulers—this navy will increasingly endanger the most vital diplomatic, military and economic interests of the U.S.

Retreat from the threat

The situation which our country faces is without precedent. For a few years following World War II our national security was complete and unchallenged. In the early 50's the Soviet Union became a nuclear power and, with gradual but increasing momentum, it undertook to challenge American superiority. But we enjoyed marked advantages in our industrial base, our technology, and in the sheer number and quality of strategic weapons. In the 60's our complacency in this respect became so great, and our preoccupation with the Vietnam war so distracting, that we neglected our strategic posture.

As a result, we enter the 70's confronted by (i) a superior Soviet offensive missile capability, (ii) a marked Soviet advantage in defensive missile capability, (iii) a menacing Soviet fleet, and (iv) with respect to all of these, a Soviet commitment and momentum which is quite unmatched in this country. We are also confronted, as Red China orbits its first satellite, with the certainty of a new and growing ICBM capability from that irrationally hostile nation.

Within a span of less than two decades we have moved from complete security to perilous insecurity.

Yet, the response of the public generally, much of the media and many political leaders ranges from apathy and complacency to affirmative hostility—not against the potential enemies which threaten us—but toward our own military establishment and the very concept of providing defense capabilities adequate to protect this country and its vital interests. The state of public opinion is such that some responsible leaders, fully familiar with the threat, believe it is futile to seek adequate defense funding. Thus, we respond as a nation—not by appropriate measures to strengthen our defenses, but by significant curtailments which widen the gap.

In short, the mood of the people and much of the Congress is almost one of precipitous retreat from the challenge. This paradox in response to possible national peril is without precedent in the history of this country.

THE CUTBACK IN DEFENSE SPENDING

It is in this mixed climate of euphoria and retreat that a major retrenchment in America's defense effort has been deemed necessary. The defense budget proposed for FY 1971, totaling $71.8 billion in proposed expenditures, reflects the largest single cutback in defense spending since the Korean War.[40] Yet a significant portion of our political and intellectual leadership is demanding even more drastic reduction.

Difficult budgetary decisions

In addition to the public malasie, it must be recognized that the Administration and the Congress are confronted with extremely difficult budgetary decisions. The problems include (i) pressing and escalating domestic needs, (ii) inflationary costs, (iii) the continuous drain of the Vietnamese war, and (iv) the imperative necessity of a budget more nearly in balance after years of deficits.

Quite apart from public and political pressures, there is an obvious need for some restructuring of national priorities as well as the effecting of all possible economies. The impact of all of these pressures centered on the defense budget, which the Secretary of Defense describes as a "bare bones" one. It is also recognized as "transitional," pending to some extent the outcome of the SALT talks and affording time for a more penetrating analysis by the new administration of defense needs, options and priorities.

Inadequate funding

As understandable as the resulting budget may be, it entails the assumption of defense risks which seem unjustified.[41] The $71.8 billion dollars proposed for FY 1971 is $9.8 billion below the Johnson administration budget proposal for FY 1970, and constitutes 7% of estimated gross national product—the lowest percentage since FY 1951. This proposed funding would constitute 34.6% of the total federal budget, the lowest commitment to defense since FY 1950.[42]

Greater Soviet effort

There has been no comparable restraint exercised by the Soviet Union either with respect to overall defense spending or the funding of its strategic programs. On the contrary, the trend of Soviet defense spending continues steadily upward. Its total military funding about equals that of the U.S., although its gross national product (GNP) is barely half that of this country. If expenditures on the Vietnam war are excluded, the total Soviet effort substantially exceeds that of the U.S. But the mix of the spending is especially meaningful in view of its effect upon the strategic balance of power. The Soviet Union is spending significantly more than the U.S. in the buildup of its strategic offensive and defensive weapons.[43]

The results of this greater Soviet effort are now reflected in their dramatic gains in ICBM's, SLBM's and other advanced weapons systems. If we continue to permit the Soviet Union to outdistance the U.S. in defense effort, it is inevitable that the security of this country will be endangered. As Secretary Laird has warned:

"Time and again in our past history our nation has paid a heavy price for allowing its armed forces to dwindle to levels that proved to be too low to discourage or to counter aggression." [44]

In view of the crescendo of demands for further reductions in defense spending, we may be well along the road to reliving this past history.

THE THREAT TO TECHNOLOGICAL SUPERIORITY

There are three disturbing trends in defense funding: (i) the magnitude of the overall reduction, (ii) the unfavorable balance between Soviet spending on strategic forces as compared to our effort, and (iii) a similar unfavorable balance in the critical area of research and development (R&D). Of these, perhaps the last is the cause for greatest concern.

Soviet challenge to U.S. technology

The U.S. has enjoyed a clear technological superiority over the Soviet Union and all other countries until recently. It has been this qualitative superiority, rather than the size of forces or numbers of weapons, which has enabled America to deter major war and protect the Free World during the past quarter of a century. This superiority is today being successfully challenged by the Soviet Union.[45]

In addition to talented leadership and the necessary industrial base, the essential ingredients of a vital and competitive technology are skilled manpower and adequate R&D funding.[46] The U.S. is falling behind the Soviet Union in both of these respects.

More graduate engineers

As of 1969, the Soviet Union was believed to have about 550,000 full-time R&D scientists and engineers, as compared with about 540,000 in the U.S. But the Soviet Union is graduating annually a substantially greater number of engineers than the U.S., and its technically trained manpower base is projected steadily to outdistance that of the U.S.[47]

Greater funding of R. & D.

Comparative funding data for military-related R&D (including space/atomic energy) in the Soviet Union and the U.S. reflects a similar disparity. Soviet annual funding for this purpose is now estimated at about $16 to $17 billion as compared with U.S. funding of about $13 to $15 billion. Again, the trend is also adverse as the Soviet military R&D effort during the 1960's increased by about 60% while that of the U.S. increased 30%.[48]

Secretary Laird has pointed out that "the Soviet Union is devoting more effort to military-related R&D than is the U.S.," with its rate of such expenditures increasing "about 10–13% annually" while comparable U.S. expenditures "remain relatively constant." [49]

Threat to Minuteman

In relating our need for the most advanced technology to the Soviet threat, Dr. Foster has testified that by early 1974 the Soviet Union, if it continues its ICBM production and deployment, will be able "completely to overwhelm the present Minuteman portion of our deterrent." [50] He stated that the Safeguard program (ABM) should improve the survivability of a significant fraction of the U.S. land-based missiles. But the long-range survivability of an adequate number of our ICBM's canno⁺ be assured without a more extensive and effective ABM system than has been proposed. The critical necessity of providing alternative measures is now a priority task of R&D.[51] Dr. Foster cited this problem as one example of the frightening way in which advancing technology obsolesces both offensive and defensive weapons and even entire weapons systems. Indeed, he states a "major restructuring of our strategic forces may be necessary to insure survivability." [52]

Lead Time—A free society handicap

The problem of "lead time" in weapons development is particularly acute in competition between an open and a closed society. The time span between initial R&D and deployment may range from five to fifteen years, depending upon complexity and rapidity of new developments requiring changes or re-

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designing. In a Communist state, where secrecy is both an obsession and a way of life, the development of a new weapon may be concealed—even from our most intensive intelligence efforts—until testing begins or often until the completed weapon is displayed in Red Square. This gives the Soviet Union and Red China at least a five-year time advantage in developing new weapons systems. If a major technological breakthrough should catch us by surprise the results could be catastrophic.[53]

Hope of survival—Technological superiority

There is no way completely to guard against the possibility of some dramatic and concealed technological advance in weaponry. But this risk is minimized directly in proportion to the extent we maintain an overall superior technological base and a more effective R&D effort than any other nation.

It is precisely here that recent trends create serious doubts as to the future security of this country. The United States can never match its potential enemies in land armies or in numbers of tactical weapons. Our only hope of survival is to maintain clear weapons superiority. This simply cannot be achieved by permitting our industrial and technological manpower bases to erode and by inadequate emphasis on R&D.

No subject in the entire spectrum of defense problems deserves a higher priority of thought and urgent attention.[54]

NEGOTIATIONS—TRAP OR OPPORTUNITY

One of the reasons assigned for the "transitional" budget proposed for FY 1971 is the hope that the present Strategic Arms Limitation Talks (SALT) will be fruitful. Some political leaders have urged even greater restraint than that reflected in the reduced budget, arguing—despite all experience to the contrary—that the Soviets might be influenced favorably by our example.

The object of SALT

There are obvious reasons for seeking to halt the escalation of nuclear weapons. The logic of the situation—at least on the surface—calls for a "freeze," which seems such a facile and popular solution. In simplest terms, the object of SALT is to agree upon a limitation—and perhaps a gradual reduction—of strategic nuclear weapons. An effective agreement to this end which does not leave either side at the mercy of the other, which does not in itself alter the balance of power, and with procedures to assure compliance, would be welcomed by most of the world. SALT therefore deserves the most careful attention, as all avenues toward a more peaceful world must be explored.

Disarmament talks—Record of failure

But whatever the hopes and opportunities of SALT may be, there is no precedent in history of effective disarmament being accomplished by agreement between major powers with divergent national interests. Nor has U.S. experience been reassuring. There is nothing new about our seeking disarmament through negotiation. This has been the most consistent element in American foreign policy since the beginning of the nuclear age. Few seem now to remember the U.S. offer to prevent an atomic arms race by delivering its stockpile to the United Nations—an offer rejected by the USSR. Periodically since then various efforts to slow or halt the arms race by negotiation have been frustrated in every instance by the intransigency of the Soviet Union.

It is true that three negotiations have been successful in the sense that limited agreements were reached on important issues. Yet none of these agreements has slowed the pace of the Soviet armaments or its manifest quest for superiority. Indeed, we may have magnified and perhaps even misconstrued the significance of such agreements.[55]

Communist concept of negotiation

All Americans would like to think—despite the absence of convincing evidence—that the Cold War is over and that we have indeed entered a new era of negotiation. Our desire for peace is so strong and our national inclination to assume reciprocal friendliness and rationality so genuine, there is danger that we may assume without justification a similar spirit on the part of the Soviet leaders.[56]

But it is prudent to remember that the Communist concept of negotiation is radically different from ours. They view it as a component of conflict, with the objective of gaining an advantage without conceding anything. The classic description of the Soviet approach is as follows:

"Soviet officials do not converse with foreigners: they compete. There is no searching for understanding in conversation as we understand it in the West, no effort at accommodation of the mind, not even the slightest hint or suggestion that the Soviet Union has ever done anything that was in anyway wrong or even unwise, imprudent or intolerable. Their idea of give and take in a talk is simple: You give, they take." [57]

Few American diplomats have had greater experience in attempting to negotiate with Communists than Dean Acheson. Writing his autobiography with the sober perspective of time, he said:

"What one must learn (from our experiences) is that the Soviet authorities are not moved to agreement by negotiation—that is, by a series of mutual concessions calculated to move parties desiring an agreement closer to an acceptable one." [58]

Humiliation and futility

The dreary and frustrating record of negotiating with Communists abundantly documents the foregoing views.[59] One need not go back to the disillusionments of Yalta and Potsdam, to the exasperating negotiations over Berlin, or to the recurrent disarmament talks which have foundered on the Soviet determination to take all and give nothing. The past failures are legion and recent experience affords little basis to expect anything different. Seventeen years of humiliating effort have failed to produce a negotiated settlement of the Korean War, and the mockery in Paris has now continued for nearly two and one-half years. It will be said that the Soviet Union has not been a direct party to the Panmunjon and Paris talks. Yet no one familiar with the realities of world power and politics doubts that the Soviets could make these discussions meaningful whenever they so desire.[60] Rather, they continue to support the aggression in Southeast Asia and the threat of aggression in Korea, while the "peace" talks are exploited for Communist propaganda.

The most recent example of the unwisdom of relying upon USSR assurances is its role in sabotaging the Middle East cease fire by supporting, if not participating in, the violation thereof by the UAR.[61]

Trap for the unwary?

This is the historical framework in which all negotiations with Communist powers should be viewed. We must continue to hope and to strive for a genuine change of attitude and for some constructive results. In the nuclear age, every opportunity to negotiate and to improve channels of communications must be pursued. But there is always the danger of fatal concessions or even of a deliberate trap.

The Soviet Union has been an unpredictable and aggressive power, certainly for the past 30 years.[62] It has acted with stealth, surprise and ruthlessness—when it attacked Poland in concert with Nazi Germany; when it subjugated its allies, Hungary and Czechoslovakia; and when it moved to deploy missiles in Cuba.

The Soviet Union has been making a massive effort, out of all proportion to its own resources or any external threat, to acquire and extend strategic nuclear superiority over the U.S. Its record of feverish military preparation is unequaled since Hitler—determined upon conquest—structured his Wehrmacht for World War II. The Soviet Union has shown an almost paranoiac hostility toward America and "capitalist imperialism," as evidenced by its consistently hostile conduct in every arena of international affairs and by its pervasive anti-American propaganda for a quarter of a century.

Only the reckless or the naive would negotiate with such an adversary except with the greatest caution and skepticism. Likewise, we would indeed risk the security of our country if defense planning and funding are predicated on assumptions or hopes as to the willingness of the Soviet Union to agree to mutually fair and enforceable disarmament.

As President Nixon well said, "we cannot trust our future to the self restraint of countries that have not hesitated to use their power even against their allies." [63]

Strategic implications of a "freeze"

It is possible that the Soviet Union sees SALT as an opportunity to assure indefinitely for itself, by agreement, a position of military superiority. This would be accomplished if we were foolhardy enough to agree to an arms limitation which left the U.S. vulnerable to a Soviet first-strike capability or which otherwise undermines the credibility of our capacity effectively to retaliate. But one may assume that U.S. negotiators will not commit such egregious folly.

There may be a less visible danger. The Soviet Union could strengthen its overall military and political position by an agreement which freezes strategic capabilities at some level of specified parity. Even if it be assumed that the result would be genuine strategic parity [64]—rather than the freezing of the present Soviet advantages—the consequences could still be profound in terms of total military power and diplomatic influence.

The Soviet Union is appreciably stronger than the U.S. in tactical forces and weapons. Moreover, the Soviet Union has some 700 IRBM's deployed within convenient range of defenseless Western European cities and NATO forces. The Soviet tactical forces—capable of overrunning much of the land mass of Europe, Asia, and Asia Minor—have been restrained for the past quarter century by the "shield" of the U.S. superior strategic nuclear forces. If this shield is neutralized by agreement, what restraints will then exist against Communist non-nuclear aggressions?

If such a neutralization occurs, the implications are disturbing and far reaching. Will the Soviet Union be emboldened to employ its superior tactical capabilities, secure in the knowledge of an agreed strategic standoff? Will the posture of NATO forces thereby become so untenable that the countries of Western Europe deem it prudent to move into the orbit of Soviet influence? Or, to forestall such an unwelcome move, will the U.S. find it necessary substantially to augment our NATO tactical forces? What will be the effect upon U.S. influence and interests in other friendly countries around the world?

These and related questions bring the SALT negotiations into sobering perspective. One may doubt, without in any way denegrating the importance of SALT, whether such questions have received the public discussion and scrutiny which they so manifestly deserve.

Footnotes at end of article.

THE HOSTILITY TOWARD THE MILITARY

One of the trends in this country—perhaps the most fundamental one—which causes concern is the increasing public hostility toward "the military." This is not the place for a full discussion of this gravely disquieting problem. Some aspects of it are alluded to in the body of the Panel Report, and a brief reference is made above to the effect on defense funding. But the consequences of a largely hostile or even an apathetic public are not limited to reduced military spending. The entire structure of our defense edifice suffers when there is inadequate public understanding and support. It may be fatally undermined where public opinion is not merely negative but aggressively hostile.

Revolution on the campus

Already this level of hostility exists on the college campus and the virus is spreading. There is a widespread revulsion to the Vietnamese war and resentment of the draft, with its disruption of life plans. It is understandable, and in accord with our best traditions, that the young people who are asked to serve in the military forces should be concerned and skeptical. They have every right to ask why, to debate the assumptions and judgments with respect to defense needs, and to disagree with them. This right is acknowledged and should be jealously defended.

But there are militant and revolutionary minorities on many campuses who abuse this and other rights in their desire to destroy American institutions. A favorite tactic is forcibly to deny free speech to all who entertain different views, relying not on reason and rational discussion but on coercion and violence. Examples of this fascist-minded conduct are legion. They have demeaned the life and quality of education on some of most prestigious campuses of this country.[65]

The hostility gains support

The greatest cause for concern is not that a few thousand New Leftist revolutionaries are on the move. Rather, it is that they—and their lawless conduct—are tolerated and often supported by a broad base of otherwise responsible students, faculty and even college administrators and trustees.[66] Many of the tactical "causes" of the New Left have acquired a broad appeal. Foremost among these is a crusade against the Armed Services, the Defense Department and—the favorits whipping boy of all—the "military-industrial complex." [67]

We have witnessed all too frequently the disheartening spectacle of avowed revolutionaries being accorded respectability by many fellow students and faculty members as well as by the national publicity so generously provided by the media. Among the most popular campus speakers are these leftists whose goal—in accord with Communist objectives—is to disarm America.

A movement of this magnitude does not remain confined to the campus. It has widened rapidly to engulf a significant segment of opinion makers in this country. Most of those who now participate in the criticism certainly do not go as far as the leftist extremists. Many remain well within the limits of legitimate comment and criticism. But the outcry against "the military" is now orchestrated with frightening unanimity—not only on the campus but by much of the media, in the theater and arts, and widely among some politicians. We may have reached what amounts to a subtle form of censorship by consensus. Few are willing to speak out in defense of the military, and even fewer in support of increased defense funding. The public figures who have the courage to present a "different" viewpoint are predictably assailed as "warmongers" and "jingoists."

One has to go back to the days of McCarthyism to find such intolerance and repression of rational discussion of issues of the gravest national import.[68]

The consequences

The short-range consequences already are becoming apparent. Marked success has been attained in slandering the ROTC, in driving military recruiters from the campus, in denying recruiting opportunities to defense-related industries, and in some curtailment of university-based military-related research and development. The number of draft dodgers and deserters, encouraged not merely by revolutionaries but by many who consider themselves respectable citizens, is a cause for increasing concern.[69]

Other predictable consequences of this hostility include the adverse effect (i) on the general recruiting and retention of military personnel; (ii) the number and quality of applicants for the service academies; and (iii) on the morale and espirit of the Armed Services of our country, both at home and abroad.

There also will be an inevitable weakening of the American concept of civilian orientation of the military. Some of the institutions and practices which are prime targets of the New Leftists tend significantly to perpetuate educated civilian influence on our military affairs and establishment. One would have thought that those who distrust "the military" would be zealous to strengthen—rather than undermine—this wholesome influence.

In its broadest scope, the result of the widening public alienation from the military will be the weakening of the defense of our country and freedom everywhere. This is precisely the end desired by the revolutionaries.

The role of responsible dissent

It should be made clear at this point that no thoughtful person suggests that the military, or any aspect of national defense, is above criticism. The role of responsible criticism and dissent is vital to the health of a democracy, and for the reasons pointed out by President Eisenhower there must ever be a vigilant public overseeing of the defense establishment. This is necessary to assure the civilian control prescribed by law. It is also necessary because, in a troubled world with nuclear weapons and huge defense requirements, national security is too important to leave to the military, to Congress, to the Executive Branch or indeed to any single segment of our society. An appropriate national defense posture, adequate but not excessive, is a matter of the most urgent national concern, and every aspect of it should be subjected to the widest and most thoughtful scrutiny and inquiry.

But it is one thing to exercise responsibly these attributes of democracy. It is quite something else—by resort to irrational abuse and indiscriminate criticism—to destroy the effectiveness of the only instrumentality which protects from foreign aggression the freedoms we all cherish.

A VIABLE NATIONAL STRATEGY

Unless the American people wish to accept the status of a second-rate power—with all of the probable consequences—the only viable national strategy is to regain and retain a clearly superior strategic capability. This can be accomplished by reversing the trends identified above, and by eschewing agreements which freeze the U.S. into a second-rate status. The margin of our overall strategic strength must be sufficient to convince the most reckless aggressor that, even after a surprise first strike, the capability to retaliate will in fact survive and be adequate to impose unacceptable destruction on the aggressor nation. This course of action is not incompatible with continued negotiations for arms limitations. Indeed, it will significantly enhance the chances of negotiations being genuinely fruitful without constituting a trap.

The requisite resources

It will be said that domestic needs should have priority and that we cannot afford to continue an "arms race" with the Soviet Union. The truth is that this country can and must meet both its domestic and defense requirements. If we fail in either, there is little future for America as we know it or for our cherished freedoms.[70]

The U.S. has all of the requisite resources, except perhaps the will. The Soviet Union has a gross national product only half that of this country. It lacks a comparable industrial and technological base, and it has a backlog of domestic demands which—suppressed as they may be—vastly exceed those of this country. Indeed, in terms of consumer goods and standard of living the Soviet Union is at least a half century behind the U.S. In any contest to establish and maintain a superior military capability, we have an overwhelming advantage in the necessary resources.

Need for public understanding

But in our free democracy, as contrasted with a totalitarian regime, the ultimate defense posture is determined by the will of the people. It is here we suffer a serious disadvantage, especially at a time of disillusionment with international responsibilities and a greater concern with pressing domestic needs. The only hope of minimizing this disadvantage is to assure a wider public knowledge of the facts and an understanding of the probable consequences of second-rate military status.

THE CONSEQUENCES OF SECOND-RATE STATUS

The American people must be reminded that basic Communist dogma contemplates the employment—over such time span as may be necessary—of the entire arsenal of pressures against the U.S. as the strongest democratic power. Despite discord among Communist states, there has been no amelioration of this doctrinal goal. Throughout the past quarter century, when the Soviet Union was relatively weak strategically, it precipitated or supported crisis after crisis—directly or through puppets and satellites—designed to extend its influence and to create disarray within the U.S. and the Free World. Throughout this time it waged, as did Red China, massive political warfare against the United States, including subversion and propaganda as well as economic and diplomatic pressures. Nor did the Soviet Union hesitate to employ techniques of military blackmail.

It is irrational to think, with the balance of military power now shifting dramatically in its favor, that the policies of the Soviet hierarchy will be less hostile, disruptive and imperialistic.

A recent study of Kremlin policy noted the Soviet effort to achieve nuclear superiority, and commented:

"Presenting the world with a clear cut superiority in numbers of nuclear weapons may appear to some leaders in the Kremlin a feasible political means for consolidating its own alliances and disintegrating the opposing forces. Such a major shift in the world-wide balance of power may also heighten the risk of confrontation, with vast costs in the present and unforeseeable dangers in the future." [71]

As our country ponders its future course, drifting as we are into a position of inferiority or possibly even freezing that status by agreement, our people—as well as responsible officials—should consider the capability of the U.S. to respond in the types of situations which are likely to arise in the 70's and beyond, and which may include: (1) a Soviet-inspired and supported war against

Footnotes at end of article.

Israel; (ii) some other form of Soviet takeover of the Middle East, with its coveted oil reserves; (iii) a new confrontation over the status of Berlin; (iv) extension of the Brezhnev doctrine to selected non-Communist countries; (v) another Cuban-type crisis, perhaps in Latin or South America if not again in Cuba; (vi) nuclear blackmail over issues affecting our vital interests; (vii) the disruption, by force or other sanctions, of the international trade upon which the economic well being of our people depend; (viii) intensified levels of subversion to the point of threatening our internal security; and (ix) outright aggression against allies—in Western Europe or elsewhere—whom we are committed to defend.

It is difficult to believe that the proud and responsible people of this country would knowingly tolerate a national strategy which could invite these types of situations, leaving us virtually helpless to respond effectively. Certainly there would be no conscious toleration by a majority of our people of defense weakness which threatens national security and freedom itself.

WEAKNESS—THE GRAVEST THREAT TO PEACE

The most ominous danger of being second rate in the nuclear age is that it multiplies the chances—not of peace—but of nuclear war. Soviet or Red Chinese overconfidence or miscalculation in the employment of, or threat to use, their power may trigger such a war inadvertently or place the United States in a posture from which there could be no retreat.

The road to peace has never been through appeasement, unilateral disarmament or negotiation from weakness. The entire recorded history of mankind is precisely to the contrary. Among the great nations, only the strong survive.

Weakness of the U.S.—of its military capability and its will—would be the gravest threat to the peace of the world.

FOOTNOTES

[1] U.S. Foreign Policy for the 1970's, Report to the Congress by President Nixon, Feb. 18, 1970, p. 122. (Referred to herein as the President's Report.)

[2] Defense Report for Fiscal Year 1971, by Secretary Laird before the House Subcommittee on Defense Appropriations, Feb. 25, 1970, p. 1. (Referred to herein as the Laird Report.)

[3] It should be remembered here that in recent years intelligence projections frequently have understated these capabilities. Laird Report, *supra*, pp. 34, 101.

[4] The folly of relying on assumptions as to intentions, rather than upon known capabilities, is documented by countless military surprises down through history. Pearl Harbor is a classic example. More recent examples involving the Soviet Union include the Cuban Missile Crisis and Czechoslovakia. See Senator Henry M. Jackson, Senate Speech, July 9, 1969.

[5] Plans to withdraw 20,000 American troops are opposed by the South Korean government. As indicated in a recent on the scene report "there is no real peace in Korea today." N.Y. Times, article by Philip Shabecoff, June 24, 1970.

[6] Mao Tse-tung recently issued a fresh indictment against the U.S., calling for a "protracted peoples' war" against American "imperialism," and concluding: "People of the world, unite and defeat the U.S. aggressors and all of their running dogs!", N.Y. Times, May 21, 1970.

[7] The Suez Canal has other strategic significance. The Soviet Union continues to supply North Vietnam by sea. Soviet ships from Black Sea ports now require nearly 40 days to reach Vietnam by sailing around Africa.

[8] See The Military Balance 1970–71, The Institute for Strategic Studies, London, p. 45.

[9] See editorial comment, The New York Times, September 20, 1970. The Soviet Union also shared responsibility for Syria's brief but dangerous intervention in Jordan's September 1970 civil war.

[10] The recent Soviet-West German nonaggression pact may result in some surface lessening of tension, but as long as Soviet ground, air and missile forces are maintained in Eastern Europe, with the capability of overrunning and destroying Western Europe, there can be no assurance of peace and freedom.

[11] The Brezhnev doctrine, announced as justification of the invasion of Czechoslovakia. In commenting on this proclaimed right of aggression, the New York Times said: "This reliance on force and contempt for law must raise fears that some day Moscow will decide that the sovereignty and territorial integrity of non-Communist nations is also being interpreted" in a way which justifies Soviet intervention. New York Times editorial, Sept. 28, 1968.

[12] Only U.S. superior military strength frustrated the Soviet plan to install strategic missiles in Cuba, although history may record that U.S. concessions assured an unmolested Communist regime and base in Cuba.

[13] C. L. Sulzberger, foreign correspondent of The New York Times, recently commented on the "neo-isolationism" in this country, and noted that "U.S. influence is being slowly squeezed out" of Western Europe, the Middle East and Southeast Asia. New York Times Service, Richmond Times-Dispatch, July 24, 1970.

[14] This paper addresses primarily the Soviet threat which is clearly paramount for the 1970's. There is no thought of minimizing the threat of Red China, the leadership of which is so implacably hostile to the U.S. and to a lesser extent the Soviet Union. It is possible that in the long run Red China is more likely to rupture peace than any other nation.

[15] See also Mr. Laird's address of April 20, 1970, at the Annual Luncheon of the Associated Press, N.Y. Times, April 21, 1970; and data reported in *The Military Balance* 1970–1971, published by The Institute for Strategic Studies, London, 1970.

[16] President's Report, p. 120 and Secretary Laird's Report, p. 35. See *The Military Balance, supra*, p. 6, which reports about 1300 operational ICBM's in July 1970. Intelligence estimates of the number of ICBM's actually deployed are extremely accurate. But estimates of production rates (and hence future operational strength) have consistently erred on the low side. See Laird Report, p. 34.

[17] Secretary Laird's Report, p. 35. The Soviets are continuing to produce SS–9's at a rate of about 50 per year, and will have some 300 by the end of this year. See Laird, Address of April 20, 1970, *supra*. The Institute for Strategic Studies, based in London, publishes annually *The Military Balance* (cited *supra*) and a complementary publication entitled *The Strategic Survey*. Although there are variations in detail as to types and numbers of weapons, the data published by The Institute for Strategic Studies generally corroborates the unclassified information of the U.S. Defense Department.

[18] See *The Military Balance, supra*, p. 6, which credits the Soviet Union with 800 SS–11's, with deployment continuing.

[19] The distinction between MRV and MIRV is that in the former the multiple separate warheads are not independently guided to targets.

[20] Secretary Laird estimated last February that if the Soviets follow a "High Force-High Technology" approach they will probably have their first "MIRV's by mid-1971 and a very formidable hard target kill capability (by MIRV's) by the mid-1970's." Laird Report, p. 104. The recent Pacific testing of multiple reentry vehicles on improved SS–11 missiles indicates the Soviets are significantly ahead of this schedule.

[21] See Laird Report, p. 103. Secretary Laird recognized that this cannot be a firm estimate at this time.

[22] See Dr. John S. Foster, Director of Defense Research and Engineering, Statement before Subcommittee of House Armed Services Committee, March 9, 1970, p. 9 *et seq.*; Laird Report, pp. 48, 49, 103, 104. See also The Strategic Survey of 1969, *supra*, pp. 30, 31 where the "new and more accurate guidance systems" are discussed, and the conclusion reached: "The whole future of land-based ICBM's has been called into question (by this improved accuracy), since it begins to seem possible that no amount of protection for ICBM silos can compensate for the improvements in accuracy now in prospect." This judgment by The Strategic Survey applies primarily to the vulnerability of U.S. missiles.

[23] See Secretary Laird's Report, pp. 39, 40 and 50.

[24] A technological breakthrough in the underwater detection and tracking of submarines could give the first nation to achieve it a decisive advantage. See Interview with Dr. John S. Foster, Jr., Air Force/Space Digest, July 1970, pp. 31, 35. It has been suggested that such a technological breakthrough may be achieved by "sensing devices that could reveal every submarine in the oceans to detection." See news report on a Pre-Pugwash Conference on New Technology and the Arms Race, Racine, Wisconsin. The Washington Post, Sept. 9, 1970, p. A–3.

[25] The U.S. has plans for a test model of a new supersonic bomber (B–1). A force of such bombers capable of long distance air-to-ground launches would add flexibility and diversity to our deterrent capability, and also would be useful in limited, non-nuclear confrontations. Such bombers must be designed, however, to operate from numerous smaller and dispersed airfields to minimize vulnerability from ICBM's and SLBM's.

[26] The Strategic Survey of 1969, *supra*, p. 28. It is not suggested that the Survey itself was misleading. The tabulation which received the wide press publicity was *only one* of many tables in the Survey, which also included a great deal of relevant data on megatonnage, accuracy and survivability.

[27] Of the total warheads assigned to the U.S. 1,853 represent the optimum load of our B–52 force, while 450 were assigned to Soviet strategic bombers. A similar distortion of SLBM's apparently was included in the tabulation, assigning 1,328 warheads to Polaris submarines.

[28] This Statement addresses broadly the strategic balance of power and does not discuss comparative tactical or general force capabilities. Secretary Laird's Report, and especially the appendices, indicate the superiority of the Communist powers in non-nuclear military power. See also the publications of The Institute of Strategic Studies, *supra*.

[29] Gen. Andrew J. Goodpaster, Supreme Allied Commander in Europe, has warned that "the balance of security there is shifting in favor of the Soviet bloc." He stated that the Warsaw Pact forces "form a concentration of military power that exceeds anything the world has previously seen. These Soviet forces far exceed anything that is required solely for defense." Richmond Times-Dispatch, September 16, 1970.

[30] William Beecher, writing in the N.Y. Times, Oct. 28, 1969, assumes a 100 kiloton warhead on our MIRV, and states that the Soviet MRV warhead is *50 times* more powerful than our MIRV. The Strategic Survey for 1969, *supra*, p. 29, assumes a 200 kiloton warhead on MIRV's. See also Laird Report, p. 102, as to Soviet MIRV.

[31] As a part of this protection, the USSR

has deployed the most elaborate radar warning and counter-measure systems. It also has devoted a greater effort than the U.S. to advanced fighter interceptor aircraft (the Foxbat, for example) and to ground-to-air missiles, with larger defense forces in these categories than the U.S.

[32] *The Military Balance* 1970–71, *supra*, p. 7.

[33] Although critics in this country doubt the feasibility of an ABM system, one must assume the Soviets would not be spending billions on such a system unless they had full confidence in its effectiveness. Dr. John S. Foster, Jr., and many qualified U.S. scientists, have no doubt that an effective ABM system is within the competency of existing technology. See interview with Dr. Foster, published in Air Force/Space Digest, July 1970, p. 31 *et seq.* See evidence marshalled by Sen. Henry M. Jackson in his ABM debate speeches to the Senate on Aug. 6 and 11, 1970. A major component of the ABM system, the Spartan missile, successfuly intercepted an ICBM over the Pacific in a test on August 28, 1970.

[34] President Nixon's Report, *supra*, p. 125.

[35] Secretary Laird has stated that by the mid-70's the Soviets will probably have "a submarine force capable of destroying most of our alert bomber and tanker force before it can be airborne." Secretary Laird's Statement, pp. 50, 105. The Defense Department confirmed for the first time on April 23, 1970 that Y-class Soviet submarines, with 16 nuclear missiles are patroling our Atlantic Seaboard. N.Y. Times, April 24, 1970. Secretary Laird reports that as of April 1970 the Soviets had over 200 operational launchers on nuclear submarines for submerged launch SLBM's, plus 70 launchers on diesel submarines. Laird's address, *supra* p. 11.

[36] Senator Jackson recently informed the Senate that "there is no doubt that their (the Soviet's) program, if continued, will produce a first-strike capability unless the U.S. takes appropriate counter measures." Senate Speech, Aug. 5, 1970.

[37] The Soviets have been more innovative than the U.S., having pioneered in gas turbine propulsion, in developing a variety of surface-to-surface missile-launching ships, and possibly in new techniques of ASW.

[38] Nor have the Soviets neglected the support elements for world-wide naval operations. They have tankers, supply and maintenance vessels, supported by an impressive merchant marine fleet. They also have emphasized, more than any other nation, oceanographic studies and surveys. Their trawlers—used extensively for intelligence purposes—regularly patrol our coasts.

[39] In April 1970 Soviet maneuvers, described by U.S. Navy spokesmen as the "biggest in history," involved some 200 warships. Associated Press story, April 23, 1970.

[40] Laird Report, *supra*, p. 21.

[41] Secretary Laird warned that in defense funding and in the deferral of decisions on vital defense measures "we are literally at the edge of prudent risk." Address of April 20, *supra*, p. 5.

[42] Laird Report, *supra*, p. 22. The detailed facts and figures are set forth in the Reports of the President and the Secretary of Defense mentioned above. These include a comparison which indicates the neglect of strategic funding (after adjusting for inflation) since the beginning of the Vietnamese war. The FY 1971 defense funding is only $3.8 billion, or 7% above the 1964 level of defense spending *prior* to the Vietnamese war. As the cost of that war has been running at more than $25 billion per annum, it is evident that strategic spending—for the defense of the country—has been curtailed sharply.

[43] It is difficult to know exactly what the Soviet Union is spending on defense. The statements above reflect estimates published by various sources. See Department of Defense Posture Statements, Jan. 15, 1969; Library of Congress studies; and Stanford Research Institute Studies. Mr. Laird has said that "the Soviet Union, as far as offensive strategic weapons systems, is outspending the U.S. in the ratio of three to two converted to dollars." Press conference, Feb. 18, 1969. See also address of Sen. Henry Jackson, U.S. Senate, Aug. 6, 1970.

[44] Laird Report, *supra*, p. 33.

[45] Testimony of Dr. John S. Foster, Jr., Director of Defense Research and Engineering, before a subcommittee of the House Armed Services Committee, 91st Congress, March 9, 1970. See also the Reports of the President and the Secretary of Defense, *supra*.

[46] Other essentials to the development and deployment of advanced weapons systems relate to procurement and defense planning, contracting and testing. These and related matters are discussed in the body of the Panel's Report.

[47] See Foster, *supra*, p. 28.

[48] See Foster, *supra*, p. 30 *et seq.* Dr. Foster points out that total R&D spending, both civilian and military, is still greater in the United States, but the trend is unfavorable even with the addition of our non-military, related effort.

[49] See Laird's Report, *supra*, p. 66.

[50] Foster, *supra*, pp. 9, 10.

[51] Alternative systems under consideration include (i) the mobile basing of Minuteman-type missiles, and (ii) an undersea long-range missile system (ULMS's) with submarines capable of launching missiles of ICBM range. Dr. Foster, *supra*, p. 12. Secretary Laird's Statement, pp. 48, 49. The Soviets may already be well ahead of the U.S. in developing a mobile ICBM. The Strategic Survey for 1969, *supra*, at p. 29, states: "A mobile ICBM has certainly been under development for some time, and the Soviet Union has claimed that it is already operational."

[52] Foster, *supra*, p. 14; Laird Report, *supra*, p. 49.

[53] Science and Technology, Tools for Progress, report of the President's Task Force on Science Policy, April 1970, p. 38: "Technology will not stand still; on the contrary it will likely move more rapidly. The penalty for technological surprise can be enormous."

[54] Other problems related to technology and R&D have been identified in the main body of the Panel's Report.

[55] The first of these, the Test Ban Treaty of 1963, halted nuclear testing in the atmosphere. The Soviets only agreed to this at a time when their test program, involving high-yield weapons with both offensive and defensive (ABM) capabilities, was well ahead of America's. We had previously been duped during the late 50's into the cessation of testing similar weapons on the specious theory that the Soviets might follow a good example. The second agreement was the United Nations' ban on the use of outer space for military purposes, an agreement which the Soviet Union appears already to have violated in spirit. The third of these limited agreements is the Nonproliferation Treaty, recently approved, which leaves a number of non-signing nations free to develop nuclear weapons.

[56] One may recall the disillusionment after the hopes engendered by the "spirit of Geneva" and "the spirit of Camp David" were dashed by Soviet duplicity.

[57] James Reston, New York Times, Dec. 8, 1960, p. 46.

[58] Acheson, *Present at the Creation*, W. W. Norton & Co., N.Y., 1969, p. 729.

[59] Past negotiations have occurred when the overwhelming weight of bargaining power lay on our side of the table. Now, when the U.S. is relatively weaker, and when the issue is the future security of our country, it is prudent to be skeptical as to the genuine mutuability of any agreement acceptable to the Soviet Union.

[60] The competition between the Soviet Union and Red China for dominant influence in smaller Communist countries does complicate the situation, making it less likely that either will take the lead in exercising an ameliorating influence.

[61] Although the full extent of Soviet participation in this violation may not yet be known, press reports and commentators indicate that "the Kremlin broke its word, lied to the United States and double crossed the developing peace." See, for example, Roscoe and Geoffrey Drummond, Richmond Times-Dispatch, Sept. 10, 1970; Joseph Alsop, The Washington Post, Sept. 21, 1970; and Evans and Novak, The Washington Post, Sept. 21, 1970.

[62] In addressing the Senate on July 9, 1969, Sen. Henry M. Jackson said that "an increasing number of informed western analysts assess the Soviet Union (today) as a dangerous and unpredictable opponent."

[63] The President's Report, p. 111.

[64] "Parity" is inherently a theoretical—not a realistic—concept, as there are too many variables both as to the quality and characteristics of various weapons and the circumstances under which they might be employed.

[65] The New York Times described the New Leftist revolutionaries as "the new Fascists of our generation." Editorial, Dec. 17, 1969. See also New York Times editorial of June 10, 1970. Stewart Alsop has observed that the campus "is in danger of becoming intellectually a closed society." Newsweek, May 18, 1970.

[66] Alexander M. Bickel, *The Toleration of Violence on the Campus*, The New Republic, June 13, 1970, p. 15 *et seq.* Fred M. Hechinger, Education Editor of the New York Times has stated that: "The politicizing of the campus . . . has moved the universities to the brink of disaster." N.Y. Times, July 19, 1970. See also Dr. Nathan Pusey, *infra*.

[67] As indicated in the Panel's Report, corporations which depend in major part on defense contracts are among the least profitable of all corporations. Indeed, many corporations deliberately refuse or avoid defense business. See George E. Brekley, *The Myth of War Profiteering*, The New Republic, Dec. 20, 1969.

[68] President Nathan Pusey, Baccalaureate address at Harvard University, New York Times, June 10, 1970. See also Dr. Pusey's Annual Report for 1968–69.

[69] It is estimated that some 25,000 to 30,000 draft dodgers have sanctuary in Canada, with an elaborate organization for getting them there. Stewart Alsop, Newsweek, July 20, 1970. Already some politicians and advocates of "peace at any price" are urging amnesty for these draft dodgers.

[70] President Nixon has said: "If we are less strong than necessary . . . there will be no domestic society to look after." The President's Report, Feb. 18, 1970, p. 10.

[71] *New Trends in Kremlin Policy*, Center for Strategic and International Studies, Georgetown University, Aug. 1970, p. vi.

THE ROGER WILLIAMS AWARD TO CHIEF JUDGE ROBERT E. QUINN, U.S. COURT OF MILITARY APPEALS

Mr. PELL. Mr. President, last night in the caucus room of the Old Senate Office Building, I had the honor to be present at the Rhode Island State Society's annual Roger Williams Award Ceremony which is given to a Rhode Islander for outstanding service to the State and Nation. It was with great pleasure that I participated in the award ceremony, for I shared with the assemblage both admiration and huge respect

and regard for the recipient of the Roger Williams Award, the Honorable Robert E. Quinn, Chief Judge of the U.S. Court of Military Appeals. Formerly Governor of our State and with a record of many years of active leadership and participation in the affairs of our State Chief Judge Quinn is particularly worthy and deserving of the honor accorded him.

Although there were several speakers on the program who extolled the many virtues of Chief Judge Quinn, I think the remarks that were most exemplary of the occasion were those given by his long time friend, Judge Michael DeCiantis of the Rhode Island family court.

I ask unanimous consent to have printed in the RECORD Judge DeCiantis' remarks upon his presentation of the Roger Williams Award.

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

ADDRESS OF JUDGE DECIANTIS

It is a distinct honor to present this award to an associate of twenty-five years or more, and a lifetime friend. Our friendship has endured for fifty years, and during all that time we have never had one personal disagreement to this very day. When men experience such a relationship, they learn a great deal about one another. I know many of his characteristics. He has always been a happy person, a man constantly looking at the bright side of life. In a gathering, this trait was contagious. He injected good fellowship and gaiety wherever he went. He has a long and distinguished career in government, the military, in law and he is an orator without an equal. He is a distinguished Rhode Islander—truly the man of the year. Of the many characteristics which he possesses, one is very little known and stands out in my mind. It is a rare one. It is, foresightedness. In my humble opinion, he is an individual with a keen prophetic mind. The matters with which he concerned himself thirty-five years ago are of immediate concern today.

Bob has always been a compassionate man who long ago saw a need for the poor to be assisted: But, at the same time, cautioned that the unworthy should not dip their fingers into the State's resources. In 1937, he said:

No decent Rhode Island citizen wants charity. He wants an opportunity to earn a decent living. That opportunity must be provided. We have no time or sympathy for the chiselers.

His ability to see ahead extended to the judiciary and the problems we are faced with today. Thirty-five years ago, he proposed a remedy which is now being implemented throughout the country. Let me read you his views:

Our judicial system should be revised from top to bottom. The whole system of judicature should be changed at one time. . . . There should be an administrative head, who should have the power to assign, supervise and require judges to do a day's work. Litigants and lawyers are entitled to have their cases heard and decided with reasonable expedition.

I have always felt that one of the most outstanding qualities a man can have is vision. To achieve great things, a man must first dream and he must diligently work: But without vision there is no attainment. I quote him, to present you with the evidence, that this man had such vision.

The present Congress is now engaged in legislation which will increase social security benefits. When this idea was born years ago, Bob said:

An old-age pension is not merely a sentimental gesture: It is an absolute necessity in our modern method of life.

A controversial statement, then, now simplistic and obvious.

With just a few of many examples, I have demonstrated to you his foresight. I have only barely mentioned his achievements because they speak for themselves, and there is nothing I can say that could add to their distinction.

However, nourishing, cultivating, and prudently shaping them from time to time is a man's own basic philosophy and integrity that contain his stature. I personally know of his integrity and his strong feelings regarding public trust. Historically, public trust is violated from time to time by men who seize position for their own gain, men whose philosophy is "the public be damned." Because of this, it becomes necessary for decent men to remind themselves and others of what should be the rule, and where the focus shall be. In his own words, this is what Bob felt about men in power:

Unless you are willing to let the fierce light of public opinion beat down upon your actions, then those actions should not be taken.

Every measure should be tested in the light of this question. The test should not be: Is it good for me or some particular group or organization or individual. The test should be: Is it good for the state. . . .

Any man with a sense of prose could have made these statements, but it takes a lifetime to live up to them.

His career has been an inspiration to many, but nothing is complete or perfect in this world and as he reminded us 35 years ago: "The whole glorious shining future lies before us. Let us make the most of it." If a man makes this his life's work, he deserves any plaudits that may come to him.

I am grateful to be included in this demonstration of recognition: but most of all, I am proud to be his friend.

BELL AND HISTORY DAYS IN FREDERICK, MD.

Mr. MATHIAS. Mr. President, I am very pleased to report that once again this year the historic city of Frederick, Md., will be celebrating its traditional "Bell and History Days."

On May 15 and 16, all of Frederick's impressive historical treasures will be on display. Bus tours will be available and costumed guides and hostesses at all locations will assist visitors and acquaint everyone with Frederick's past.

Frederick's bells will play an outstanding role in the festivities. Maryland's only complete carillon is located adjacent to the downtown area, and its carillonneur will alternate with the master of the Trinity Chapel chimes in afternoon recitals. In addition, a local costumed handbell choir will perform.

History buffs will welcome a chance to view where history was made. Court House Square with its many old homes and quaint buildings will be a focal point of the tour. Nearby are several old churches which will be open, with hostesses. The Frederick County Historical Society home, the gardens of the nearby Visitation Convent, and special displays of Negro history and early city maps and documents in City Hall will all be open. There will be an opportunity to visit Rose Hill Manor, which is currently undergoing renovation; the ever popular Barbara Fritchie home and Roger Brooke Taney home; both recently restored; and the lovely Steiner House. Buses will take visitors to the grave of Francis Scott Key, and to the Hessian Barracks on the property of the Maryland School for the Deaf.

Added features will be craft displays at several of the locations. These will be manned by hobbyists and professionals in fields repersentative of craft work done in Frederick's early days.

Frederick annually opens its historic locations to visitors to acquaint them with the rich store of history in the area. Under the direction of Chairman Michael Croghan, almost all of the work for Bell and History Days is performed by volunteers.

I urge Senators and people everywhere to join me in Frederick on May 15 and 16 for a highly enjoyable and interesting weekend. Frederick is a city which has managed to preserve much of its fascinating past, and Bell and History Days are the perfect occasion for all of us to explore a place where so much history was made.

GOVERNMENT REORGANIZATION BILLS

Mr. TALMADGE. Mr. President, I was asked by the distinguished chairman of the Senate Committee on Government Operations, the Senator from Arkansas (Mr. MCCLELLAN), to express my views on proposed Government reorganization bills—S. 1430–1433—now pending before the Senate, particularly as they affect the Department of Agriculture. I am grateful to my friend and colleague for affording me this opportunity to present my views on this matter to his committee. I bring to the attention of the Senate my letter responding to Chairman MCCLELLAN'S request, and ask unanimous consent that it be printed in the RECORD.

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

MAY 10, 1971.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR JOHN: I appreciate very much your letter asking for my comments on the four reorganization bills (S. 1430–33), as they affect the Department of Agriculture.

As you know, the Department of Agriculture was established in 1862. The original Act provided that the general designs and duties of the Department were to acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of the word.

Since then, of course, the Congress has assigned many additional functions to the Department, most of which are aimed at furthering the interests of agriculture, of rural areas, and of all of the people of the country.

The Department is now involved in establishing standards for agricultural products, agricultural market news, warehousing, consumer protection, including meat and poultry inspection, comprehensive agricultural production and marketing research, economic analyses pertaining to agriculture and rural development, new uses for agricultural products, conservation of resources, management of national forests, watershed protection and flood prevention, environmental protection, food distribution, rural development, agricultural and rural credit, including electric and telephone, service to cooperatives, price support programs, and Federal-State cooperative ventures as they concern agriculture and the people, to name a few.

Many of these functions were placed in the Department in order to assure that agriculture and rural areas would receive the attention they deserve in a primary sense, rather than as an appendage to legislation designed to benefit cities and metropolitan areas. Two recent examples come to mind. First, in 1965, Congress authorized and the President approved a bill providing for loans and grants for sewer and water facilities in rural areas to be funded and administered by the Farmers Home Administration. Previous legislation had authorized such Federal assistance to urban political bodies for these same purposes but had ignored rural areas. And second, in the mid-1960's, the Congress authorized and the President approved an expanded rural housing program. Here again, as a Montana State Experiment Station study showed, a real need existed but was largely ignored until the Farmers Home Administration was authorized to make and insure such loans. It has been my experience that only in the Department of Agriculture is there real sympathy and helpfulness in providing farmers and other rural residents with specific services adapted to meet their special needs.

Further, no other Department or agency in the Federal government is as close to the people whom they are to serve as is the Department of Agriculture. In the case of price support and related programs, there have been established 2,830 county offices and 87 sub-offices, 50 State offices, as well as area offices to supervise and direct such programs.

The county ASCS office, generally located at the county seat, is the farmer's local point of contact. All county offices are administered by farmer county committees elected by farmers themselves. These offices assist farmers in the preparation of price support documents; check his eligibility for price support—adequacy of farm storage facilities, compliance with farm acreage allotments or base acreage diversion, keep him informed of program details, and generally help him in his dealings with government.

The Farmers Home Administration, a credit agency under the direction of the Department, the Federal Crop Insurance program, and the Soil Conservation Service are also closely allied with the people whom they serve and have district and county offices in the areas where the people live.

And, of course, there is the Federal-State relationship now existing as between the Department and all states in the gathering and disseminating of knowledge gained through agricultural production and marketing research, market news, and economic factors affecting crop and livestock production and marketing.

For more than 100 years the Department of Agriculture has maintained a close working relationship with land grant colleges and research and experiment stations in each state.

Since 1914, when the Smith-Lever Extension Act was approved, farmers and other rural residents have been enabled to maintain a direct communication through county offices of the Cooperative Federal-State Extension Service of the Land Grant colleges and the United States Department of Agriculture.

All of these agencies within the Department of Agriculture and associated with the Department were designed by Congress to bring together the people and their government in the pursuit of a goal of enhancement of human life and quality of living in rural America.

The Department of Agriculture was organized with purposes and goals in mind and till this day, notwithstanding the innumerable changes in technology, economic factors, and other developments that have occurred in our country and in the world, our Department of Agriculture still serves the people, all of the people, in this country with the primary goal of promoting the general welfare.

Today anyone, whether it be a Committee of Congress, a business, an individual, or a farmer, desiring help or information relating to the programs administered by the Department of Agriculture knows precisely where such aid can be obtained and the point of contact closest to the individual concerned. And long experience indicates that such appeals for help will be sympathetically forthcoming.

As you know, there are now only 2.9 million farms, a farm population of only 9.7 million persons amounting to only 4.7 percent of the total population, and a rural population of only about 54 million persons, the same now as there were about 40 years ago. Yet some of the major problems in this country originate and exist in our rural areas. Some of these problems are now being treated. Additional intensive treatment will be forthcoming through comprehensive planning and development proposals of the new Subcommittee on Rural Development of the Committee on Agriculture and Forestry. In this I know you have an intense interest. But, unless we have a Department designed specifically to serve these areas, I feel our efforts will be for naught.

It seems incomprehensible to me that over 100 years of solid building, block by block, be torn down, that the achievements of over 100 years of progress be ignored, and that the confidence of the people secured by over 100 years of service be cast to the winds, solely to make changes for the sake of change. Nor can I understand how any reorganization, whatever the nature, can result in a closer relationship between the Federal government and the people, than now exists between the Department of Agriculture and the people whom they serve. To abolish the Department of Agriculture and transfer its functions among four new, untried, generalized, and purposeless Departments would be the greatest mistake this government could ever make.

It is my intention as Chairman of the Committee on Agriculture and Forestry, over time, to expend more and more effort on oversight activities so as to assure that the Department of Agriculture will continue to pursue its primary purposes and goals of serving America in order to enhance human life in this country, but we will be successful only if there is a Department of Agriculture to supervise.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE, *Chairman.*

SNAKE RIVER REACHES LETHAL STAGE

Mr. PACKWOOD. Mr. President, the nitrogen content in the Snake River has reached the lethal stage. We all knew this was coming. The problems now burdening the wild and valued Snake can only be compared to the Biblical passage:

The thing I greatly feared is come upon me.

The dams are taking their toll. And it appears that even with the concentrated efforts of both the National Marine Fisheries Service and the Corps of Engineers the loss to the spring fish runs—the young salmon and the steelhead—will be devastating. Last month, in fact the last day of April, the National Marine Fisheries Service submitted a status report on the nitrogen supersaturation problem; and I ask unanimous consent that that report be printed in the RECORD at this point.

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

STATUS REPORT ON NITROGEN SUPERSATURATION PROBLEM—COLUMBIA RIVER AND TRIBUTARIES

Considerable effort is being made to prevent excessive losses of downstream migrating salmon caused by nitrogen supersaturation. During a few days prior to April 27, about 40 million juvenile chinook salmon were released from hatcheries along the lower Columbia River. These releases are being coordinated among the fishery agencies and with the owners and operators of Columbia River reservoirs to avoid, insofar as possible, the effects of nitrogen supersaturation on juvenile fish.

A special task force has been formed by all agencies concerned to accomplish the extensive coordination required. Represented on this task force are the following: National Marine Fisheries Service, Bureau of Sport Fisheries and Wildlife, Oregon Fish Commission, Oregon Game Commission, Washington Department of Fisheries, Washington Department of Game, Idaho Fish and Game Department, Environmental Protection Agency, Bonneville Power Administration, Bureau of Reclamation, Corps of Engineers, and Grant County, Chelan County and Douglas County Public Utility Districts.

One of the functions of this task force is to coordinate the hatchery releases with regulation of the reservoirs so as to avoid heavy spill and resultant high nitrogen supersaturation levels at the times the releases are made. The 40-million plus juvenile salmon released this week constitute the major part of the estimated 60-million hatchery-raised fall chinook in the Columbia River drainage.

Originally these fish were scheduled to be released one week earlier. However, exceptionally high flows of the Columbia River for this time of year have made a one-week postponement desirable. Also, as a result of the continued below-normal river temperatures, the growth of the juvenile fish has been less than normal and the week's delay will be beneficial to fish development and size.

The task force has previously arranged for redistribution of power loadings among Federal generating stations. This redistribution was made to keep the Corps of Engineers' projects on the lower Columbia and Snake Rivers heavily loaded and thereby avoid spill during periods when steelhead, spring chinook and coho salmon were being released from hatcheries.

The special efforts of the task force to avoid heavy spilling at the dams at the time of hatchery releases are being complicated by the exceptionally high river flows this spring.

As of late April, some 60,000 downstream migrating chinook salmon have been captured and marked at Little Goose Dam and transported below Bonneville Dam. Some equipment difficulties have occurred with operating the three traveling screens at one turbine intake. As of April 30, two of the screens are operating and the other will be placed in operation within a few days. The efficiency of the screens in bypassing migrants into the gatewells has been excel-

lent. Tests show that up to 90 percent of the fish are diverted.

There has been some reluctance of fish shunted into the gatewells to enter gatewell orifices for transport to holding ponds below Little Goose Dam. A herding device is being built and other techniques are being explored to facilitate the entry of fish into the orifices. Although difficulties have occurred in collecting migrants this first year, the general scheme of collecting and transporting migrants has great merit.

The nitrogen supersaturation problem on the Snake River is severe at this time. At Ice Harbor Dam our biologists report that from 15 to 30 percent of the migrants suffer from "gas bubble disease." Migrants captured at Ice Harbor also are transported below Bonneville Dam.

Mr. PACKWOOD. Mr. President, on May 8, I had word from the Northwest Steelheaders, Council of Trout Unlimited, that the nitrogen problem was now critical and would continue for several weeks. Mr. President, I ask unanimous consent that the telegram I received from the Steelheaders be printed at this point in the RECORD.

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

SPOKANE, WASH.,
May 8, 1971.

Senator ROBERT PACKWOOD,
Senate Office Building,
Washington, D.C.

DEAR SIR: Request support for public hearings investigating destruction of anadromous fish runs Columbia and Snake Rivers by Army Corps of Engineers. National Marine Fisheries Report May 4, 1971, reveals rising river and lethal amounts of supersaturated nitrogen. Heavy spill and high nitrogen will continue for weeks during juvenile salmonid migration. High fish mortality now occurring. Experimental transportation program Bay 2 Little Goose Dam mechanically inoperable most time. Slotted gatewells Bay 6 Little Goose not on line May 7th. Nitrogen now extends 400 miles to Pacific. Corps talking fish runs to death. Federal and State biologists concerned. Continued construction Lower Granite Dam before problem solved unthinkable. Corps environmental integrity not dependable.

ARTHUR SOLOMON, JR.,
Northwest Steelheaders Council of Trout Unlimited.

Mr. PACKWOOD. Mr. President, my office has spent much time in telephone consultation with the National Marine Fisheries Service and the Pacific Northwest Corps of Engineers this week. From the information obtained from those sources, both agencies appear to be working frantically, and with good cooperation, to cope with the problem. The National Marine Fisheries Biological Laboratory in Seattle is under contract with the Corps of Engineers for the transportation program—screening and then trucking the fish around the dams. National Marine Fisheries states they have had difficulties, mostly mechanical, in this operation which has hampered them some, but generally they feel it is working as well as can be expected. National Marine Fisheries personnel reportedly are working around the clock to keep this in operation.

Mr. President, we are at the high runoff season and the river is rising. Under the circumstances and the admitted badly designed spillways at the dams, we will experience a heavy loss in fish. No amount of effort or cooperation at this point, no amount of time and energy expended will reduce this loss significantly.

The Corps of Engineers reported that as of 6 p.m., May 10, test installation of the slotted bulkheads at Little Goose Dam were in operation, were open and water passing through. This work was proposed at the meeting called by Governor McCall in March, and attended by representatives of all concerned Federal and State agencies, by Governor Andrus and a representative of Governor Evans. As a result of the expressed concern about the nitrogen problem at that meeting, money was made available to make a test installation. At this point is is difficult to predict just what the test results will show, we can only hope and pray for the best.

Both National Marine Fisheries and corps representatives have verified this week the lethal nitrogen content in the Snake. They report that 230,000 young salmon and steelhead were collected last week; and 140,000 transported below Bonneville Dam. This is evidence that both agencies are on the job and trying.

National Marine Fisheries stated that last Tuesday—a week ago—the nitrogen saturation level below Little Goose Dam was 138 percent; below Bonneville Dam around 130 percent; and only Monday of this week at Prescott, Oreg.—some 70 miles downstream from Bonneville Dam, 126 percent. NMF reported that checks at Ice Harbor showed that 40 percent of the fish had symptoms of gas bubbles.

Mr. President, if this whole tragic experience demonstrates one thing for us, it is that perhaps the time has come to more closely evaluate our technological endeavors to meet our short-range needs as to the effect they will have on a long-range basis on our natural resources. The time has come for us to consider diverting some of the Corps of Engineers' considerable capabilities to meeting our environmental needs, such as designing better spillways, and researching the many problems caused by dams that are now existing on our waterways. We don't need to build more dams on the magnificent Snake River. We do need to find solutions to problems caused by dams already there.

Many are joining up to cope with the existing problems on the Snake. Some, indeed a great many, are intent on preserving the Middle Snake. But it will take a real commitment on the part of this Congress and this administration to solve the existing problems and move to preserve the Hells Canyon area. I believe we will see that commitment made.

POISONING OF THE WEST—PART III

Mr. METCALF. Mr. President, humans are the most destructive of all animals. In order to meet our needs, we have polluted air and water, ruined the soil, scarred the countryside, and killed our fellow animals. Not only are we destructive, but we are ingenious in our way of destruction.

In his third and final Sports Illustrated article, Jack Olsen writes about widespread animal death that has been caused as a result of the U.S. Fish and Wildlife Service's Predator Control program. He says that unless we curb the present rash of animal poisoning, we will be responsible for the total destruction of the coyote.

Mr. President, the California condor, the weasel, the prairie dog, the passenger pigeon, and many other species are extinct or near extinction. Within the next few decades the mountain lion, bear, and bobcat will also face extinction—unless present policies and attitudes are changed.

Mr. President, I ask unanimous consent that the third article by Mr. Jack Olsen be printed in the RECORD.

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

A HOME ON THE RANGE FOR EVERYONE

(By Jack Olsen)

What is to be done about the drenching of the West with poison? How can an enlightened citizenry overturn a deeply rooted poisoning hierarchy that has only grown stronger in the face of scientific criticism, that has steadfastly ignored a growing ecological awareness and that is already turning the tortured rangelands of the West into a reeking abattoir of dead and dying wildlife and contaminated watersheds?

Those closest to the problem, men like the crusading naturalist Alfred Etter and the politician-conservationist Arnold Rieder, agree that a first step must be the elimination of certain persistent myths and legends, some of them central to the poisoning Establishment's rationale. There is, for example, the popular idea that predators, like the coyote, will outlive us all, that no amount of killing will make a dent in the hardy creatures' populations. Most sheepmen stubbornly insist that there are more coyotes now than there were 30 or 40 years ago, despite the poisoning. The U.S. Census Bureau does not count coyotes, nor do many state game and fish commissions. How do you count an animal that has had a millennium of millennia to learn the fine art of roaming the land without being seen? One expert is as expert as another, and the propaganda mills take advantage of the lack of genuine knowledge. Even a devout protectionist like Etter is not entirely convinced that the coyote is playing his last hour upon the stage. "It'll be a long time before coyotes are extinct," Etter says, "but it is possible. We used to say the wolf and the grizzly would never be wiped out in the United States, but we've almost managed to do it."

The elimination of a whole species seems so unpleasantly final—and so thoroughly remote—that most people simply refuse to admit the possibility. Then, subconsciously convinced that it cannot happen, they permit it to happen. While sheepmen and members of the poisoning Establishment talk in wildly exaggerated terms about the multimillions of coyotes on the land, less partisan observers have begun to notice that some areas have been cleared completely of the little wolves, and other areas seem to be headed in the same direction. The great bulk of people will remain unconcerned, of course, so long as a few coyotes are seen crossing highways at night or are heard occasionally from a distant hilltop in the moonlight. Modern man, despite the unfathomable wonders he has seen, still suffers from lack of imagination, still seems incapable of looking at a steadily dwindling supply of specimen animals and realizing that the end result of such a negative progression must be annihilation.

Similar thought processes—or lack of them—cause certain people to wonder what

causes the concern about endangered species like the California condor. After all, they say, there must be 50 or 60 of the big birds; how can they be in danger? It will be time enough to get excited when there are five or six left. In the early 1900s Ernest Thompson Seton estimated that more than five billion prairie dogs lived in the U.S.; today the species has been nearly wiped out, and only a small number of prairie-dog towns remain. In 1810 Alexander Wilson saw a flight of passenger pigeons that he estimated to be 240 miles long and from horizon to horizon, containing some two billion birds. Today there are none.

Mere numbers are no protection to a species, especially in an era when habitats are sharply dwindling and the earth is being saturated with toxics. It is no consolation that the coyote has been spotted in Los Angeles County when he is no longer seen in thousands of square miles of Western rangelands that once were his normal residence. Random coyotes have been sighted in every continental state except Delaware, but they are seldom seen in their old habitats on the prairies of eastern New Mexico, and Arnold Rieder reports that there are lots of people in Montana who haven't seen a coyote in 10 years. As long ago as the 1940s a Government trapper named John W. Crook was telling his colleagues that poisoning had whipped the coyote in southern Colorado. During the winter of 1946–47 Crook saw one specimen where he used to see hundreds. But the poisoning continued unabated in Colorado. In West Texas a former Government trapper, Charlie Stone, misses the days when "you could go just about anywhere around here and see 15 or 20 coyotes. I'm in the field trapping all the time since my retirement from the Fish and Wildlife, and I've seen one loose coyote in the last year." Supreme Court Justice William O. Douglas returned from a trip to Wyoming and told fellow conservationists that he was shocked by the disappearance of coyotes from that state.

In the race toward the final finish line, many another animal of the American West is providing the coyote with severe competition—propaganda to the contrary. The black bear, which ranges in similar habitat and has similar carnivorous eating habits, almost certainly will die out before the coyote. Charles Orlosky, who worked as a Government trapper in western Colorado, says, "I learned quick that any bear that sets foot on sheep range is a dead bear. Maybe one out of every 25 bears will kill a lamb. Most bears will eat on a dead carcass, but there's damned few of them that will actually kill sheep." Orlosky remembers a case in the San Juan Mountains where a trapper caught 16 or 17 bears and still hadn't caught the sheep killer.

The fox, another animal with eating habits similar to the coyote's, is also disappearing fast in large sections of the country. "They're smart," says Paul Gilbert, an area supervisor for Colorado's Department of Game, Fish and Parks, "but smartness isn't enough anymore. I've seen foxes and coyotes that'll move onto a ridge with a 1080 bait and won't be able to get off because of the deep snow around them. As long as they can, they'll circle away from that bait, but sooner or later starvation drives 'em to it. Animals like that don't have a chance against things like coyote getters and 1080." Even people from the Wildlife Services admit the danger to foxes. "Because the habits of the coyote and the red fox are similar," a bulletin says, "there is no practicable method of controlling coyotes in the midst of foxes on the high mountain sheep ranges in the summer or winter without killing some of these smaller canines." So the smaller canines are killed.

"The kit fox is almost gone in Wyoming," says Game Warden Darwin Creek, "and the 1080 that's killed him off has also killed off the black-footed ferret. Only two or three black-footed ferrets and kit foxes have been seen in the last 10 years by all the wardens and all the biologists and all the wildlife people in the state." According to Creek, the situation is almost the same with other Wyoming furbearers. "Pine marten used to be thick till they started putting this poison out," the warden says. "Now there's practically none left."

The populations of carrion-eating animals—and carrion-eating birds like eagles and hawks and vultures—are all trending downward, partly because of 1080 stations and partly because of the drop baits of tallow-covered strychnine. And if a species is included on the poison Establishment's "most wanted" list, the fact that the animal eschews carrion or tallow is no protection. The hunters and their modern gadgetry will prevail. In the last few years there has been a sharp decline in the numbers of bobcats, despite the fact that *Lynx rufus* is like trout or bass—he wants to catch his food on the hoof and seldom will touch anything that he has not killed himself. To destroy this "predator" that annually does no more damage to livestock than domestic dogs, Government trappers revert to the art that once was their pride: steel trapping. It is not difficult to trap bobcats; they are creatures of habit, remaining in the same areas and usually working in a single hunting runway over and over. Until recently, when the supply of bobcats began to diminish, Government trappers caught them in droves. Why? A primary reason is that the Fish and Wildlife Service is in several businesses simultaneously, and one of them is the sale of pelts. The bobcat's fur is valuable; hence the concentration on trapping them and the long hours spent in Wildlife Services seminars studying the proper preparation of bobcat skins for market. In Colorado, Government trappers took thousands of bobcats in the years before 1965, but even though the price of bobcat fur continued rising, the kill began to drop, and today the animal is becoming rare.

The question is not when it will be discovered that these populations of native American species are diminishing. Some of the downtrends were known decades ago, and more are being noted each year. Most Westerners are aware that there are fewer and fewer animals, and still they watch inertly, like mice before cobras. Influenced by the soothing pronouncements of the poisoning Establishment, they accept the propaganda that endangered species are not truly endangered, and that coyotes, lions and bears, with their big teeth and sharp claws, can hold their own forever against men. The illogic is basic. Predators are not fighting against men but against technology.

Some of the scientists who are opposed to the toxification of the West go so far as to clam that the broadside attacks on wild animals have served only to magnify the problem of predator loss. Not surprisingly, Alfred Etter is an outspoken advocate of the theory that there would be far less destructive predation if wildlife were left to nature's own systems of checks and balances. His reasoning runs exactly opposite to that of the poisoners, who view the matter in simple arithmetical terms. Says an official of the U.S. Fish and Wildlife Service: "Look, we know what the stock loss was before we began poisoning. If we eliminated poisons like 1080, the loss would be more than 20% of the herd, maybe 35% or 50%. It would put sheepmen out of business. The coyotes would simply take over."

To ecologically oriented scientists like Etter, this is the grandest fallacy of all, the "big lie" that undergirds the entire poisoning philosophy. The trappers preach that predator control controls predators: Etter insists that it makes the problem worse, and that the poisoners are keeping themselves in business by aggravating the very problems they are hired to solve.

Etter was on the way to this conclusion when he testified before public hearings on predatory animals in 1966. "Where we have starved the coyote," he said. "where we have abused the land, where we have poisoned indiscriminately, killing the coyote's food supply, there we have uniformly encountered increasing reports of predation." Back in Colorado, he pursued the deeper implications of his own statement and began checking records on sheep kills and coyote control. He recalls, "I found that the sheepmen who had used the most control in the past were invariably the ones who complained the loudest about ever-increasing losses. The ratio was direct and almost constant."

The most perfunctory investigation of sheep-country losses seems to substantiate Etter's conclusion. Consider, for example, the two northwesternmost Colorado counties, Rio Blanco and Moffat, where it is likely that more poison has been leached into the soil and more predators put to death than in any area of similar size in the world. What has been the result? A sheepman named Hugh Seely speaks at a public meeting: "The thing that disturbs me about this control program is that our losses the last couple of years are greater than they were previously. There used to be winters down on our range when I can't remember losing a single ewe to coyotes. Now this last winter the boys claim they lost about 120 ewes. That's quite a loss out of 3,000 head of sheep. In the summertime we used to lose maybe 75 or 100 lambs a year. Last year we were out over 300 lambs before we shipped in the fall."

Typically, Seely argues that the reason for the increased loss is that there is *not enough* control, not enough poison is being put on the land. The figures do not bear him out; both public and private poisoning programs are barreling ahead at full speed, and still the losses mount. "We have problems," admits a sheepman named Andy Peroulis. "Since the 1st of June we've lost over 40 lambs in one place. They were killing three and four a night. I don't know whether the coyotes are congregated in that one area or not, but they're thick all over."

But if the coyotes are "thick all over," and the sheep losses higher than ever, what has been the point of the wholesale poisoning of the area? "Well, we've kept the losses from being even higher," an official explains. Says District Field Assistant Gary Rowley, in charge of the local operation in northwest Colorado, "We just keep plugging, and the coyotes just keep on moving in and killing. All we can do is try to keep the losses down to where the stockmen and our cooperators can live with it."

The local situation, in a word, is chaotic. "The first thing that's needed is a fundamental understanding of the coyote," says Alfred Etter, "and very few trappers have this. They're too busy convincing themselves that their poisoning and hunting is in a good cause and their jobs are worthwhile. They insert themselves between the coyote and his natural ways, and their efforts often turn him to killing stock. Then they blame him for being a 'harmful' species and go out and intrude themselves some more. The coyote is normally a territorial animal with a highly developed territorial imperative. By keeping the coyote population harassed and in a constant state of flux, the trapper disrupts his territorial habits and makes him, in effect, into a different animal. This different animal may become a sheep killer, but if he had been left undisturbed in the first place, we would probably never have heard from him."

Etter's theory is based on the hunting habits of the coyote. In *The Clever Coyote*, Government Biologist Stanley Young wrote

that "generally, coyotes follow a runway or circuit, often referred to as a hunting route. It may be a combination of trails of game, cattle, sheep, old wood roads, dry washes, swamps, marshes, or ditch banks. . . . The coyote runway may cover no more than 10 miles, and be used throughout its life-span, providing sufficient food is always available. What causes the animal to forsake old established and localized runways is usually the food factor, or continued persecution." Young did not add the obvious: that a hungry coyote in unfamiliar country might well turn to an easy dinner of lamb.

Etter's own observation led him to go a step farther than Young and other naturalists and to evolve a preliminary theory of coyote territoriality. "It takes a while to establish a territory," Etter wrote in *Defenders of Wildlife News*. "It involves becoming intimately acquainted with an area, patrolling it, depending on it, investing in it. In the case of coyotes, foxes and bobcats, it means learning the location of quail, pheasant, grouse or turkey roosts, deer yards, prairie-dog towns, pack-rat apartments, kangeroo-rat runs and rabbit forms. It involves seasonal and diurnal knowledge, and familiarity with stalking and escape cover. It involves buried stores, watering places, scent posts and warm south slopes. It may even involve relationships with other animals, as when the coyote tags along with the badger to take advantage of spare rodents flushed from excavated burrows, or with the elk to harvest the mice that are disturbed by grazing. This kind of knowledge makes the difference between the successful 'well-adjusted' predator and the desperate itinerant. . . ." Poisoning of coyotes, Etter argued, "merely creates a 'vacuum' into which drifting coyotes from other areas may be attracted. Traveling coyotes are probably hungry coyotes. . . .

"Young animals deprived of their parents through control might be equally desperate. It only seems logical that the one thing to avoid in any livestock protection program would be the creation of desperate, opportunistic individuals or populations. So far as I know, this has never been given a thought in the federal program."

Acel Rowley, former Government trapper in Utah and Colorado, described a case in point that seems to bear Etter out. "Right south of Vernal, Utah, in a place called Kennedy Basin," he relates, "there was a pair of coyotes that I killed their pups every year for nine years. Both the adults were whistle-wise and trap-wise and poison-wise, and the only thing I could do was keep killing their pups. All that time there were sheep on every side of those two adult coyotes, and they never touched a one. They kept right to their own hunting runway and lived on rodents and rabbits. They got so they knew that countryside by the inch, and they'd walk around anything new, like a 1080 station or a cyanide gun. I shot the old bitch coming out of her hole, and a year or so later I got the dog the same way. Well, what do you think happened? With those two out of three after nine or 10 years, I started having coyote trouble with sheep. Right after I killed those two, coyotes went in and killed 25 or 30 head of sheep about two miles north, just before shearing. One day I went out with two of my sons and started calling coyotes with my whistle, and all of a sudden there were three new coyotes in plain sight not 30 feet away. I shot one and the other two got away. Before I'd killed all the new coyotes in that territory, they'd eaten more sheep and driven us all crazy."

"Why did you kill the first pair?" Rowley was asked. "Apparently they weren't doing any harm."

"I had to," the old trapper said apologetically. "That was my job—killing coyotes."

What would happen if all "control" were abandoned and coyotes left to the ways of nature? "They would overpopulate and run the country," says a Government trapper. "There'd be so many coyotes you couldn't see over their heads. It'd be like the old alligator joke—you'd be up to your armpits in coyotes!" The remark was only slightly in jest; the philosophies of most Government poisoners rely heavily on similar overstatements. Asked to explain why coyotes did not "run the country" in all the centuries before the invention of cyanide guns and 1080 and other such control devices, the trapper said, "Things was different then."

But things were not that different. Predators preyed on young coyotes, then as now, and every year pups were carried away and consumed by eagles, great horned owls and even badgers. They still are. The few wolves that remain are not loth to attack full-grown coyotes, and neither are eagles, bears and mountain lions. There have been substantiated cases of gentler species such as antelopes and deer turning on coyotes and attacking them with their sharp hooves. Still other factors limit the coyote population. Bad weather and forest fire can kill a coyote as fast as any other animal, and in years of deep, loosely packed snow the coyote has difficulty getting around and sometimes dies of starvation. Naturalists estimate that in any given year a large percentage of the total coyote population would die off without the assistance of the Wildlife Services but the process would be a natural one—healthy animals would not be removed from their hunting runways in the prime of life, and normal yearlings would have time to develop enough hunting acumen to enable them to make a living off wild prey. Death would come only to the weak, the infirm and aged, instead of to the handsome young specimens that are now falling by the tens of thousands to the mass-poisoning program.

"Through history," Alfred Etter says, "the coyote was respected, and in some cases almost deified. At the least, he was ignored, and there is no indication that he caused serious trouble. We are the only society which has harassed him on a large scale, and we are the only society which ever had to spend millions of dollars a year to keep him in check. I suggest that there might well be a connnection, and that we should take steps to find out. Nobody knows what would happen if we cut out control overnight, but I think we can make some reasonable speculations.

"First, I think there'd be an abnormal increase of coyotes in some spots, at least until the old territorial feeling was reestablished and the stronger coyotes started eliminating some of the weaker ones, some of the strangers. This wouldn't happen quickly, not with the mess that's been created by the poisoners. But before things got out of hand the coyote populations would settle down in a normal way, and after that the Government trapper could go in and get the specific coyotes doing specific damage."

Etter's theory of the coyote's territorial imperative can be applied to all predators, and it has been around for a few years. There is hardly a Fish and Wildlife Service official who is not aware of it. Mostly, they laugh. "It just doesn't work that way," a district supervisor said. "That Etter may be college smart, but he just doesn't know the ways of coyotes. They're killers, and that's all there is to it. The only thing that keeps 'em from killing off all the stock is our own program, and I'm proud to be a part of it. We don't need any Alfred Etters or any other little old ladies in tennis shoes telling us what to do."

Frustrated by their inability to bring scientific rhyme and reason into the predator-control programs, a few Westerners have declared war. Certain game wardens and park rangers and private citizens are starting to lash out in legal and extralegal ways. There have been a number of confrontations between Government poisoners and private citizens in the last few years, and more than once there has been minor violence. Says Bill Miles, a hunting guide: "Two winters ago I was hunting with my dog, and I saw this Government trapper running along on a snowmobile throwing out strychnine baits. I quickly called in my dogs and put them in my pickup and then drove crossways on the road and stopped him. We had a big argument. He said he was gonna keep on with the poisoning, and I said I was gonna fight him. He said he was gonna poison the hell out of that whole area, and I said if he did I'd pour fuel oil on his baits and burn 'em up. We had a terrific fight." Did Miles burn the baits later? "That's my business," he insists.

U.S. Park Ranger Barry Ashworth, who narrowly escaped death when he accidentally set off a coyote getter outside Dinosaur National Monument, is one of many federal rangers who have sworn to pull every cyanide gun they see. "And if I ever catch anybody putting one on park property," Ashworth says, "he'll be placed under arrest." Paul Gilbert says he has known several public officials who set off coyote guns intentionally, and some who dig them up and destroy them.

Individuals are joining in the informal battle against the poisoning Establishment. "Down in Oklahoma they were having a war about coyote getters, says Ray Hall, who manages the Humane Coyote Getters, Inc. operation in Pueblo, Colo. "One of my customers wrote me about it. Some rancher wanted to use 'em real bad, and the people didn't want 'em, because they had expensive dogs. They were sabotaging his tractors and burning his fences just like the old days." In Santa Clara, Calif., there are signposts warning that "Anyone from Predator Animal Control Department of Department of Interior caught trespassing will be arrested and prosecuted." In the Jackson Hole country of Wyoming the little war takes a slightly different form, with the Government trappers fighting back. Thousands of elk are fed by the Game and Fish Commission during the winter, and the eager hunters of the Fish and Wildlife Service have been warned repeatedly to stay out of Jackson Hole and away from the predators that live in the elk herd. "But every now and then they'll fly in and fire away," says Warden Darwin Creek, "and then we have to raise hell. They can't seem to get it through their heads: coyotes clean up the dead, kill off the dying and the disabled and keep the herd healthy. I guess the only way we're gonna get our message across is with anti-aircraft guns." There are some few district field assistants who deplore their own agency's programs and fight as a fifth column. Says one trapper: "I know some guys who dump their 1080. Throw it down a mine shaft or burn it up.

If the little wars of such men seem to be accomplishing next to nothing, then what can be done? Concerned Westerners are pessimistic. "We're in a stranglehold out here," says Paul Maxwell, president of the National Council of Public Land Users. "If we talk a legislator into speaking out, the stockmen's lobbies climb all over him in the next election and get him out of there. If we try to push through some kind of action, we get clobbered by the millions of dollars they can throw against us. If we take a complaint to a governor or a commissioner of agriculture, we find him trembling in his socks about the sheepmen, and then he yesses us to death and does nothing. It's a peculiar situation. The public officials who try to help us almost invariably come from the East. Men like Congressmen John Saylor of Pennsylvania and John Dingell of Michigan. The politicians out West are owned by the stockmen. Help will have to come from the East, or nothing will ever change."

If there is a logical point of attack, it would seem to be at the poisoning programs on Government land. American land in the public

domain is more than four times the size of the state of Texas, and every acre of it belongs as much to each citizen as it does to the stockman who runs his thousands of close-cropping sheep on them. If these lands are not to be transformed into American Saharas, they must be grazed far less and detoxified once and forever. But hardly anything is being done. The stockmen remain at the helm.

Only the tainted Western legislatures would put up with such a situation, and only devitalized Westerners would sit by idly and watch it happen. One has only to look at the state poison laws—or lack of them—to see the extent to which stockmen have the general public by the throat. There is hardly a state west of the Mississippi in which one cannot buy strychnine or cyanide or even thallium simply by signing for it. Says Mike Simmons, secretary of the Colorado State Board of Pharmacy, "The last poison laws were passed in most Western states around the turn of the century, when the rural areas controlled the legislatures even more than they do now. And almost every state poison law has the same proviso in it. Here, I'll read you Colorado's: 'Nothing in this article shall interfere with the business of those merchants who keep or sell such poisons, acids, or chemicals as are regularly used in agriculture, mining and the arts. . . .' In other words, you can always use it, so long as you're using it in your business. I don't believe one of these laws has been updated in 30 years." There have been a few new laws restricting sale of poisons in pharmacies, Simmons says. "So if you want to poison somebody, just go straight to the feedstore and they'll give you what you need."

Cyanide guns are similarly available through the West, and even in those states where their use is specifically illegal, one can usually make a purchase at the nearest hardware store, or by mail ordering from Pueblo. Kansas has banned the use of the deadly apparatus since a game warden there almost lost his life to one, but waivers can be issued by public officials. Coyote getters are illegal in Oregon, but enforcement of the state law is almost nonexistent. Washington has a law that "It shall be unlawful for any person to lay, set or use any poisonous or deleterious substances at any place or manner so as to endanger, injure or kill any game animals, furbearing animals, game birds or nongame girds," and Colorado has a game law flatly banning the private use of any poison in the open. Good laws, to be sure, but there have been no prosecutions under either. The poison baiting of carcasses remains legal in Arizona, Utah, Nevada, Nebraska, Oklahoma, Idaho, Arkansas, California, Texas, Oregon, New Mexico, Montana and Wyoming, and it is overlooked in most of the states where it is illegal. So long as stockmen remain in control of the advisory boards that administer the outdoors affairs of most Western states, the poison laws will continue to be a tattered patchwork of ineffectiveness.

Meanwhile, the basic questions are all but ignored. Does an industry that depends on the wholesale contamination of millions of acres of our nation deserve to exist in the first place? Is it in the national interest to bring whole species of animal life to the brink of extinction? *Is the sheep industry as presently organized worth it?* Or it there a way to retain both sheep and sanity?

Within a few decades the last mountain lion will be gone. Bears and bobcats will probably hold out a little longer, because there are many more of them, and the wise and canny coyotes will outlast all the other large predators. But unless there are massive changes, unless the livestock lobbies of the West and the federal poisoners release their strangleholds and give up their myths and prejudices, the day must come when the last weak and sickened coyote will drag himself to his feet and lift his voice to the skies, and there will be no answer. We animals of the earth are a single family, and the death of one only hurries the others toward the final patch of darkness.

CARRY-IN CARRY-OUT: NATIONAL FORESTS INVOLVEMENT CAMPAIGN

Mr. McINTYRE. Mr. President, I commend Forest Service staff of the White Mountain National Forest for another in a series of truly significant innovations. Under the leadership of Robert Tyrrel, forest supervisor, and his staff, the national forest will be the site of another large-scale cleanup campaign involving large numbers of conservation organizations and park users.

The campaign is scheduled for the weekend of June 26–27 and will involve the Sierra Club, the Appalachian Mountain, and interested citizens. I cannot emphasize how very important this weekend will be.

The White Mountain National Forest is one of the most heavily used in the Nation. Through the efforts of the Forest Service staff it is also one of the cleanest. Yet heavy utilization brings along with it the problems of litter and waste accumulation. Means of controlling these problems must be developed to the point that the environmental integrity of the park and forest can be assured.

Recognizing this, Bob Tyrrel and his staff set out last year to do something about it. They began by sponsoring citizens cleanup campaigns last summer and fall. The success was demonstrated by the hundreds of citizens who gave a day of their time to the effort and the tons of litter that they accumulated.

This, of course, does not imply a permanent solution that so many seek. Bob Tyrrel, however, saw that the means for such a solution were there. Appreciation comes from involvement and he saw that involving the users of the national forest in its maintenance, on a first-hand basis, was a means of educating them and the public to the potential damage caused by user disregard. It is working.

I believe that this cleanup weekend will involve many more than the last. And it is entirely significant that the Forest Service can announce that winter users carried out what they brought into the forest. This is progress. I am hopeful that this coming summer's experience will show that users are increasingly heeding the national forests, new slogan: Carry-In Carry-Out.

The Forest Service staff of the White Mountain National Forest deserves our commendation and praise for their innovation and concern. The Appalachian Mountain Club and the New England chapter of the Sierra Club deserve our notice of their dedicated assumption of citizen leadership.

Mr. President, I ask unanimous consent that a news release by the U.S. Forest Service office in Laconia, N.H., be printed in the RECORD.

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

U.S. FOREST SERVICE, WHITE MOUNTAIN NATIONAL FOREST

" 'Carry In—Carry Out' will be the theme of the second annual back-country cleanup weekend, June 26 and 27, in the White Mountain National Forest," according to Robert R. Tyrrel, Forest Supervisor. This year's effort, sponsored jointly by the Appalachian Mountain Club and the U.S. Forest Service, will be based at the AMC Hut in Pinkham Notch.

This year's "Carry In—Carry Out" project will work in Tuckerman Ravine, the Great Gulf Wilderness, Carter Notch, and other nearby spots. "We are holding it late this year because some of these spots hold snow until June," explained Tyrrel.

The New England Chapter of the Sierra Club is planning a trip that weekend to help on the clean-up project. Several other groups are planning to hold their own clean-up projects earlier in the spring on other sections of the White Mountain National Forest.

"Last year, along the Wilderness Trail off the Kancamagus Highway, over 350 people braved pouring rain to collect two tons of trash. It was amazing to see the enthusiasm and fun people had that weekend," Tyrrel said.

" 'Carry In—Carry Out' is a campaign to keep the trails in the White Mountain National Forest and other forest areas free of litter," Tyrrel went on to say. "Visitors come here to enjoy a clean environment and we need their help in providing it. The campaign lasted all summer and through the winter, and most people did carry out everything they carried in. We had numerous reports that the Forest trails looked cleaner than they had for years. We want to keep the momentum going."

People interested in participating should contact Rick Goodrich, District Ranger, U.S. Forest Service, Gorham, New Hampshire; Steve Harper, U.S. Forest Service, Laconia, New Hampshire; or Tom Deans, AMC at Pinkham Notch, New Hampshire.

RETIREMENT OF HARRY MONTGOMERY, ARIZONA JOURNALIST

Mr. FANNIN. Mr. President, Arizona is blessed with excellent newspapers and a number of fine journalists.

Two of these newspapers are the Arizona Republic, which has the largest circulation in the State, and the Phoenix Gazette.

And one of the finest of journalists, not only in Arizona but in the Nation, is Harry Montgomery, who is associate publisher of these two newspapers. As well as helping guide the Republic and Gazette during the past 24 years of amazing growth, Mr. Montgomery as so has been a civic leader in Phoenix and the State.

Last Sunday, the Republic published an article announcing that Mr. Montgomery would retire. I ask unanimous consent that the article and an editorial paying tribute to Mr. Montgomery for his many accomplishments, be printed in the RECORD.

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

MONTGOMERY TO RETIRE AS ASSOCIATE PUBLISHER

Harry Montgomery, associate publisher of The Arizona Republic and The Phoenix Gazette and one of the Southwest's most widely known newspapermen, announced yesterday that he will retire July 1.

Montgomery, 68, has been associated with

the newspapers 24 years, having come here July 1, 1947, after 16 years as an Associated Press executive. He has served both newspapers as an executive editor, assistant to the publisher, assistant publisher, and the past five years as associate publisher.

"One-half of my life, counting 10 years as AP chief of bureau for Arizona, has been spent in close association with The Republic and Gazette, and the decision to step aside has not been an easy one," Montgomery said.

"My health has never been better. I am sure my productive capacity was never greater. My interest in Phoenix and Arizona are unparalleled, but I want more time to travel and read and write. I even want to get out and chop up a golf course again. And I am looking forward to spending more time with Pauline (Mrs. Montgomery)."

Montgomery's contributions to newspapers and the wire services in Arizona have been recognized by the State's three universities, through special awards.

"Having been associated with Gene Pulliam in the development of two of the country's leading newspapers has been a source of great pride to me," Montgomery addded. "I know that I shall miss the hustle and bustle and drive that are necessary to make newspapers fully effective."

Commenting on Montgomery's retirement, Eugene C. Pulliam, publisher of The Republic and Gazette said:

"Harry Montgomery is one of the two or three best known newspapermen in Arizona. I doubt if any newspaperman knows more newspaper people and has more friends among the newspaper fraternity than Harry does. And through his newspaper friends he knows the whole state. I'm always amazed when asking him a question about somebody to find out that he knows all about them and has for a long time. I've never heard an unkind word about Harry Montgomery. He has that same sweet quality that Charley Stauffer had. People love him and never knock him. He's an expert newspaper technician but his great value to The Republic and Gazette, as well as to the State of Arizona, is his knowledge of this state and his very firm convictions regarding the social and civic and business patterns the state must follow if it is to emerge as one of the greatest states in the nation.

"Of course we're not going to let Harry Montgomery off the hook. When we need his advice or knowledge or help, we're going to yell and I know that he'll be happy to give us a lift. But all of us recognize that he has earned a kind of semi-retirement which he has looked forward to. He has the very best wishes of all of us here at The Republic and Gazette and there isn't anything any of us wouldn't do to make his retirement the happiest it could possibly be."

Long active in civic affairs, Montgomery currently is president of the Arizona Historical Society and vice president of the Industry-Education Councils of America, Inc., and the Arizona Institute. He is chairman of the executive advisory board of the Arizona Business-Industry-Education Council and serves on advisory boards of the Phoenix Salvation Army, Arizona National Livestock Show, the National Association of Journalism School Administrators, and other organizations.

He is past president of the Phoenix Art Museum, Phoenix Rotary Club 100, and Arizona Newspapers Association, and still serves on boards of the art museum, Arizona Academy, and Camelback Mountain Foundation.

AN UNSURPASSED RECORD

Harry Montgomery could have made his mark in a dozen different fields, but newspapering was the one he chose. From his first job editing the weekly Memphis (Texas) Democrat, to his present position as associate publisher of The Arizona Republic and The Phoenix Gazette, he spent his life in journalism.

Harry will retire July 1, completing 24 years on the two Phoenix newspapers. Few editors or publishers ever had a hand in a more fantastic growth than he helped to direct.

Born in Indian Territory, within the boundaries of the Choctaw Nation, he spent his boyhood in Oklahoma and Texas. From Memphis he went to Texas Tech, where he founded the campus newspaper and published a campus magazine. He worked for the Associated Press in Amarillo (which he chose over Houston and Dallas), in Phoenix (after turning down an offer to go to New York), and in Minneapolis (where he had charge of the AP bureaus and correspondents in Minnesota and the Dakotas).

When the northern winters lost their appeal, Harry went to Albuquerque with his lovely wife Pauline to head the bureau there. No other AP employee ever headed every bureau to which he was assigned.

He covered the first atomic explosion at Alamagordo, and before that he watched the development of rockets that led to the eventual landing of an American on the moon. But it was on the Phoenix newspapers which he joined shortly after Eugene Pulliam purchased them in 1946, that he made his lasting mark. He was executive editor, later assistant to the publisher, then assistant publisher, and finally associate publisher.

When Harry Montgomery came to Phoenix, The Republic didn't even have a city editor. The head of the copy desk made assignments to the handful of reporters who turned their stories in to him. Today, The Republic has 100 reporters, copy readers and editors, many of them hired by Harry Montgomery.

Harry Montgomery knows nearly every one of importance in Arizona, and at one time or another has worked with most of them on one civic enterprise or another. The City of Hope made him its Man of the Year in 1967, and he received a Salvation Army Sally Award in 1968. A capstone of his humanitarian work was the raising of $1,350,000 in a capital fund drive for the Salvation Army last year.

He has received awards from each of the three state universities.

He served as president of the Phoenix Art Museum and currently is president of the Arizona Historical Society, the official state agency for the collection and preservation of Arizona history. He was treasurer of the committee that raised the money to keep the top of Camelback Mountain free from the developers' bulldozers. He has been president of the Phoenix Rotary Club.

Harry plans to remain in Phoenix, where his executive ability will undoubtedly be used by various public and semipublic organizations. A little later he and Pauline will travel, filling out the spots left unvisited on previous trips to Europe and the South Pacific.

Whenever he returns there will be warm friendships to be renewed, at the R & G, on dozens of civic boards, and in the social clubs to which he has belonged.

Harry Montgomery has helped to build two great newspapers, and has served his state to a degree that has few if any equals. We wish him all the best as he turns to new and exciting opportunities in his retirement.

ST. MICHAELS, MD.: CHARMING COLONIAL HISTORY ON THE CHESAPEAKE

Mr. MATHIAS. Mr. President, St. Michaels, Md., is a living piece of colonial history which holds particular delights for boating enthusiasts.

Now the site of several museums and other places of interest, St. Michaels figured prominently during colonial and later times as a center of shipbuilding for craft which sailed the Chesapeake. Today, whether one chooses to go by water or by land, St. Michaels' proximity to Washington and its pleasant atmosphere make it the perfect place to spend a relaxing and fascinating day or weekend.

In order to detail further the charms of this historic town, I ask unanimous consent to have printed in the RECORD an article published in the Washington Post of May 2, 1971.

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

THE EAST COAST: ONCE A SHIPBUILDING CENTER, NOW A BOAT FANCIER'S PARADISE

(By Barbara Guinn)

Have you ever taken the family aboard an oyster boat, visited an old lighthouse or roamed about a lightship that's been stationed in the Atlantic?

You can do all this and much more when you visit St. Michaels, Md., and the Chesapeake Bay Maritime Museum, which has both floating and dry-land exhibits. The drive takes an hour and a half from Washington's Beltway and includes crossing the Chesapeake Bay Bridge.

When you enter this small, quiet Eastern Shore village, it's hard to believe that from the late 17th century to the mid 19th century, the major industry was shipbuilding. In fact, it was because of the St. Michaels-built, swift-sailing privateers preying on the British Merchant Marine that the British attacked the town in August, 1813.

Forewarned of the attack, the 300 citizens stretched a chain across the harbor from Parrott's Point to Mill Pond, blacked out their lights and hung lanterns in the trees behind the town—tricking the British into overshooting. Only one house was hit, and it still stands proudly today. One of the cannons used in the attack is mounted in St. Mary's Square.

After the War of 1812, the building of privateers gave way to the construction of log canoes, skipjacks, bugeyes and other indigenous craft used on the Chesapeake. The Clipper Brig "John Gilpin," launched in St. Michaels in 1830, held the trans-Pacific record from Peru to China from 1832 to 1845.

Today, much of the town's activity revolves around the museum on Navy Point overlooking the Miles River. Among the floating exhibits you will find the "J. T. Leonard," last of the round-bottomed oyster sloops under original rig, built in 1882; "Old Barney," a typical U.S. lightship of the first half of the 20th century (which is not only an exhibit but is also used for training Sea Explorers and Girl Mariners); and the "Edna Lockwood," the last log-built bugeye under sail, built in 1889.

Among the dry-land exhibits you can visit is the Hooper's Strait Lighthouse, one of the last of the bay cottage-types, which was moved here by barge. It has been restored and has typical lighthouse furnishings and a lantern with Fresnel lenses. The view from the top is particularly fine.

The aquarium is an eye-level slice of underwater Chesapeake marine life. The boat shed has displays of log canoes showing their development through the years and the craftsmanship of early builders who worked within the limitations of hand tools. The waterman's exhibit includes equipment used by bay oystermen, crabbers, fishermen and boat builders.

Dodson House and Eagle House contain

exhibits of ship models (particularly Chesapeake Bay sailboats), old marine engines, navigating instruments, photographs, Feuchter watercolors, china imported during the days of spice trading, hand-carved decoys and other Chesapeake Bay memorabilia.

The museum operates a gift shop featuring craft items of unusual quality and indigenous to the area. Among the many items are watercolors of local scenes; paintings on driftwood by an artist who makes his main income as a waterman; ships in bottles; ship plans suitable for framing, and a wide variety of books on the Chesapeake area and its history.

The museum is open from 10 a.m. to 5 p.m. every day except Monday, unless a holiday falls on Monday. Admission is $1 for adults, 25 cents for children 12 to 18, and no charge for children under 12 when accompanied by an adult. There are restroom facilities and slips to provide tie-ups for visiting yachtmen.

For those wishing to explore the Miles River, the excursion boat "Patriot" offers an hour and a half's scenic and historic trip, leaving from the museum's dock at 1 p.m. and 3 p.m. Rates are $3 for adults, $1 for children under 12, and a family rate of $8. The boat operates on weekends in May and every day except Monday from May 30 through Labor Day.

You'll surely work up an appetite in this pleasant outdoor setting. Picnic tables are available on the museum grounds. Also at the museum is the Crab Claw, a restaurant on the water that features "crabs all ways" and a variety of seafood. The owners, Ed Higgins and Bill Jones, were watermen and operated the Eastern Shore Clam Company prior to the museum's opening in 1965.

When tourists came to watch the crabs, clams or oysters being unloaded, they invariably asked where they might find a good restaurant. Encouraged, Higgins and Jones built a restaurant on top of their dock, which they operate from March to November every day except Mondays.

The seafood couldn't be fresher—you can watch while any one of the 50 "catchers" who supply the Crab Claw pulls up to unload his boat. Prices are moderate. They serve at tables on the dock when weather permits offer "room service" to boats docked in their slips and provide a ferry when these slip are filled or yachtmen prefer to dock in the open river and be picked up. Raw seafood can be purchased to take home.

Another restaurant, the Harbor View Inn, across the Miles River opposite the museum provides free ferry service back and forth from the museum dock. Open every day starting May 1, they also have a fine view and feature a seafood smorgasbord on Saturdays and Sundays. Nearby, on the town dock, the Quarter Deck Restaurant is open all day.

Don't be surprised if you find a waiting line at these restaurants, even though there's space in the parking lot. As you might imagine, during boating season many of the customers arrive by water.

Before you leave St. Michaels, be sure to visit St. Mary's Square, laid out by James Braddock in 1778. A bell cast in 1842 and known as the "Ships Carpenters' Bell" is rung at 7 a.m., noon, 1 p.m. and 5 p.m.—just as it once tolled the working hours of the men in the shipyards. The Cannonball House, a three-story brick residence built in 1805 at the north gate of the square, was the one house hit when the British attacked the darkened town in 1813. If you plan to visit St. Michaels during the weekend of May 15-16, the Cannonball House will be among the homes and gardens open for the Maryland House and Garden Pilgrimage (fee charged).

To reach St. Michaels, take Exit 31 from the Washington Beltway and follow Route 50 (John Hanson Highway) past Annapolis and over the Chesapeake Bay Bridge. (Toll $1 each way for car including all passengers. You'll see a new twin bridge under construction.) Stay on Route 50 toward Easton. A short distance after you pass the Easton Airport on your right, turn off on Route 35, which by-passes Easton and takes you directly to St. Michaels. Once in the town, drive slowly and you will see a sign for the Maritime Museum on your right.

HEALTH INSURANCE

Mr. EAGLETON. Mr. President, the distinguished senior Senator from California (Mr. CRANSTON) recently gave an excellent address to a symposium in Los Angeles jointly sponsored by the American Public Health Association and the University of Southern California. Senator CRANSTON's speech was aptly entitled "The Road to National Health Insurance," for he discussed the problems which await us if we try to move too rapidly into the "mammoth undertaking" which the adoption of a system of National Health Insurance entails.

In Senator CRANSTON's words:

Our experience with Medicare and Medicaid warns us to beware of untried national health care programs. And we must avoid building a demand for care that far outstrips the capacity of our medical personnel and institutions.

I should make clear that these are the counsels of prudence—not defeatism. Senator CRANSTON is one of the original cosponsors of S. 3, the national health insurance bill, and at this symposium he reiterated his support for the bill. Unlike many critics in this area, his role is a constructive one. In his speech, he suggests some changes in S. 3 and outlines a seven-point legislative program that he will propose to make health services more available to more people in the interim period before any national program of comprehensive health care is enacted.

Mr. President, I commend Senator CRANSTON's speech to all who are interested in providing Americans with better health care. His perceptive analysis is particularly timely in view of the current hearings on health manpower legislation being conducted by the able chairman of the Senate Health Subcommittee, Senator KENNEDY. Witnesses at these hearings—as well as witnesses testifying as part of the excellent series of hearings Senator KENNEDY has also been conducting on the Nation's health crisis—echo Senator CRANSTON's observation that no national program of comprehensive health care can be successful unless we have adequate numbers of well-trained health professions personnel.

In my view, the fate of a national health insurance program, if one should be enacted, will be determined in great part by the action Congress takes this year on legislation to provide Federal assistance for education and training in the health professions. If we fail to enact and fund greatly expanded programs to support the institutions that train our doctors, dentists, nurses, and other health personnel, then we can expect to have continued manpower shortages in these critical areas and national health insurance will be just another empty promise, for the most ingenious financing and organizational schemes cannot provide better health care unless there is an adequate supply of health professionals to render the services.

Mr. President, I ask unanimous consent that Senator CRANSTON's speech be printed in the RECORD.

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

THE ROAD TO NATIONAL HEALTH INSURANCE

(Speech by Senator ALAN CRANSTON, to symposium on "National Health Insurance Proposals: Alternatives and Issues," April 30, 1971)

It is a great privilege for me to address you this morning. I thank the American Public Health Association and University of Southern California School of Medicine for inviting me.

I have been intimately involved with health matters ever since I entered the Senate. I have been a member of the Health Subcommittee of the Labor and Public Welfare Committee for more than two years. I was chairman of the former Subcommittee on Veterans Affairs, which focused primarily on medical care for veterans in VA hospitals, and I am now chaiman of the new Health and Hospitals Subcommittee of the Senate Veterans Affairs Committee.

None of this, of course, makes me a professional in the field in which so many of you are professionals. As one who happens to be where laws are written in this—and in so many other areas—I'm doing my best to learn all I can about health, however.

I will speak to you primarily on S. 3, the proposed Health Security Act of 1971. I was an original sponsor of the bill in the last Congress when Senator Kennedy first introduced it. But I will focus most of my remarks more broadly on "The Road to National Health Insurance".

This is going to be, perhaps, an unusual health care speech. I am not going to use, even once, that six letter word starting with "c" and ending with "s" which Webster's defines as "The decisive moment; turning point." Well, I'll use it just once for explanatory purposes: "crisis." Nor will I recite the normal litany of alarming statistics about how far America is behind in this death rate or that morbidity rate or health statistic. I will use only once, now, in order to single it out and banish it, that cold, inhuman—in its current usage—eight-letter word beginning with "d" and ending with "y": "delivery."

You professionals well know the severity of the challenge that confronts us in the health care field today. So let me start by briefly outlining the major features of S. 3.

Eligibility—Every individual in the United States will be eligible for benefits. Individual contributions such as in Social Security will not be required, nor will a means test, as in Medicaid.

Benefits—With certain modest limitations, benefits will cover the entire range of personal health care services, including prevention and early detection, the care and treatment, and medical rehabilitation. There are no cutoff dates, no coinsurance, no deductibles, and no waiting periods. The principal limitations are:

Dental care is restricted to children through age 15 at the outset, with the covered age group increasing thereafter until persons through age 25 are covered. Once a person is covered, he is always covered.

Skilled nursing home care is limited to 120 days per benefit period. The limit is waived for nursing homes owned or managed by a hospital which provides for nursing care in its budget.

Psychiatric care—Hospitalization is limited to 45 consecutive days of active treatment during a benefit period; and psychiatric consultations are limited to 20 visits during a benefit period.

Prescribed medicines are covered only when provided through a hospital or organized patient care program, or when required for chronic or long-term illness.

In other respects, the program provides full coverage for physicians' services, inpatient and outpatient hospital and home health services, and coverage for optometry, podiatry, devices and appliances, and certain other services under specified conditions.

Compensation—Doctors and hospitals will be paid directly by the program; patients will not be charged for covered services.

Financing—A Health Security Trust Fund will be financed as follows:

50% from general tax revenues.

36% from a tax of 3.5% on employer's payrolls.

12% from a tax of 1.0% on employee's wages and unearned individual income up to $15,000 a year.

2% from a 2.5% tax on self-employment income up to $15,000 a year.

Cost—Estimates for FY 1974 run from $57 to $77 billion. In theory—though not necessarily in practice—none of this is "new" money; it is simply what would be spent anyway by individuals, employers and governments for health care.

Under the program, however, the money should provide more health services for more people by revitalizing the present system and reducing inflated costs. In addition, the new program is a direct form of revenue sharing. The relative contribution of employers and of the Federal Government will increase while individual State and local governments contributions will decrease. This will relieve State and local governments of $2.5 billion a year in costs for health care, freeing that amount of money for other essential purposes.

Administration—A five-member Health Security Board in the Department of Health, Education and Welfare will establish policy, standards and regulations.

Resources Development Fund—An essential feature is the Resources Development Fund, which will go into operation two years before benefits begin on July 1, 1973. In the first year of this "tooling up" period, $200 million will be appropriated; in the second year, $400 million. Once the benefits begin up to 5% of the Trust Fund—about $2 billion a year—will be set aside for innovative health programs, particularly in areas like manpower, education, training and group practice development.

Incentives—Financial and professional incentives are built into the program to move the health care system toward group arrangements for patient care and to encourage preventive care and early diagnosis. There are also incentives to guarantee quality health care in rural areas.

I have been intimately involved with health matters ever since I entered the Senate. I have been a member of the Health Subcommittee of the Labor and Public Welfare Committee for more than two years. I was chairman of the new Health and Hospitals Subcommittee.

I have co-sponsored S. 3 because I believe it is the most far reaching, comprehensive initiative yet proposed which still allows significant freedom of choice for providers. I also co-sponsored the bill to add momentum to a national dialogue on the need to drastically reform our health care system. Nevertheless, I have a number of reservations about it—both generally and specifically—particularly about the level of Federal expenditures this bill would entail. Of course, the rising costs of medical care are fantastic. The Social Security Administration estimates that total health expenditures will run $111 to $120 billion annually by 1975, and $156 to $189 billion by 1980. Compare those figures with the $8 billion being spent annually when President Truman first proposed National Health Insurance in 1946.

Improvements can and must be made in the bill. The Health Resources Fund should be expanded—especially during the "tooling up" period. I would want to provide even greater financial incentives for pre-paid practice and health maintenance organizations. And I favor expanding the tooling up period to at least three years.

The bill, as drafted, would have the effect of dismantling the health insurance industry, which employs 350,000 people. I question the feasibility of doing this. In any event, the bill should be more specific about phasing such employees into government service if private insurers are supplanted in the bill's final formulation. I also feel that greater thought also should be given the role of Veterans Administration, Department of Defense and Public Health Service hospitals.

Thus, while I believe we must move toward a comprehensive national health insurance program to improve the organization, rendering and financing of health services through public and private cooperation, I also believe that realistically the effective date of any such program is at least four years and probably five years away.

I think the delay is good. I don't believe we are ready for this mammoth undertaking right now.

Our experience with Medicare and Medicaid warns us to beware of untried national health care programs. And we must avoid building a demand for care that far outstrips the capacity of our medical personnel and institutions. I fear that 5.3 would seem to many, to promise far more medical care than can be provided.

In the next four to five years, I predict that major strides will be taken to expand the supply of health care professionals—especially nurses, allied health and paraprofessionals. We will also make headway, I believe, in redistributing physicians, dentists, and other health personnel into scarcity areas. Some of this can also be accomplished through already developed technology in transportation, communications, telecommunications and sensory fields. For example, we can make greater use of specially adapted helicopters—with finely trained emergency care specialists with the sophisticated life saving and life sustaining equipment—especially in rural areas. We've already demonstrated how to do this in Vietnam.

We must also drastically expand efforts to bring minority group and other disadvantaged persons into the health field and to motivate health care practices in poverty communities. The Health Professions Assistance Amendments Act of 1971, a bill I first introduced in the 91st Congress and re-introduced this Congress as S. 372, would accomplish much of this with respect to physicians and all other health professionals. Other pending measures would do the same for nurses, allied health professionals and paraprofessionals.

We must substantially increase federal support of medical education at the same time that we ask medical schools to be more responsive to overall community health needs and to accept new training methods. In his February 18, 1971, Health Message President Nixon took an important step forward by encouraging these objectives along with Health Maintenance Organization and Emergency Health Personnel Act funding.

Biomedical research also must receive substantially more funding. A distinguished panel of health specialists, called the "Coalition for Health Funding," has recommended that the National Institutes of Health research budget be increased $232 million above what the President requested for NIH and for additional cancer research in FY 1972. This would constitute more than a twenty percent rise in NIH funding. I strongly support that rise.

We also must facilitate the establishment of prepaid group practices and community-based comprehensive health centers with strong emphasis on health maintenance, preventive medicine, and quality controls, and we should promote patient-consumer education and involvement in decisionmaking.

I believe all of these legislative and appropriations initiatives will be accomplished—at least to the degree necessary to get them off to a good start—in the next year or so.

I fully endorse the nine principles endorsed by the American Public Health Association which I would restate as follows:

1. Increasing the availability and accessibility of quality medical and health care services. This means changing the rendering of services and expanding the systems' capacity to provide for the millions who now have no access to services. Among other things, this means new state licensing approaches.

2. Encouraging high quality, comprehensive, universally available care—which should be the birthright of every American—and emphasizing health education and prevention, not merely diagnosis and treatment.

3. Distributing costs so that there is one system that will provide care for everyone, regardless of income.

4. Providing better cost controls. The Finance Committee recently has begun to establish effective cost control mechanisms in Medicare.

The role of physicians is crucial in this, as in so many other of our goals. I don't believe we can impose a plan on the medical community if the medical community is hostile to it. There must be more than a reasonable degree of support among providers if a national program is going to work.

The Health Security Act meets most of the goals I have discussed. With modification, and revision and improvement, I believe it is the plan we should enact—after careful, thoughtful study and hearings, with ample opportunity for all who should be heard to be heard.

But what should we do about financing health care costs *today?*

Private health insurance coverage has spread rapidly during the past twenty years. By 1968 about 159 million people, out of the 179 million under age 65, were covered in one way or another. Yet 65 million Americans still do not have any form of major medical insurance. About 100 million are not covered for physician services and only 30 million people have either Medicare or Medicaid coverage or receive services directly through publicly-supported programs, such as the Veterans Administration.

Present programs also fail to meet many of the costs of medical care. Health insurance paid for only about 36% of the total national health expenditures in 1968. Even the aged, with Medicare coverage must pay 55 percent of their health care expenditures.

In the next fiscal year, Americans who are 65 or over will collectively pay as much for medical care as they paid before the advent of Medicare: That's primarily because medical costs for the aged have risen from $7.9 billion in fiscal 1966 to an estimated $20 billion in fiscal 1972. Medicare will pay for $9 billion of this, and other Government aid will provide $4.9 billion. But $6.1 billion must still be paid out of the pockets of the aged and the poor.

Although health insurance and the government pay 85 percent of hospital costs, they pay only about half of physicians' services, and almost nothing for prescription drugs and dental services.

That is not an enviable record. I believe there is much we can do now to improve

coverage while we are traveling "the road to National Health Insurance."

I want to propose seven specific interim programs to help mark the route and pave the way ahead of us. All, in my judgment, can win Congressional approval and, with one possible exception, go into effect January 1, 1972.

First: I have decided to cosponsor the Catastrophic Health Insurance Program (S. 1376) proposed by Senator Russell Long, Chairman of the Finance Committee. The program would supplement existing private health insurance and Medicaid for people under 65. Medicare would continue for those over 65. Medicaid would also continue basic health insurance for the poor.

The Catastrophic Program would offer the same benefits as Medicare, but there would be no upper limits on hospital days. There would be substantial deductibles of 60 days hospitalization and $2,000 in medical expenses, but the majority of working people either have or can obtain private insurance to cover these deductibles. In most states Medicaid would meet much of the deductible for the poor. Medical expenses would also be subject to a 20 percent co-insurance requirement.

The program would be administered by Social Security in the same fashion as Medicare. All payments to patients, providers and practitioners would be subject to the same reimbursement controls as are applied in Medicare. Similarly, the quality, health and safety standards and utilization controls in the Medicare program would also apply to the Catastrophic Program.

The plan would be financed through payroll contributions from employees, employers and the self-employed on a $9,000 wage base. The estimated cost is $2.5 billion for the first full year of operation.

The program would cover about eight million Californians. About 100,000 California families a year can be expected to incur expenses that would qualify them for some $250 million in payments.

In his presentation to the Finance Committee, Senator Kennedy cited a number of examples his field investigations had uncovered to demonstrate the need for the Health Security Act. Half of the cases he cited were catastrophic cases and all of those would have obtained substantial relief under the Long bill.

I believe the bill can be further improved and I presently expect to offer amendments to Senator Long's bill that would:

1. Eliminate the 20 percent co-insurance feature for medical expenses. I believe this poses unreasonable burdens on persons truly facing catastrophic expenses.

2. Reduce the deductible for medical expenses according to individual incomes, to a floor of $1,000.

3. Cover expenses beyond Medicare entitlements for people over 65.

4. Cover prescription drugs, with no deductible.

5. Cover skilled nursing home care. That is clearly needed for full catastrophic illness protection, but it is not covered either in the bill or by Medicare, the model for the catastrophic program.

6. Enable certain government employees and people covered by the Railroad Retirement Act who are not covered by Social Security, to "buy into" the program.

Senator Long is already seriously considering many of these improvements. Most, perhaps all, can be enacted this year.

Second: I expect to propose that all recipients of Social Security disability benefits be covered by Medicare—about 3 million disabled workers, dependents and disabled children. They include 275,000 disabled Californians. The new coverage would have the effect of lowering the cost of the Catastrophic Program and it would be easily administered: eligibility having already been determined.

Third: I expect to propose coverage under Medicare and Medicaid of all prescripition drugs furnished outside the hospital. A one dollar co-payment would be required for Medicare recipients and for Medicaid's medically needy. This would cost about $2.335 billion nationwide. It would provide about 650,000 prescriptions, at a cost of about $250 million, for aged and impoverished Californians.

Fourth: I expect to propose that the Medicaid program for aged, blind and disabled welfare recipients be placed under Federal administration and funding with a national benefit structure. This change would ensure adequate Medicaid benefits in all states to meet both deductibles under the Catastrophic Health Insurance Program. When the whole welfare program is federalized, which I strongly advocate, A. F. D. C. welfare recipients should also be brought under the federal wing. Full Federal funding of Medicaid would save states and localities about $3.3 billion in FY 1972 alone which they now pay in state and local Medicaid shares. About $600 million in state funds, and $150 million in county funds, would be saved in California.

This proposal would take away from Governors like Ronald Reagan the power and the temptation to slash Medicaid budgets at the expense of the aged, infirm and the sickly poor. These recent moves by Governor Reagan may well force people off Medicaid and onto publicly-supported local institutions, thus throwing a still greater burden on the already revenue-squeezed county taxpayer.

Fifth. I expect to propose that Part A, Hospital Care, and B. Outpatient Services, under Medicare be consolidated, much in the manner recommended by President Nixon in his February 18 Health Message. This would mean that the cost of the monthly premium for Medicare Part B paid by the elderly recipient would be replaced by a small increase in the Social Security wage base. This would save Medicare beneficiaries approximately $1.3 billion annually, based on the $5.60 monthly premium set to begin this July 1. This will mean a savings of $117 million for 1.8 million California elderly now covered under Part B of Medicare. The purpose of the premium, to assure visibility of the program for cost control leverage, no longer seems valid. Through diligent efforts, the Finance Committee has recently improved cost control over Medicare expenditures.

Sixth. I expect to support comprehensive regulation of the health insurance industry, including benefit levels, profit and overhead (some companies take 50 percent of their receipts for this purpose) and provide quality care control standards enforced by the carrier.

Seventh. I expect to propose that H.E.W. be directed to carry out a half dozen major regional experiments in financing and rendering health care, including prepaid plans designed locally to utilize all resources within a region. The areas chosen should cover a diversity of population, medical availability and need.

This 7-point interim program is, I believe, both badly needed and workable. It is badly needed, now. I do not believe it should be held "hostage" over the next four or five years so as to build demand for National Health Insurance. On the contrary, I think the steps I suggest will make it far easier to complete the journey to National Health Insurance and to make it more effective by what we learn along the way.

CONQUEST OF CANCER

Mr. PACKWOOD. Mr. President, I commend President Nixon for his forthright statement on the conquest of cancer and for reiterating his personal commitment to an intensified Federal research effort to eliminate this dread disease from the American scene. Not one of us here today has escaped the profound sorrow of losing a loved one from some form of cancer. In Oregon alone, cancer last year claimed 3,300 lives, and will take another 3,400 lives during 1971. It haunts us all, and will continue to do so until the causes, prevention, and cure or cures are discovered.

This year's state of the Union message gave us a clear indication that President Nixon is dedicated to a stepped-up cancer research effort. He has requested a special impact appropriation of $100 million over and above the regular budget of $232 million for the National Cancer Institute, bringing the total to $332 million for 1972. In addition, he has asked Congress to make the additional $100 million available on July 1, so that this initiative can begin without waiting for the long delays inherent in the congressional funding process. Knowing that all Senators share the President's desire to get this urgent research program underway, I am optimistically hopeful that the money will, indeed, be made available immediately.

The distinguished Senator from Massachusetts has shared our serious concern over cancer research and has introduced legislation to remove cancer research from the National Institutes of Health by establishing a separate cancer authority. I have shared President Nixon's grave misgivings about this new administrative arrangement which would separate cancer research from the other biomedical research underway at NIH. My misgivings stem primarily from the fact that this would fragment the overall biomedical research effort, it would disrupt on-going research in a number of disciplines, it would retard rather than speed up our cancer research effort and it would, in short, waste too much of the time, effort, and money available for cancer research, without providing any counter-balancing benefits for cancer research. In fact, many experts in the scientific and academic communities feel that separating cancer research from the other biomedial research at NIH would have long range, as well as short range, detrimental effects on the objective we all share, conquering cancer.

With this background, Mr. President, you can understand my deep appreciation for President Nixon's renewed—or more appropriately continued—efforts to channel the expanded cancer research budget into the most effective and efficient administrative framework. The President's proposal, which was introduced yesterday by the distinguished Senator from Colorado (Mr. DOMINICK), would pull together all the benefits of other proposals which have been offered, without risking the fragmentation and delay which many of us have feared would result if we were to separate cancer research into a separate agency, as suggested by the Senator from Massachusetts.

So once again, for myself, for the 6,500 new cases of cancer which will be diagnosed in Oregon alone before this year is out, and for all Americans, I commend President Nixon for his most constructive proposal and for providing such excellent

leadership in this area which has touched each and every heart in this Nation. I ask unanimous consent that the President's cancer message be printed in the RECORD.

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

STATEMENT BY THE PRESIDENT

Cancer has become one of mankind's deadliest and most elusive enemies. The conquest of cancer is one of the most important efforts of our time.

Success will test the very limits of our imagination and our resourcefulness. It will require a high sense of purpose and a strong sense of discipline.

In my message to the Congress on the State of the Union on January 22, 1971, and again in my special message to the Congress concerning a National Health Strategy on February 18, 1971, I expressed my determination to wage a successful campaign against this dread disease. I called upon the Congress to appropriate an additional $100 million to support such an effort. I am pleased that in recent days the Appropriations' Committees in both the Senate and the House of Representatives have favorably viewed this request and I am hopeful that the House—which votes today—and the Senate will both follow the Committee recommendations.

FEARS AND HOPES ABOUT CANCER

Across the Nation, there is a growing consensus that our vast scientific and technological resources should promptly be marshaled in an unprecedented attack on this devastating disease.

This consensus springs both from fear and from hope.

Cancer is second only to heart disease in the number of lives it takes in this country. And the nature of its ravages makes it our most feared disease. If the present incidence of cancer were to continue some 52 million Americans who are alive today would contract this disease someday. This means that cancer would strike one out of every four individuals in this country—and two out of every three American families. It would mean that in the next ten years alone, three and a half million Americans would die from cancer. For many of its victims, death is a slow and painful process. And for many of their families, the personal tragedy is compounded by the financial implications of a prolonged disease.

At the same time, however, there is much reason for hope.

New vistas are now opening for further research into the treatment and prevention of cancer, the result of some remarkable advances which have been made during the past ten years as we have multiplied many times over our fundamental knowledge in this area. Virus research, for example, has demonstrated that cancer can be produced in animals by over 110 of the nearly 1000 viruses that science has identified. We have learned that animal cancers can be induced by over 1,000 chemical substances. Effective measures for preventing cancer have been developed in animals, and scientists have even demonstrated that human cancers can be prevented by avoiding exposure to certain chemicals. Other advances include new surgical procedures, more effective radiation therapy, and techniques for treating cancer with improved combinations of known drugs.

All of these developments have fueled our hopes and provided a broad frontier of possibilities for researchers in the months and years ahead. This is why I was able to suggest in my special health message to the Congress in February that "of all our research endeavors, cancer research may now be in the best position to benefit from a great infusion of resources."

MORE MONEY AND BETTER ORGANIZATIONS

The time has now come for us to put our money where our hopes are. In the first full budget developed by this administration last year, an increase of $20 million was provided for cancer programs. For fiscal year 1972, the administration request for cancer programs is slightly over $332 million—an increase of $100 million from the 1971 fiscal year. If these resources are provided by the Congress, we should be able to finance a new and massive assault on cancer. If it should turn out that we need more money, however, I will not hesitate to ask the Congress to provide whatever funds can be effectively utilized. But I would also emphasize this important point: More money alone will not be enough. Money can help set the stage for faster progress, but in the end it is brainpower alone which can lead us to our goals. This means, of course, that we need to mobilize the intelligence and imagination of our doctors and scientists. And it also means that we must do a better job of tapping the Nation's administrative and organizational skills, which can help remove many roadblocks to success. Our capacities for efficient management were instrumental in our efforts to split the atom and travel to the moon. Now we need to apply those same capacities to the conquest of cancer.

This means, for one thing, that a wide variety of research activities in all parts of the country, in many areas of society and in a great number of disciplines must be carefully coordinated. There must be as much cross-fertilization as possible between various scientific pursuits.

In the past, the National Institutes of Health have had considerable success in fostering such coordination and cooperation and, in the process, they have earned both the respect of the scientific community and the gratitude of thousands who live happier and healthier lives because of NIH successes. It is for this reason that I have asked the Congress to establish a Cancer-Cure Program within the National Institutes of Health, where it can take the fullest advantage of other wide ranging research.

At the same time, it is important that this program be identified as one of our highest priorities, and that its potential for relieving human suffering not be compromised by the familiar dangers of bureaucracy and red tape. For this reason, I am asking the Congress to give the Cancer-Cure Program independent budgetary status and to make its Director responsible directly to the President. This effort needs the full weight and support of the Presidency to see to it that it moves toward its goals as expeditiously as possible. I am further recommending that this Director be supported by a strong management group which has as its one goal: the cure of cancer—and which can pursue that goal with single-minded tenacity.

In addition, I am recommending that a new Cancer-Cure Advisory Committee be set up to provide a broad range of advice and assistance for the President and for others who lead the Cancer-Cure Program, particularly as they work to set intelligent priorities for the Nation's efforts in this area.

I am pleased to report that the detailed management and administrative mechanisms for carrying out these plans have been discussed in considerable detail within the National Institutes of Health, with experts in the field outside of Government, and in the Office of the Secretary of the Department of Health, Education and Welfare. As these plans are translated into action, I hope that the Congress will comment on them and suggest additional ways in which we can work toward these significant goals.

I would not want to discuss the subject of cancer research, however, without offering a word of caution. Many of the experts that we consulted with told us that biomedical research is a notoriously unpredictable enterpirse. Instant breakthroughs are few and the path of progress is strewn with unexpected obstacles. As we undertake this crusade, we must put on the armor of patience, ready to persist in our efforts through a waiting period of unknown and possibly anguishing duration.

Yet I feel confident that with such funding as I have proposed, with such organizations as we are developing, with the dedicated efforts of thousands of men and women from many disciplines, and with the cooperation of the Congress and the people of the United States, we can make great strides against this terrible enemy, bringing new hope for all Americans—and indeed new hope for all the world.

CLOSING OF FORT WORTH NARCOTICS TREATMENT CENTER PROTESTED

Mr. BENTSEN. Mr. President, practically every day we see a headline or a television special emphasizing the epidemic proportion of drug addiction.

Just this week, we heard one of the Federal Government's leading experts on drug addiction testify that his previous estimate of 125,000 addicts should be doubled to a quarter million.

I visited Vietnam recently and I was told drugs have become a major problem. Recently, Congressmen returned to report on the horrible situation there, of thousands—one estimate of more than 30,000—of our servicemen now fully addicted to hard drugs.

And what does the administration propose in the face of this frightening explosion of drug addiction? They close one of the two medical treatment facilities in the Nation, the Fort Worth Narcotics Treatment Center.

Mr. President, I submit that whatever the reason for the closing, certainly it is not for lack of need. Certainly, the young cynics who contend that Government is not responsive, that bureaucrats fail to understand, that Government is blind to the human problems, can make a firm case in this instance.

The rising protests concerning the closing of the Fort Worth facility has brought a thoughtful editorial comment by the Fort Worth Star-Telegram. I 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:

[From The Fort Worth Star-Telegram, May 6, 1971]

CENTER PHASEOUT MAKES NO SENSE

The future of Fort Worth's U.S. Clinical Research Center has been clouded for more than two years. Last January the long struggle to keep its doors open produced what appeared to be at least a partial victory: The center would continue to operate but would be transferred this summer from the National Institute of Mental Health (HEW) to the Bureau of Prisons.

The full meaning of this switch now has been brought to public attention. The facility will cease to operate as a federal hospital and research center for the treatment of narcotics addiction and will become, instead, a regular unit of the prison system. Under the new arrangement, some addicts might be admitted for treatment, but the center's primary role—which it has fulfilled for some 33

years—would be practically abolished. This would leave only one federal treatment center for drug addicts, the facility at Lexington, Ky., which already is seriously overcrowded.

Expressions of dismay have been voiced by political and medical spokesmen alike. Lt. Gov. Ben Barnes said it is "most untimely" to end activities of the Fort Worth facility as a narcotics treatment center when the incidence of addiction is increasing so rapidly. Dr. Dominick J. Lacovara, chief of the center, said he was disturbed by the decision in view of the existing shortage of narcotics treatment centers.

Rep. Paul Rogers of Florida, chairman of the public health and environment subcommittee of the House Interstate and Foreign Commerce Committee, said he was "upset, alarmed and concerned" by the proposed change in role. "I do not agree," he said, "that the government can afford to reduce its meager resources by turning over this hospital to the prison system."

Sen. Lloyd M. Bentsen Jr., noting that the drug problem daily grows more acute, said Fort Worth's rehabilitation center should be expanded, not done away with.

And Rep. Jim Wright, dealing with the concept of drug treatment at the community clinic level, asserted in a House speech this week that of the 14 proposed community clinics in Texas, only two of them are now prepared to accept in-patient adult narcotics cases. While admitting the validity of such community-based centers, Representative Wright pleaded that they need to be operational before the federal government cuts in half its own treatment facilities.

"Let's build the lifeboats before we sink the ocean liner," Mr. Wright pointedly suggested.

We cannot see the wisdom, at a time when drug abuse is spreading like wildfire, of closing or converting to a prison a well-staffed, well-equipped facility such as the Fort Worth center, with all of its research capabilities.

To add a note of poignancy to our plea, we quote from a newspaper article written this week by a Staten Island, N.Y., woman whose son became an addict:

"My son is in prison now," the mother wrote in her story distributed by Newhouse News Service. "He really was sentenced to a rehabilitation center. The centers are overcrowded. There aren't enough beds. He must wait his turn to be helped. I can only pray that he will overcome his illness. There are no guarantees. . . .

". . . There has to be a way to solve this enormous problem. I know it is too late for my son to have that advantage. But I want so to help you—won't you try to help?"

It is to be hoped that the protests now being voiced will have the desired affect, and that the administration will not proceed with a plan which appears to be shortsighted and illogical.

RUMANIA'S NATIONAL HOLIDAY

Mr. TAFT. Mr. President, May 10 has been revered and cherished by Rumania as their national holiday. It is the anniversary of great events in the history of that nation.

On May 10, 1877, the Rumanian people proclaimed their independence from the old Ottoman Empire. Four years later on May 10, 1881, Charles the First was crowned King of Rumania. He had served as Prince of Rumania since May 10, 1866 when the Rumanian dynasty was established.

I think it is particularly appropriate to recognize the people of Rumania at this time in light of the increasing signs of better relations between our two countries. I applaud the efforts here, as well as there, to expand trade between our nations and promote better understanding between our people.

I am pleased to take this opportunity to salute the Rumanian people on their national holiday and recognize the courage, ability, and determination which they have demonstrated through many difficult years.

OCEANOGRAPHY FOR THE NAVY AND THE NATION

Mr. HOLLINGS. Mr. President, the importance of the oceans to the national security of the United States is highlighted by the increased emphasis that our Navy will receive in the 1970's. Our global strategy calls for mobility as a major deterrent to aggression. The oceans provide space for mobility and characteristics for secrecy—both for us and for other nations. An understanding of the characteristics of the oceans and the basic technology to work in them are essential to the effectiveness of our deployed naval forces.

In this context, the speech given by Rear Adm. W. W. Behrens, Jr., Oceanographer of the Navy, to the American Oceanic Organization on April 27 gives important insight into the Navy's efforts to understand the oceans. His speech deals with the unclassified work of the Navy in this area, and, importantly, shows a strong awareness of the need for cooperation and participation of the Navy in the overall national oceanic program.

I ask unanimous consent that Admiral Behrens' speech, "Oceanography, for the Navy and the Nation," be printed in the RECORD.

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

OCEANOGRAPHY, FOR THE NAVY AND THE NATION

(Address by Rear Adm. W. W. Behrens, Jr., the Oceanographer of the Navy)

It gives me great pleasure to be here with you today, and to have this opportunity to talk with you about the naval and national program in oceanography.

If I had a board of directors, many of you gentlemen here today . . . in the important marine and environmental committees of the Congress, and in the American Oceanic Organization . . . would be considered as serving on that board of directors. I am therefore especially pleased to be able to give you this report of recent actions and to tell you some of what we look forward to in the immediate future.

First, I would point out that I have now been the Navy's Oceanographer for a half a year. This is an appreciable period of time . . . certainly long enough for me to begin making an impact, and long enough for me to be held responsible for any shortcomings you may see in our program today.

This has been a most satisfying seven months for me personally. Oceanography, as some of you know, has long been an avocation of mine . . . as it is for many naval officers, and most naval officers are oceanographers at heart anyway. You can hardly live with the sea, and depend on it for your life or death . . . navigating in it, on it, and over it . . . without being something of an Oceanographer.

Sometimes in the past I have been a "Political Oceanographer." As Navy's Director of Politico Military Policy, I had responsibilities in developing Department of Defense positions in "Law of the Sea" matters. At another time, while a Member of the State Department Policy Planning Council, I helped with aquaculture and fish protein concentrate projects, as well as with our national Merchant Marine and Fisheries programs generally. (And I might say here, as an aside, it gave me a deep and special pleasure to participate with Senator Magnuson and others recently at the formal opening of the new FPC pilot plant at Aberdeen, Washington. As a partial drafter five years ago of the enabling legislation and the FDA compromise which brought that FPC plant into existence, I was very proud to be at Aberdeen ten days ago).

Also, I've long supported the principle that the deep oceans are the common hertiage of all mankind. It was my privilege to draft such words for President Johnson in 1966, at the commissioning of the ESSA ship "OCEANOGRAPHER", and I felt it right that the same principle should be again affirmed by President Nixon in his statement of May 1970.

So my previous work, including service as a committee chairman for the Marine Council, has . . . I believe . . . fitted me to be your Oceanographer of the Navy. I am glad to have this background of experience because these are significant, particularly vital times for oceanography . . . in the Navy, in the Nation, and internationally. Never before, as we all here well realize, has Man taken such an interest in his natural resources, in his environment. And the greatest of Man's resources . . . the storehouse of his future, the modifier and manufacturer of his weather, his environment, and his very life cycle . . . is the ocean.

For us here . . . members and guests of the American Oceanic Organization . . . though our immediate objectives and approaches may be quite different, there is a common purpose in our efforts to understand the sea and its behavior.

Our mission in Navy Oceanography has been, and continues to be, one of providing specific knowledge about the oceans of the world to the operating Fleet. The Navy pursued that knowledge somewhat by itself for years, pioneering many methods and technical accomplishments that have helped to establish widespread interest in realizing the benefits available from the sea.

Now, we in the Navy must look forward to our Fleet of the future. It will, in many respects, be different from the Fleets of the past. And it will have new requirements in oceanography; in mapping, charting and geodesy; and it will require better refinements, greater accuracies in charting, in underwater acoustics, and in environmental prediction. Our Fleet of the 1980's and of the year 2000, will be one of fewer carriers; more helicopters, hydrofoils and ASW craft; nuclear power; and a greater dependency on missiles, both tactical and strategic. With every ASW destroyer having its embarked "lamps" helo, accurate weather forecasting will be needed more urgently than ever. And equally necessary will be underwater acoustic predictions for the high performance sonar. Precise geodetics will be required for ULMS, the mammoth multi-warhead strategic missile submarine . . . requiring much more detailed and accurate hydrographic information than its Polaris-Poseidon predecessors. Also, we will no doubt be placing increased reliance on our developing ocean surveillance system.

These challenges for Navy oceanography mean that more than ever our program must provide valid, maximum return for the funds invested. At the same time, new developments in civil oceanography . . . in federal structure . . . offer new, cost-effective opportunities for the Navy to cooperate and, by means of a profitable two-way street, capitalize on the sound oceanographic work

of other federal and private scientific organizations.

The establishment of NOAA, the National Oceanic and Atmospheric Administration, last October is perhaps the single most important thing that has happened in the American environmental sciences in many years . . . and you have heard Dr. White's report to this group. As an individual interested in marine science, I strongly supported the formation of NOAA, and I have always believed that a new NOAA and an old Navy would advantageously cooperate in oceanography.

To accomplish as much as possible in our common interests, to eliminate any redundancies between our respective programs, and to couple effectively Navy's and NOAA's ocean efforts, we in the two departments are now completing our plans for a closely integrated sharing of our civil oceanography. For maximum effectiveness, we are working toward an agreement whereby the Oceanographer of the Navy will serve in NOAA as a Special Assistant for oceanography coordination. Similarly, an exchange of some three or four key professionals between Navy and NOAA will be undertaken. These steps, with other ongoing coordination with the National Science Foundation, Coast Guard and other federal marine agencies, will help to insure that Americans are getting the maximum for each dollar of national oceanography . . . and that those of us responsible are doing the most efficient job possible in oceanography. I might point out here that, for example, the Navy is right now . . . today . . . using a NOAA National Ocean Survey ship on a partly reimbursible basis to conduct a survey of joint interest. This typifies the kind of coordination we need . . . with both NOAA and Navy doing important coastal charting, with Navy's major ocean area requirements rising, with NOAA properly pursuing an expanding SEAMAP program, and with the demands on the federal expenditures getting tighter every day.

So from the Navy's point of view, while the Administrator of NOAA desires our support, we also need NOAA. One of my primary goals as Oceanographer is to work as smoothly and as efficiently as possible with our sister organizations. Similar to our cooperation with NOAA, for coordination of our ship facilities and research programs at civilian institutions . . . vital to both our agencies . . . I am pleased to represent Navy in a new coordinating committee with NSF, wherein the Assistant Director, Dr. Owen, represents the National Science Foundation. And for parallel reasons, I have asked Coast Guard, with their important oceanographic interests, to provide an exchange of officers with my Staff.

To profit from cooperation in the significant oceanographic work being done by several of our foreign allies, I am strongly promoting an international exchange of oceanographic personnel between my Staff and key NATO and SEATO countries. To date, we are negotiating with Canada (particularly because of our common Arctic interests) and have made a proposal to Australia because of mutual interests in the Indian Ocean. Also, last Fall we leased an oceanographic survey ship to New Zealand (which will provide us with survey data), and we are considering other bilateral oceanographic assistance and exchanges with a few other friendly countries. With our world-wide oceanography program, it is practical for the Navy to participate in international cooperative oceanographic ventures without mounting new efforts unrelated to our mission requirements.

The Navy Oceanography Program continues to represent a great concentration of national skills and hardware resources for getting to know the marine environment. But antisubmarine warfare remains the single most urgent military problem supported by naval oceanography. This program, devoted in large part to exploiting underwater sound, continues to involve physical and chemical oceanography, air-sea interaction studies, marine biology, marine geology and geophysics. Quieter enemy submarines pose a particularly potent threat! Therefore, the largest share of our acoustic effort is devoted to the study of the environmental constraints on our systems, and upon the new concepts that will potentially meet this threat. Over 96 million dollars, or 47% of the Navy Oceanographic Program supports ASW. Of that total, much will be used for RDT&E, mostly in Ocean Science.

Our Ocean Science Program is now funded at 70 million dollars, which includes about 10 million dollars in major new facilities. Although this total will be essentially the same in FY 72, there is slightly more money in research and advanced development at the expense of major capital investment. Thus we will be able to accelerate important programs already in being and upgrade our research-ship facilities. Two geographic areas of special interest . . . the Arctic Ocean and the Mediterranean Sea . . . will receive primary attention. Because of their obvious strategic importance, the Navy's need to operate effectively in these regions will spur increased science effort.

The great bulk of our support for civilian institutions falls within the area of Ocean Science. Next fiscal year university oceanographic research in pursuit of Navy objectives will account for some 34 million dollars, or close to 16% of all Navy oceanographic funding. That's an increase of 3 million dollars over this year's support.

To turn next to Ocean Engineering, we have a great variety of projects. In exploratory development, over 50 projects totaling 9 million dollars are underway . . . including work on diver equipments, hydrographic survey equipment and techniques, deep ocean construction equipment, and materials for underwater use, such as high strength steel, titanium and acrylics.

In advanced development, we are funding some dozen significant projects at 17 million dollars. These efforts represent both independent systems development, as well as the progression and integration of successful exploratory development achievements into major systems. Projects include the Deep Submergence Rescue Vehicle System, Large Object Salvage System, two Hydrographic Survey Systems, Deep Submergence Bio-Medicine, Deep Ocean Technology and others.

Although our Ocean Engineering funds have decreased somewhat when compared with recent years, the decrease reflects more the virtual completion of the Deep Submergence Rescue Vehicle rather than any program de-emphasis. On the contrary, we have been able to maintain strength in our major technology programs, which are a better indicator of emphasis than individual systems projects.

We have had to make some hard decisions because we could not afford the luxury of parallel approaches in meeting objectives. I am talking decisions such as to go the unmanned—, vice the manned—, vehicle route to gain a 20,000 foot depth capability. We also had to forego habitats in favor of personnel transfer capsules in our deep diver efforts. But we are on track toward meeting our objectives, and this is what counts.

One of our objectives in the Ocean Engineering Program is to move our divers from a work depth of 350 feet down to their physiological limits. We are already at 850 feet . . . and sinking. In support of this, and of deep ocean operations generally, we are holding our deep submergence bio-medical program at a healthy level of about three million dollars annually.

Another objective in engineering is to move the effective working depth of our undersea vehicles and equipment on down to 20,000 feet, and at the same time improve our capabilities for accomplishing work at all depths. For example, the Alvin submersible is being provided with a titanium hull to increase its operating depth for research projects from 6,000 feet to 12,000 feet.

Work is underway, as a part of our Deep Ocean Technology, on a remote unmanned work system which will operate to a depth of 20,000 feet and be controlled by way of a cable from a surface platform. This work system is actually an adaptation and improvement of the "CURV", now capable of operations to 7,000 feet.

We are seeing project completions in ocean engineering such as ASWEPS (Anti-Submarine Warfare Environmental Prediction Service). We will continue to make improvements in ASWEPS as advancing technology permits, but the ASWEPS system is presently operational at sea.

In the Operations portion of our Program, the geodetic satellite project is unique. The Navy doppler satellite technique has been designated the DOD geodetic satellite system for the 70's, and it is being adopted by Army and the Air Force. From it come improvements in the important world geodetic system. The development (by Navy) of the lightweight, highly portable goeceiver to read out the satellite data signaled a major advance in geodesy operations.

The Navy's ocean Environmental Prediction Service efforts, too, have led the nation. This work, carried out through the Naval Weather Service Command, represents an almost ten million dollars annual investment.

The highly favorable response from the Fleet insures that this program will continue to be emphasized.

In direct support of strategic program efforts, we are conducting deep ocean surveys with four ships that operate the year around to meet requirements. A fifth ship will join them next year. These surveys include collection of bathymetric and gravity data, and . . . with data reduction and the production of charts and other products . . . funding this year amounts to over 11 million dollars. The work of these ships is absolutely vital to our capability to meet the increasing survey requirements for Strategic Program support.

In direct response to fleet requirements for nautical, combat and special naval charts, the Naval Oceanographic Program will support a 9-million-dollar coastal hydrographic survey and charting effort in FY–72. Two new, large, civilian-manned ships . . . *Chauvenet* and *Harkness* . . . have now been added and after their shakedowns will operate in the Pacific and the Mediterranean, respectively. One other coastal survey ship, the *Kellar*, has just completed a port visit to the Siberian port of Nakhodka, the first Navy ship to visit the Soviet Union in 8 years. It is now commencing another season of charting the coasts of South Korea, in concert with that nation's Navy.

An airborne capability is an important component of both our operational and R&D programs. This capability is scheduled for major upgrading in FY–72. The old C–121 (Constellation) airborne magnetic survey aircraft, required to support ASW operations, will be replaced by a P–3 aircraft on July 1. The new aircraft, with its special instruments will provide greater range capability for surveys . . . making remote areas accessible for the first time, as well as affording greater speed. It will also reduce substantially the logistic problems associated with the current aircraft. Our two C–121's concerned with ice reconnaissance and ocean environmental surveys are also to be soon replaced by P–3 aircraft.

The 7-million-dollar construction of two small (300 gross ton) oceanographic research ships, designated AGOR (Utility) continues

the Navy's oceanographic ship-building program. The two new ships are designated one for the University of Hawaii and one for Texas A&M. We are pressing to get additional AGORs of this class, with the Navy Post Graduate School, in Monterey, high on the user priority list.

It always seems that financial constraints help to stir the imagination of managers to find new ways to do things. Since arriving in the job of Oceanographer, I have found it desirable to respond to several elements of change within the Navy's expanding requirements for oceanographic support . . . in spite of rather static financial resources. To identify problems and their solutions, I have within the structure of my own staff organization re-aligned personnel and responsibilities so that we have a more vertical flow of activity.

My concern is that fleet components with oceanographic requirements must be accommodated, insofar as possible, with prompt actions in one division. By our staff reorganization, requirements now can be staffed, validated, assigned for accomplishment, funds programmed, and results supplied to the Fleet in a more nearly vertical progression.

Also I have reorganized within my staff to provide timely interpretation of events in the world's oceanographic communities, as well as in naval operations which vitally affect our own oceanographic efforts. The Soviet Navy is demonstrating increased activity and sophistication in their oceanography program, as well as in their build-up of operational capabilities. Even though the Navy Oceanographic Program, specifically is not aimed at gathering intelligence information, we need to keep ourselves aware of the advances others are making. To illustrate, at an international oceanographic symposium in Bordeaux, France recently, where we had sent our excellent Navy survey ship KANE, we not only had the opportunity of visiting the oceanographic ships of several western nations, we also were able to tour the large modern soviet ship ACADEMAK VERNADSKI. In all, we were able to compare five oceanographic ships representing various nations.

In addition, the Navy is equipped to offer valuable expertise in operational problems concerning methods and technology to understand the effects and the controls of environmental pollution. For example, we have extensive information concerning water circulation in the oceans of the world . . . the action of waves, bottom currents, vertical mixing, and bottom topography. Therefore, I have established within my headquarters organization a new division that will function as a point of contact for all such matters. This Environmental Quality Division will be equipped to respond to information requests, and to monitor the progress of our own efforts within the Navy Oceanographic Program to keep abreast of developments in pollution controls.

It is evident that the Navy's role in national security must remain strong, and our naval capabilities must be appreciably enhanced in order to meet the requirements of our nation's foreign policy. As we lessen our involvements overseas, more than ever our strength must move to the sea. In doing so, our knowledge of the sea and of our total marine environment must be vastly enhanced if we are to improve and employ our capabilities most effectively. For the Navy, oceanography is a prime source of such knowledge.

Although we have had cuts which took us from 247 million dollars in fiscal year 70 down to 205 million in 71, with the help of people in this room I predict we will go back up to about 218 million dollars in next year's budget. Overall, I believe our Oceanography Program is in good shape. With your support, I have confidence that we will be able to provide the nation and our changing Fleet with the oceanographic knowledge necessary to meet our rapidly increasing demands.

In summary, then, probably I should say that we feel our oceanography program is progressing well. Our projects are coming along satisfactorily. We are developing a useful liaison with NOAA, and are maintaining our coordination with the other important Federal agencies and private institutions. My staff is being strengthened, both by reorganization and by some new people. We're taking a new and careful look at our international cooperation opportunities, and a fresh and more efficient approach to our ocean ecology responsibilities and potential. In short, I feel we're capitalizing on the past and are awake to the tremendous future of oceanography . . . still to be fully recognized.

We are receptive to your ideas, and you as individuals or oceanography representatives always will be welcome in my headquarters.

Thank you all for having me today.

THE FBI—FIRST LINE OF DEFENSE AGAINST SUBVERSION

Mr. HRUSKA. Mr. President, it has been a favorite pastime of a few people to belittle and tear down the traditional institutions and ideals of this country.

A few days ago, during one of the protest demonstrations in this Capital, the shout was heard far and wide:

Down with this country. Up with Ho Chi Minh.

The American flag was carried upside down in open procession. Vietcong flags were in evidence in many areas of the city. Obscene words were scrawled on the streets and the walls of public buildings. The Nation's respected leaders were reviled, taunted, and jeered.

Extremists such as these would like nothing more than to destroy the institutions of free government. There is nothing constructive in their objectives. They look upon themselves as having a mission to destroy.

It is no wonder the FBI is one of the institutions which are under constant attack by this minority. The FBI is the agency which has been most responsible for maintaining our freedom from the attacks of internal subversive enemies. The FBI has been—and remains today—the first line of defense against the spy, the saboteur, and the subversive, whether he be left or right wing in orientation.

Nothing would please the Nation's handful of radical extremists more than to have the FBI completely eliminated or so crippled that it would no longer have the tools to gather the information which is so vital to the survival of America.

I make these comments, Mr. President, because May 10 was Mr. Hoover's 47th anniversary as Director of the FBI. It marked 47 years in which he and the FBI have stood steadfast as a focal point in the Nation's fight against communism and subversion. Few have done more to make America aware of the intrinsic tyranny of communism and the peril it presents to free nations. Whatever his many other accomplishments, this fact alone entitles Mr. Hoover to the accolades of a grateful Nation.

Our resident radicals know, as do all students of communism, that institutions in a democratic society can be undermined and subverted. They also know one of the most effective ways is to encourage citizen distrust and lack of confidence in those institutions. In the FBI's case, this subversive technique is being attempted through allegations that the FBI is a "national police agency," that it is the enemy of individual rights.

One might think from these accusations that the FBI has thousands of agents tapping phone lines and trailing millions of law-abiding citizens, ready to pounce on them for the slightest triviality.

This minority wants citizens to distrust the FBI and refuse to furnish information. This, of course, would render the agency ineffective.

This is not the first time Mr. Hoover and the FBI have been under attack. Nor will it be the last.

I am confident Mr. Hoover and the FBI will continue to function effectively and properly to protect our Government and our people. On the occasion of his 47th anniversary, I salute Mr. Hoover and his associates for a job well done.

GOVERNMENT-GUARANTEED LOAN TO LOCKHEED CORP.

Mr. CRANSTON. Mr. President, I ask unanimous consent that a statement and a program I have made concerning the administration's request for a $250 million Government-guaranteed loan to aid Lockheed Corp. be printed in the RECORD.

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

According to the Treasury Department, legislation will be introduced tomorrow to empower the federal government to extend a $250 million loan guarantee for the Lockheed Aircraft Corporation. The announced purpose of the loan guarantee is to keep Lockheed from going bankrupt.

As a general rule, I do not believe the government should get involved when a private corporation runs into financial trouble. It is economically unwise, in my judgment, for government to frustrate the normal workings of the free enterprise system.

But there are extraordinary times when, I believe, the government should step in as a banker of last resort. The plight of Lockheed appears to call for such action.

According to the Treasury Department, some 24,000 people would be thrown out of work if Lockheed were to go under: 10,000 Lockheed employees and another 14,000 who work for Lockheed's principal suppliers.

More than 13,000 of these people work in California, a state that already has 130,000 aerospace people out of work and an overall unemployment rate of 7.4 percent—one of the highest in a nation that is already suffering from a higher unemployment rate than at any time in the past nine years.

Lockheed's bankruptcy could also hurt a number of small businessmen across the country. Lockheed has 35,000 subcontractors. The vast majority—25,000—are small operators employing 500 or less people. Many of them might be in serious economic jeopardy if they were suddenly to lose Lockheed's business.

This development would be especially deplorable at a time when the government is spending millions of dollars to retain jobless aerospace workers, and a time when we should be encouraging aerospace and defense industries to become less reliant on NASA and DOD by diversifying into civilian

projects like the Tri-Star which can provide their workers with continuing employment.

But if the government is going to be a banker of last resort, it must be a responsible banker; it must take every reasonable step to assure that the taxpayers' money it is about to risk in a loan guarantee is safeguarded to the maximum extent possible.

One such indispensible step is to look at the management of the distressed company. When a large corporation is in critical financial straits, it is reasonable to assume that the management is at fault. Once again, Lockheed appears to be such a case in point. And to an astonishing degree.

Over the past several years, Lockheed has suffered an almost unprecedented series of financial setbacks of disastrous proportions. These disasters could not conceivably have occurred without corporate mismanagement.

The loss record speaks for itself: The Electra, Lockheed's last commercial aircraft before the Tri-Star, was a $60 million loss.

Its F-104 fighter has been grounded by the German government, the pricary purchaser, and the U.S. Air Force declines to use it—causing an undisclosed loss to the company.

Last February—just three months ago—Lockheed agreed to a settlement with the Defense Department under which it will lose $200 million on the C–5A transport, $120 million on the Cheyenne helicopter, $130 million on warship contracts and $30 million on SRAM missiles—a $480 million loss all told. Incredibly, Lockheed managed—or mismanaged—to suffer major losses simultaneously on four major programs.

And now Lockheed faces the loss of still another $700 million on the Tri-Star project—and more than a billion dollar loss if it goes into bankruptcy.

Not all of Lockheed's projects have been failures, as witness the AX fighter, the Poseidon and the Polaris. But in balance, its record raises inescapable doubts about the quality of the present management team.

This is not my opinion alone. President Nixon, while in San Clemente earlier this month, talked about helping Lockheed "toward better management". And aerospace and other industrial and business leaders with whom I have talked over the past several days agree that Lockheed has been mismanaged.

As the president of one corporation told me in California last week:

"Why reward bad management? If we bail out Lockheed, it will cost the government vast sums because the signal will be out: Be wasteful. Be careless. It doesn't matter; Uncle Sam will come to the rescue!"

Under present management, Lockheed runs the risk of still further failures, and of eventual bankruptcy with thousands thrown out of work even with government aid. For the U.S. government to risk $250 million of the taxpayers' money to continue the present management in office would be unfair to Lockheed's employees, to the aerospace industry, and especially to the American taxpayer.

I have studied a draft of the Administration bill and I have discussed it fully with Administration spokesmen. It contains no provision for a change in Lockheed management. I believe that such a change should be an absolute condition for a government loan guarantee.

Therefore, I will introduce an amendment early next week that will require that the Lockheed Corporation meet the following set of conditions in order to be eligible for a loan guarantee:

1. All 14 of the present members of the board of directors must resign, permitting the stockholders to elect a new board.

2. No member of the present board may be elected to the new board.

3. No present employee of the company may be elected to the new board.

4. The new chief executive officer, who will be elected by the new board, must be a member of the new board.

My amendment will require that these conditions must remain in effect throughout the period that any portion of the federally-guaranteed loan is outstanding.

These may be tough conditions, but I have deliberately made them tough so as to improve the chances of Lockheed getting help.

The Administration bill is in serious trouble in its present form—and so, therefore, is Lockheed. The Business Council of the nation's top business leaders expressed overwhelming opposition to the government loan guarantee at a meeting in Hot Springs last week. Majority Leader Mike Mansfield has announced his opposition. So has the Minority Whip, Robert Griffin. Senator Proxmire has vowed to lead a fight against it. Discussions I have had with a cross section of Senators indicate that the bill raises too many doubts and misgivings for it to have much chance of success.

I have outlined my amendment to several Senators who presently oppose the Administration bill. Some told me they will support the bill if my amendment is adopted. Others have agreed to rethink their position.

My approach would give maximum protection to the taxpayer by bringing about a change in company management while still preserving full stockholder control of the company. It would protect Lockheed's lenders, creditors and employees, and save the firm from the disruptions and stigma of court proceedings. It would, in a word, produce the best elements of receivership without the trauma of bankruptcy.

COMMON CAUSE

Mr. ALLOTT. Mr. President, in the continuing saga of Common Cause—or how to be more nonpartisan toward one side than toward the other—there is no end to fascinating episodes.

Mrs. Jo Anne Gray, Republican national committeewoman from Colorado, recently had an interesting telephone call from, and subsequent exchange of letters with, Common Cause. The episode is well explained by the two letters. I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

I am reluctant to impute bad motives to Common Cause. I am convinced that the charitable explanation is the correct one: incompetence, not malevolence, is the reason Common Cause keeps blundering into these embarrassments. But that fact does raise a question. If Common Cause makes such deplorable hash of its own relations with the public, can we really take seriously its claims to know exactly how to run the Nation?

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

REPUBLICAN NATIONAL COMMITTEE,
April 16, 1971.

MR. CHARLES COBB,
Common Cause,
Washington, D.C.

DEAR MR. COBB: Yesterday I received your telephone call in good faith when you identified yourself as an aide in the White House calling for the purpose of determining the status of the 18-year-old vote in our Colorado Legislature.

It was only because I followed through by checking the status as of today and tried to reach you back in the White House that I learned that you were not there but were with Common Cause.

Naturally I was surprised and shocked. Why the deceit? I would have told you or any other group what I knew of the situation. Incidentally, it isn't just the Democrats and Common Cause who support the 18-year-old vote. President Nixon does and so does our Republican Legislative Leadership here in Colorado.

Common Cause calls itself a new "independent, non-partisan organization for Americans who want to help rebuild this nation", but in every instance they espouse the Democratic party's left-wing philosophy and are unremitting critics of the Nixon Administration. You even allowed the Democratic National Committee to use part of your membership list to raise funds.

Non-partisan? When are you going to start calling a spade a spade? I'd suggest you begin by properly identifying yourself and by telling the truth about yourself and your group.

Sincerely,

JO ANNE GRAY,
Republican National Committeewoman for Colorado.

April 21, 1971.

MRS. JO ANNE GRAY,
Republican National Committee,
2850 East Flora Place,
Denver, Colo.

DEAR MRS. GRAY: I would like to apologize for the misinformation directed to you from Mr. Charles Cobb, a volunteer with the 18 Year Old Vote Project at Common Cause.

As Director of this program, I was at fault for not checking into his references alleging he had worked with the Republican Committee for the District of Columbia. I took him at face value as an individual interested in the project and capable of valuable assistance. His method of operating was not in the best interests of Common Cause, and he is no longer a volunteer for this organization.

Again, I apologize for the confusion and I thank you for calling the situation to our attention.

Sincerely,

IAN MACGOWAN.

RESOLUTIONS OF MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, recently the Municipal Association of South Carolina at its 31st annual convention adopted two resolutions concerning legislative efforts now pending in Congress. The first resolution deals with the issue of revenue sharing, which is, of course, a controversial issue. A revenue sharing proposal was one of the first pieces of legislation I introduced when I came to Congress, and I have again introduced such a bill in this session of Congress. Although there is much disagreement on this issue, I believe everyone is in accord with the feeling that the metropolitan areas of our Nation are facing financial disaster and that some affirmative steps must be taken to alleviate this condition.

The second resolution is concerned with the tragic textile import problem, which is, of course, extremely important in South Carolina, but is a problem which faces our entire Nation. As we continue to lose textile jobs and plants continue to close, we cannot permit this issue to be wrapped in domestic and international politics, but face the problem.

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

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

RESOLUTION

Whereas, the local governments of the State of South Carolina and also, those of other states, are in serious financial trouble, primarily due to increased demands for services, and

Whereas, these increased demands for services and facilities have come about as a result of a mandate from those who are governed by local units, that they be provided with more and better services, and

Whereas, this demand of government was not prevalent in years past, and

Whereas, those units of local government are required to provide these services and facilities on a tax base which has not kept up with the increased demands and expectations of the constituents of local government, and

Whereas, the tremendous flow of financial resources into the nation's capital indicates that the Federal government is best in a position to provide a return of local money to the local units through revenue sharing of the personal income tax, and

Whereas, the State of South Carolina, in its wisdom, has been practicing the principles of revenue sharing with its local governments in the form of state shared revenues for many years,

Now, Therefore, be it resolved, That the Municipal Association of South Carolina in 31st Annual Convention assembled, request the members of the South Carolina Congressional Delegation to support and work vigorously for the passage of general revenue sharing on the federal level,

Be it further resolved, That the Executive Vice President of the Municipal Association forward a copy of this Resolution to each member of the South Carolina Congressional Delegation, and to also send a copy to Chairman Wilbur Mills, House Ways and Means Committee, and a copy to Congressman Burns, Ranking Minority Leader, House Ways and Means Committee.

RESOLUTION

Whereas, the textile import problem throughout the United States continue to threaten jobs of textile employees, and

Whereas, the Japanese imports increased some 47% in 1969 and continued to increase in 1970, and

Whereas, some 7,000 jobs were lost in textile in the year 1970, directly or indirectly due to textile imports, and

Whereas, the economy of each municipality in South Carolina is directly or indirectly dependent upon the prosperity of its textile mills, and

Whereas, the municipalities of South Carolina are wholeheartedly in support of a textile import quota system,

Now, therefore, be it resolved, That the Municipal Association of South Carolina in 31st annual convention assembled pledge its support to a textile import quota bill that will prevent foreign textile imports from competing with domestic and textile plants to the extent that it results in the loss of jobs,

Be it further resolved, That copies of this Resolution be forwarded to each member of the South Carolina Congressional Delegation.

GENOCIDE CONVENTION CONSISTENT WITH TREATY-MAKING POWER

Mr. PROXMIRE. Mr. President, one question often raised in connection with the Genocide Convention is whether we can make such a treaty under the Constitution. It has been suggested that the treaty power is not unlimited, and the Genocide Convention does not fall entirely within those limits. This argument is usually based on the Supreme Court decision in the case of Geofroy V. Riggs, where it was stated:

> The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter without its consent. . . . But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiations with a foreign country.

These limitations are not extensive, and may have been reduced further in the case of Asakura against Seattle, when the Court held:

> The treaty-making power of the United States is not limited by any express provision of the Constitution, and, though it does not extend so far as to authorize what the Constitution forbids, it does extend to all proper subjects of negotiations between our Government and other nations.

The only question, then, is whether genocide is a proper subject of negotiation between our Government and foreign powers. In this regard former Soliciter General Philip B. Perlman has said:

> That genocide is a subject appropriate for action under the treaty-making power seems to us an inescapable conclusion. The historical background of the Genocide Convention indicates the view of the representatives in international affairs of practically all the governments of the world on the appropriateness and desirability of an international agreement to outlaw the world-shocking crime of genocide. This Government has shared in this view.

Mr. President, there appears to be no basis for doubt that the convention would be consistent with the treaty-making power. I urge the Senate to act without further delay to verify the Genocide Convention.

REOPENING THE SUEZ CANAL

Mr. ALLOTT. Mr. President, judging from press reports during the last week, the U.S. Government has put heavy pressure on Israel to cooperate in reopening the Suez Canal as a part of what is described—with more enthusiasm than clarity—as an "interim solution" to the problem of achieving peace in the Middle East.

I have three questions about this, questions to which the Secretary of State could usefully address himself in the very near future.

First, why are we in such a hurry to get the canal open? There is ample evidence that the nation that would benefit most from reopening the canal would be the Soviet Union. A usable canal would enhance the Soviet Union's strategic position in the Middle East and in the Indian Ocean, and it would further whet those Soviet appetites for expansion which are the real source of continuing and increasing dangers in the Middle East.

Second, if such an agreement is advertised as an "interim" agreement, those advertising it as such must have a more or less clear conception of what the ultimate solution will look like. Thus, we need an answer to this question: What kind of ultimate solution will be served by reopening the Suez Canal at this time?

This question suggests a third question. What are we willing to advocate in the way of Soviet-United Arab Republic expansion into the Sinai as part of an agreement opening the canal? This, of course, returns us to the first question. If it is likely that the reopening of the canal chiefly serves the Soviet interests—even more than it serves United Arab Republic interests—why should Israel be pushed into making concessions? Most important, why should the opening of the canal be contingent upon the placing of Egyptian troops in the Sinai? I am speaking here of troops rather than civilian personnel necessary for the operation of the canal. Any such placement of troops, however small, will have a large symbolic significance, and may become a major stumbling block to any future demilitarization of the Sinai. This is no small concern. The Sinai is of little significance other than as a staging ground for three recent wars against Israel.

COMMERCIAL TIES TO RED CHINA

Mr. INOUYE. Mr. President, in this period following the opening of new contacts with the People's Republic of China, we must begin to give more consideration to commercial ties to Red China.

Within the past few weeks, several interesting and important articles have appeared in major newspapers about the prospects for trade with Communist China. All the writers who have reviewed the problems are cautiously hopeful that this important continental market will open up for American trade.

I ask unanimous consent that the article relating to trade with the People's Republic of China be printed in the RECORD.

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

[From the New York Times, Apr. 18, 1971]

CHINA TRADE: WARY HOPE

(By Brendan Jones)

Aircraft, wheat, tractors, fertilizers: These are among items prominent in a new vision of China trade that opened last week for American business.

The vision, raised with President Nixon's announcement of a major relaxation of the 20-year-old embargo on United States trade with Communist China, was one to fire business enthusiasm and imagination.

The President's action, clearly a response to Peking's table tennis diplomacy, won general approval from business leaders.

But in welcoming the easing of the trade ban was long overdue, business leaders were restrained in speculation on how much the Chinese might respond and how much exports and particularly imports could develop.

Apart from wondering whether a new era of peaceful relations between the United States and Communist China is really about to begin, businessmen viewed the new trade prospects as uncertain and, certainly, a long-term possibility.

The embargo relaxation essentially is only a tentative step toward normal trading relations. It means that American companies will soon be able to obtain licenses for direct export to China of goods considered nonstrategic.

If, as expected, the list of goods that may be shipped to China is as broad as that now permitted in trade with the East European Communist countries, there may be a good scope for business.

Subject to licensing approval, it will become possible to sell the Chinese almost anything other than the obvious war-potential items—light machinery, transportation equipment, food, consumer goods, even passenger planes.

There are, however, many obstacles to a rapid or large-volume growth of trade, summed up in a basic question: What will the Chinese use for money?

Although potentially a tremendous market of 700 to 800 million people, China's needs far outweigh its means. A gross national product of some $80-billion and per capita income of $125 (both estimates) put the vast Asian land near the bottom of any list of economic indexes for underdeveloped countries.

In sum, a basic question is: How can China finance any great increase of imports until it can begin to earn enough foreign exchange by increasing its own exports?

In part at least, the answer is for China to do just what is in prospect: Open trade with the United States, potential source of all the technological products needed, and concentrate on steady economic development.

While recognizing the limitations of a new growth of trade and especially China's shortage of foreign exchange, many American business executives are optimistic about the possibilities. At the same time, a general reaction is to let the "dust" of the embargo relaxation settle and see what happens.

President Nixon's action was seen by Donald M. Kendall, president and chief executive officer of PepsiCo, Inc., as "a good start toward long term trade growth."

"If we start with a small thread to China," he said, "we can turn it into a cable."

Because of the long break in trade dealings with Communist China, it is recognized also that Americans will have to go through a process of opening contacts with Peking's state trading corporations.

According to Samuel Pisar, an expert in East-West trade and author of Coexistence and Commerce (a how-to-do-it guide for such dealings, initial contacts with the Chinese could best develop through American subsidiaries in Europe.

"China," he said, "is where Russia was 25 years ago. A main Chinese need is integrated plants for making chemical fertilizers, synthetic fibers, motor vehicles, chemicals and all the rest."

Mr. Pisar, a Paris-based American lawyer, noted also that in business the Chinese are "very correct" and "dignity is important" for them.

Americans, however, have heard many tales of how Chinese state traders like to play one supplier against another and also quote passages from the works of Chairman Mao before getting down to business.

On this point, C. W. Robinson, president of the Marcona Corporation, a major mining and ocean-shipping concern with a large volume of Far East business, had this to say:

"We have been working through our Japanese friends in exploring the Chinese market and from what they tell us doing business with the Chinese is like playing golf in a heavy fog."

"In new trade with China," Mr. Robinson noted, "we may have to learn to crawl before we can walk—and we may have to do a lot of crawling.

Communist China's world trade currently is small, in relation to the nation's size and potential. Annual Chinese exports are estimated at some $2.1-billion, with imports of about $1.9-billion.

Exports are chiefly agricultural and food products, metals, textiles and such items as hog bristles, feathers and peanuts. Imports are mainly wheat, chemical fertilizers, iron and steel, transport equipment, machinery and raw materials such as rubber.

As late-comers to China trade, the Americans will face competition from such established traders as the Japanese, Germans, British, French and, more recently, the Canadians.

Until a few years ago, Canada, like the United States, had no dealings with Communist China. The trade that has developed is still relatively small, but it is regarded as something of a pattern of what may materialize initially for the United States.

Canada's exports to Communist China, mainly wheat and metal products, are about $125-million a year, while her imports from China, chiefly textiles, amount to only some $25-million.

Such an export-import ratio of 5 to 1 appears likely to prevail for some time in any new American trade with China. The question of China's ability to export anything that the United States wants or needs is clearly a basic obstacle to a large or rapid growth of trade.

Earlier last week, before the President's announcement, there were signs of strong American business interest in trade with Mainland China.

James M. Roche, chairman of the General Motors Corporation, disclosed in Tokyo that some of his company's overseas dealers recently had sold earth-moving equipment to Communist China.

Since early last year, under an initial modification of the China-trade embargo, foreign subidiaries of American companies have been free to do business with Peking. However, Department of Commerce export licenses have been required if the goods shipped contained American-made components.

Mr. Roche, who was in Japan in connection with G.M.'s interest in acquiring a 35 per cent stock ownership in Isuzu Motor, a leading Japanese automobile maker, commented that Communist China was "a tremendous and potentially big market."

In a speech last Tuesday, the day before the White House embargo action, Najeeb E. Halaby, president of Pan American Airways was sharply critical of official delay in easing China-trade restrictions.

Terming Communist China currently "one of the biggest untapped markets in the world for commercial aircraft," Mr. Halaby asserted:

"Selling used 707's and DC-8's to Peking would, of course, ease the surplus capacity in this country, but it would no doubt raise some serious objections as well. Meanwhile, the Chinese are looking at the British VC-10, the French are offering the Caravelle and a team from Hawker-Siddeley is hard at work in Peking.

"By the time Boeing or Douglas or Lockheed can get around to making a deal, the Chinese may have all the aircraft they need."

[From the Wall Street Journal, April 28, 1971]

CHINA TRADE: A NEW U.S. POLICY

(By George Melloan)

When President Nixon a few days ago eased the embargo on direct U.S. trade with Red China he took another hesitant step away from a policy, central to American foreign relations since World War II, of restricting U.S. trade with Communist nations.

Direct trade wtih Red China had been banned since 1950. Commerce with all Communist countries has been under varying degrees of restriction for roughly the same period. America's Cold War allies have applied restrictions too, although with somewhat less diligence.

As the United States ponders how far to retreat from the use of trade restriction as a Cold War weapon, it is worthwhile to examine the philosophy that supported the policy in the first place. Even when it was widely accepted, it had some serious flaws. It is less accepted now, but despite the flaws it still has its staunch defenders.

The case for limiting commerce with the Communists can be set out in fairly simple terms. By trading with the Communist nations, so the argument goes, the United States is doing very little for itself and a great deal for the Communists, since they are badly in need of Western technology and consumer products. Why should we hasten the economic development of nations that have declared themselves our enemy, with the ultimate aim of overwhelming us?

This view, which has a certain logic, led the U.S. to make use after World War II of what were originally wartime controls. There were three main ones. The Export Control Act, first aimed at trade with the Axis powers in 1940, was rewritten in 1949, giving the President continued power to bar or limit exports to "further the foreign policy or national security interests of the United States," among other things.

SOME OBVIOUS FLAWS

There was also the Trading With the Enemy Act, first passed in 1917, invoked against Red China and North Korea in 1950 and later used against North Vietnam. And then there was the Mutual Defense Assistance Control Act of 1951, better known as the Battle Act, which prohibits U.S. aid to any country shipping arms or strategic goods to Communist nations.

While these laws initially were aimed at keeping "strategic" goods out of Communist hands, they later came to apply to any goods that might enhance the economic potential of such countries.

There have been some fairly obvious flaws in the practical workings of the laws from the beginning. First of all, they don't really stop Communist countries from laying hands on any items, such as computers or machine tools, that can be sold in the West. Scores of resourceful traders in key spots such as Vienna, Brussels, London and Hong Kong have made a tidy business of obtaining such items and trans-shipping them to Communist consignees. Very often they are not violating any local laws. The U.S. Commerce Department tries manfully to punish such activities by blacklisting offenders but with little norteworthy effect.

The second flaw falls in the area of long-range political strategy. What this country mainly opposes and regards as a threat are imperialistic tendencies of the regimes of two very large nations, the Soviet Union and Red China. The U.S. is justified in this view, certainly in the case of the Soviet Union, which commits imperialistic acts, and to a lesser degree toward Red China, which so far has mainly talked imperialism.

But does the denial of trade and commerce to these nations really hurt such regimes and hold in check their imperialistic tendencies? A good case could be made that it does just the opposite. There are few things more unifying to a nation than attempts by outside nations to apply pressures, either economic or military. And a nation unified by such pressures is far easier for authoritarian regimes to control than a nation that feels little pressure from outside. Imperialistic tendencies are strengthened by the instinct to take counter measures against the economic sanctions.

This leads to still a third dimension to the argument, the philosophical questions. One of the most eloquent spokesmen on this subject is Samuel Pisar, author of "Coexistence and Commerce," an exhaustive study of

East-West trade questions which McGraw-Hill will soon reissue in paperback form.

Mr. Pisar says one of his many objections to U.S. restrictions on trade with Communist nations "has to do with our image as a nation." The U.S., he says, has forced itself into a tortured posture through an artificially restricted system that is no longer effective and that interferes with business.

"If this country has any strength, it lies in the strength of its business community," Mr. Pisar says. "Trade restrictions almost interfere with human nature as we understand it."

Furthermore, Mr. Pisar notes that if we don't sell to the Communists, our closest allies do. Japan, for example, does some $500 million in business with Red China annually.

"Such a cleavage of policy between ourselves and our closest allies is unhealthy," Mr. Pisar says. "They are going their own way, selling to the Russians and China. We have been so far apart it is placing us in an unhealthy contradiction with Western Europe and Japan. We are losing our leverage with them."

With regard to the impact on the Communist countries themselves, Mr. Pisar has some further views. "It is tempting to say that they are having economic troubles so let them stew in their own juices. We hope that their people will explode. But that is not what will happen. When they really have trouble, their leaders don't stop at anything to impose their version of law and order. We've seen it with the Russians over the last 20 years each time things got rocky. Their leaders will go to the brink of a hot war to protect themselves."

Mr. Pisar, an international lawyer and participant in an early 1960s presidential task force study of foreign economic policy, has become something of a missionary for liberalized East-West trade since his book first appeared last fall. Sitting in a friend's Park Avenue apartment last week, he explained that he takes a very large view of the importance of improved commercial relations between the socialist and capitalist nations. He feels that world peace may well be in the balance.

"What is in our interest is to play with the reform minded people (in Communist countries) who want to be part of the world, so their own generals can't tell them that 'every time you try to deal with the West they kick you in the teeth.' If they can help their countries to sell to the West, it will take the fuse out of the ideological questions.

"By bringing those nations back into the world market, by helping them with the know-how to build cars, refrigerators, washing machines, we make their society more complex," Mr. Pisar adds. "The force of their prosperity pushes them in the right direction, toward stability."

Mr. Pisar sees some special opportunities in trade with Red China, although he cautions that the sudden euphoria in the West over China's new Ping-Pong diplomacy is "silly and dangerous."

"The Russians are softening because they are confused," Mr. Pisar contends. "The Chinese are not confused; they think they are going to change the world and they have no doubts, so they might kick us in the teeth."

A RUSSIAN PARALLEL

But he nevertheless feels that trade with the Chinese could become significant in a couple of years or so. "The Chinese now are where the Russians were in 1925," Mr. Pisar says. "The first flush of revolution is over. They have the problem of industrialization. They cannot do it by themselves. They tried in a romantic and unscientific way and it didn't work."

"The Russians were starting to help them industrialize but the Russians pulled out. I don't think the Chinese will ever trust the Russians again, but I do believe they will trust us. They want plants to make fertilizers, chemicals and synthetics. The basic telecommunications and transportation systems in China are American. They lack spare parts that we could supply. They also need jet transport and ground support equipment. In return, they have some mercury, some silver, furs, silks, tapestries and even supplies for Chinese restaurants."

He sees possibilities that despite the ideological fervor in China, the Chinese might be easier to deal with than Russia. "I think of China as a nation of shopkeepers. Shanghai still is Shanghai. The Canton Trade Fair still is the Canton Trade Fair. The isolation of China is not as deep as many think."

"Ideology is no real obstacle to trade," Mr. Pisar goes on. "There always are realists who can make deals."

Mr. Pisar sees no reason why the U.S. should have great fears about possible military benefits to the Chinese of some Western products that are fundamentally civilian items. "If anyone should be worried about that it should be the Russians," he says. "If we built a truck-tire factory that would make tires that would go 10,000 miles instead of 2,000 Chinese trucks could go to Siberia more easily but still not to New York state. Of course, they also could go down the Ho Chi Minh trail, but the war is winding down in Vietnam."

The arguments of Mr. Pisar and others who see tight trade restriction as an outdated policy are getting to be very persuasive, as they should be. The U.S. should always keep in mind that there are something like one billion people in the Soviet Union and China. They are not going to go away. Thermonuclear war is unthinkable, and conventional war with either of them is equally so.

That leaves peaceful coexistence as the only viable policy. The Russians and Chinese will have to be encouraged to do their share toward peaceful coexistence. The best policy will be to try to draw them out into the world in hopes of softening their intense ideological passions and their fears born of isolation. Increased commerce, with its mutual benefits, is one very good way to pursue that effort.

WILL REQUIRE THE REMOVAL OF A FEW OBSTACLES

(By Stanley B. Lubman)

President Nixon's announcement that the embargo on trade with Communist China will be partly lifted and that a committee will prepare a list of "non-strategic" goods for export under general licenses may augur the initiation of valuable Sino-American contacts. But trade will not enhance Sino-American relations meaningfully unless a number of potential obstacles are identified and, wherever possible, removed. They exist both on the Chinese side and on ours.

American businessmen uninformed about Chinese negotiating and dispute-settlement practices are sure to experience frustrations in the China trade. Traders from other Western nations have discovered, for instance, that they cannot engage in market development, apart from sending technical literature and samples to China and waiting for an answer that may never come.

Chinese planning and its bureaucratic consequences frequently make negotiations protracted and Chinese negotiators inflexible. American exporters will deal with state trading corporations without ever knowing the identity and special problems of the ultimate end-user of their product, and will find that the resulting poor communication between seller and end-user may give rise to claims that could have been prevented.

Once contracts have been signed, claims arising out of them may also prove to be exasperating. Chinese contracts normally provide that all goods, imports or exports, are to be inspected by commodity inspection bureaus in China's major ports. The decision of these bureaus in disputes is supposed to be final, and the Chinese are reluctant not only to litigate disputes, but even to arbitrate them before their own foreign trade arbitration boards. Disputes are often settled through tedious negotiations in the course of subsequent transactions.

These and other problems have not prevented the Chinese from acquiring a justly deserved world-wide reputation as honest and reliable traders. Moreover, many Western traders have learned to live with problems created by unique Chinese practices and attitudes, as they have in dealing with other Communist countries. Some fortunate traders have managed to create relationships based on genuine trust and profit with their Chinese counterparts.

Whether American business can reap similar benefits depends heavily on American policies and problems. American restrictions on trade with Communist nations, the Pentagon's excessive influence on policy affecting that trade, and some widely held public and business attitudes must all be changed if Sino-American trade is to develop healthily. These problems should command the close attention of American business now.

American policy toward trade with all Communist nations clamors for thorough overhaul, which it has not received. In the Chinese case, it is not yet clear how much President Nixon's committee will allow American exporters to sell under general licenses. The Chinese may well want to buy farm machinery and pharmaceuticals, which will probably be on the new list. It seems doubtful, however, that they will be interested in American consumer goods. The inclusion of some capital goods is important and desirable, not only to stimulate trade but to make the change in American policy an effective political gesture.

The President's announcement, however, suggests that products licensed for general export to China will not now be even as numerous as those which can be exported to the Soviet Union. If they were, no committee would be necessary to prepare a separate and presumably smaller "China list." The administration should move more dramatically, to impress the Chinese with the sincerity of the American desire to trade. The administration's reluctance to go faster may stem from a number of causes that deserve scrutiny.

The Nixon administration's changes in China policy, and the Chinese responses, are like two men trading pieces of tasty salami in thin slices, slice for slice. One danger of this approach is that one man may slice the salami too thin too often, causing the other to regard him as insincere. Moreover, using trade in this way is a particularly blatant example of tying it to politics, which Americans are often quick to accuse the Communists of doing.

A separate and perhaps more serious problem is the Defense Department's consistent opposition to expanding East-West trade. The Pentagon has consistently tried to characterize goods as "strategic" and therefore not to be licensed for export to the Soviet Union and Eastern Europe; and it can be expected to work hard to restrict the list which the President's committee will prepare.

In accord with this attitude, the Pentagon can be expected to oppose sales to the Chinese of many items for which special licenses will still be required. Also, since even unsuccessful Pentagon opposition delays the granting of licenses, the prospect of time-consuming bureaucratic haggling can deter other exporters from seeking to sell such goods. The Pentagon delayed for months the issuance of a license for the export of General Motors Corp. engines for dump trucks sold to the Chinese by the Italian firm Robert Perlini Co. By forcing such decisions to ascend the bureaucratic hierarchy up to the National Security Council and the President, the Defense Department thus exerts a powerful restraining influence on the China trade.

Yet another factor, intangible but important, is the climate of American public opinion. Conservatives are often extremely hostile to expanding East-West trade, assuming that it builds up Communist military strength and that denying the Communists American goods is a sound strategic gambit.

Generally, these arguments are thin, but they persist and many American companies are reluctant to trade with Communist countries for fear of adverse reaction from the public at large and from labor unions.

If President Nixon means to signal to the Chinese a genuine and sincere change of policy, his "China list" should include products that the Chinese can really put to good use in furthering their economic development. He might, for instance, go as far as loosening restrictions on China trade so that they are no more onerous than those on Soviet trade. His new policy would be much aided by curbing the Pentagon's zeal for denying the Chinese goods that they need and that have no real strategic significance.

Welcome, too, would be presidential concern to increase the sophistication of American public opinion on trade with China and with Communist nations generally. By following up his announcement in this manner, he can best use the resumption of Sino-American trade to help stimulate a new dialogue between the U.S. and China whose mutual antagonisms may now be muted, if not changed, by greater understanding.

[From the Washington Post, Apr. 25, 1971]

LITTLE ECONOMIC IMPACT SEEN IN UNITED STATES–CHINA TRADE

(By Frank C. Porter)

President Nixon's cautious liberalization of trade with mainland China is unlikely to touch off any economic bonanza for either side.

Compared to America's total export-import trade of some $82 billion a year, in fact, the flow of goods between the two nations is expected to be little more than a slowly widening trickle for some years to come.

More important but less measurable however, is the catalytic effect this trade will have in political and psychological terms—restoring communications, enlarging cultural and scientific contacts, prompting understanding.

In a few words, there is very little the Chinese produce in large quantities that fits the American market. And there is little the United States can offer that the People's Republic of China can afford or is not already buying from other nations, usually at lower prices than the Americans would charge.

This does not prevent some potential exporters from drooling at the prospect of opening up a mass market that includes over a fifth of the earth's population.

But government trade experts move quickly to puncture what they consider a myth

"We're not going to move in there and start selling aspirin and toothpaste to 800 million Chinese," one points out. Clearly, this could not be the case in a poor country that lacks any semblance of a market economy, where the state is the trading agency, where annual per capita income is a scant $125 and where gross national income is a 12th that of the United States, despite nearly four times the population.

Yet, it would be equally unwise to dismiss U.S.-Chinese trade as lacking any significant potential, counsels Ernest Rubin of the Commerce Department.

Rubin, director of the Eastern European Division (which also encompasses mainland China) of the Bureau of International Commerce, believes that it is impossible to put numbers on this potential. The volume of two-way trade will begin at a few million dollars a year and rise very gradually, he expects.

Rubin said he is agreeably surprised by the support and enthusiasm Mr. Nixon's decision has generated. Of the hundreds of queries his office has received since it was announced April 14, none has been critical of the move, he observes.

Actually, the Nixon administration had already cracked the Bamboo Curtain in December of 1969 when it permitted foreign subsidiaries of U.S. corporations to deal with Peking in certain commodities. The government estimates that this limited trade amounted to $35 million last year.

Monsanto Co. has sold $700,000 worth of chemicals to the Chinese. General Motors has sold components for Italian trucks imported by Peking and two earth movers for a Chinese construction project in Zambia.

Despite the reluctance of government officials to hazard an estimate of the trade potential, others have made a stab at it.

No one as this juncture can know how much the 22-year-old trade embargo will be relaxed until the government compiles the list of non-strategic commodities it will license for import and export. (Presumably it will be more restrictive than the lists applying to the Soviet Union and Eastern Europe; otherwise the letter could have been applied in toto to China, officials point out.)

In "China Trade Prospects and U.S. Policy" published earlier this year, Robert F. Dernberger, comes up with a range of estimates for the volume of trade with Peking in 1980, assuming the complete removal of the embargo on direct and indirect trade in non-strategic goods and extension of short-term commercial credit to finance that trade.

His projections range from a "most pessimistic" estimate of zero for both imports and exports from China (which he quickly discards) to an optimistic estimate of $250 million in Chinese exports to the United States and $650 million in Chinese imports from the United States.

Thus, Dernberger's favorable projection would leave the United States with an export surplus of $400 million, which squares with the opinion of most trade experts that in any commerce with Peking the United States would enjoy a favorable trade balance.

This would appear to be a boon for the U.S. trade balance, which was only $2.7 billion on the plus side last year (although it had gone as high as $7 billion in the mid-1960s.

But in terms of overall commerce, this trade would be very minor—less than 1 per cent of the more than $100 billion in total U.S. imports and exports anticipated in 1980.

It must be borne in mind that these are Dernberger's most optimistic estimates. On the Chinese import side, he presupposes virorous efforts by the American business community to sell to the Chinese. There are those who contend that U.S. corporations in general are singularly unaggressive in export markets compared to, say, the Japanese, Western Europeans or Scandinavians.

His survey indicates, Dernberger writes, "that gaining access to the Chinese import market will depend much more on aggressive U.S. selling than on any Chinese initiative caused by pressure on the demand side."

He concludes that all of Peking's present and anticipated needs can be met by its present suppliers—notably Japan and Western Europe—with the possible exception of chemical fertilizers (an area where the United States is strong).

Futhermore, Dernberger notes that these suppliers will fight hard to protect their exports to China against any American incursion. There is little doubt that Japan and the Western European nations can sell most goods to China at cheaper prices.

One trade expert raises the possibility that China might switch part of its import business of higher-priced American goods merely for political reasons. But he doubts that any political motivation would be strong enough to induce Peking to make such inefficient use of its hard-won foreign exchange.

(A glance at the trade tables suggests why China tolerates such a symbol of capitalistic imperialism as Hong Kong on its doorsteps: In 1969 China exported $328 million worth of goods to Hong Kong, including half the colony's food supply, while importing a scant $1.1 million from there.)

The best bet for American exporters appears to be chemical fertilizers and Dernberger estimates that the United States could sell as much as $100 million worth by 1980 because of an anticipated shortage in European production.

Two important areas Dernberger fails to mention that are seen by others as potentially ripe for American business are aircraft and construction.

On Friday, Secretary of Commerce Maurice H. Stans said in Athens that the United States is prepared to sell commercial planes to China, which has little aircraft industry of its own.

But Peking is already being wooed by British and French aircraft manufacturers. "By the time Boeing or Douglas or Lockheed can get around to making a deal, the Chinese may have all the aircraft they need." Najeeb E. Halaby, president of Pan American Airways, said recently.

The founder and patriach of one of the United States largest construction firms recently told associates that he expects his firm to be in mainland China within two years. This remains to be seen but there is little doubt that there is a large demand there for construction of factories, highways, fertilizer plants and the like. The question is—if the Chinese cannot build themselves, can they afford to pay foreigners to do it?

The most frequently mentioned American export possibilities are products with a high technological content. But the day when the United States can sell China computers and other complex electronic gear is way in the future, only trade export believes.

And another speculates that this market will fall to the Japanese, whose technological expertise is fast approaching that of the Americans. (Japan, in fact, is Peking's largest trading partner with 1969 exports to China of roughly $400 million and imports of about $230 million.)

On the other side of the trade ledger, there is very little of consequence China can offer that the United States does not produce itself.

Of Peking's 1969 total exports of $2.1 billion, the major commodities shipped to the non-Communist world were cotton fabrics ($118 million), fruit and vegetables ($118 million), rice ($76 million), live animals ($64 million), meat ($64 million), clothing ($54 million), soya beans ($55 million) and fish ($49 million). Not much there to lure the American importer, although silk is a possibility.

Some trade experts feel that the bulk of any American shipping list in China would be made up largely of specialty or exotic items: tungsten, yak hair for Santa Claus masks, human hair for wigs, pig bristles for brushes, Chinese foods such as water chestnuts and bamboo shoots, art objects and the like.

Whatever the potential market demand might be on either side, there is an impressive list of impediments to any major flow of trade:

One trade official doubts there will be any appreciable American demand for Chinese products until the Vietnam war ends.

Peking's goods would be at a competitive disadvantage because U.S. law forbids China receiving "most favored nation" treatment. This means that China would not receive the same tariff cuts or other trade concessions the United States has extended to its regular trading partners.

The Dirksen-Fino amendment prohibits any trade financing by the Export-Import Bank for commerce with a nation that supports Hanoi.

Both countries would have to rebuild the trade infrastructure—commercial contacts, shipping arrangements, and the like—that disappeared when the embargo was imposed 22 years ago.

In this respect, trade would also be hampered by the absence of American diplomatic recognition of Peking, by China's exclusion from the United Nations and its lack of membership in such international economic organizations as the General Agreement on Tariffs and Trade (GATT).

The distance between the two countries would add to shipping costs. China has little ocean shipping of her own.

There are little-known inhibitions in the law such as a punitive statute introduced by the late Sen. Joseph McCarthy (R-Wis.) a generation ago that forbids the importation of six kinds of animal fur from the Soviet Union and China. (China currently exports about $13 million of furs a year to the free world.)

To be competitive, China might have to resort to price-cutting tactics such as dumping (selling exports at lower prices than in the home or third country markets), as indeed Peking has been accused of doing in some European countries. This could lead to retaliatory action by the United States.

The problems facing two major export commodities, one from each nation, are illustrative.

Cotton fabrics, clothing and cotton thread and yarn combined represent by far mainland China's largest export category. Yet their shipment into the United States is politically explosive and here is doubt that President Nixon would even consider putting them on the import list.

Domestic textile manufacturers and unions loudly complain that the United States is being flooded with low-wage imports from Japan, Hong Kong, Taiwan and a variety of other nations. Last year their pressure very nearly resulted in the most protectionist legislation enacted since the 1930s.

Among textiles, cotton is the only one subject to import limitations, under the 29-nation Long Term Arrangement. If China were allowed to export cotton textiles to the United States, would it not have to join LTA? If so, could import quotas be shifted to it without angering this country's non-Communist suppliers? In other words, the prospect for textile imports from China—except silk—extremely dubious.

Among Chinese imports, wheat is the second largest (behind iron and steel), the great bulk of it coming from Canada and Australia.

Since the United States ordinarily has a robust wheat surplus, this would appear to be a made-to-order export to Peking. But it's unlikely any American wheat will be shipped to China except in the case of an acute world shortage.

The reason is easily discernible from the painful experience of 1964, when the United States sold Russia more than $100 million of wheat after massive Soviet crop failures. Some sources say the Russians were prepared to buy $300 million worth if the price were right. But it wasn't.

U.S. law provides that 50 per cent of such grain shipments must be carried in American-flag ships. Since rates for these ships are far in excess of world shipping costs, the wheat was far more expensive than it would have been from other sources. One Russian official reportedly vowed that the Soviet Union would never buy Yankee wheat again. And so far it hasn't.

If such difficulties were not enough, the United States is expected to have a tough time breaking through the competition offered by Peking's present non-Communist trading partners.

The first 10, with total 1969 exports and imports in parentheses, are Japan ($625 million), Hong Kong ($327 million), West Germany ($235 million), United Kingdom ($215 million), Singapore ($199 million), Australia ($157 million), Canada ($139 million), Italy ($120 million), France ($114 million), Ceylon ($88 million), the Netherlands ($52 milion) and Pakistan, ($52 million).

In its early years, the People's Republic was almost totally oriented toward other Communist states in its trade, with the Soviet Union funneling as much as $2 billion in trade and aid into China in a year.

The situation has dramatically reversed. Chinese trade with the rest of the Communist community has steadily declined and now 80 per cent of its imports and exports are with the non-Communist world.

RETIREMENT OF JOHN W. JARRELL, OF THE OMAHA WORLD-HERALD

Mr. HRUSKA. Mr. President, for 25 years the Omaha World-Herald, Nebraska's largest daily newspaper, was faithfully represented in Washington by John W. Jarrell, a most distinguished practitioner of the reporting profession.

Jack retired last month at the age of 63, and he and his wife are now in Santa Fe, N. Mex. Thus he has written "30" to a colorful and successful newspaper career which spanned 47 years, encompassing assignments on Midwest newspapers and the old International News Service, coverage of World War II, five Presidents and many Congresses.

He has been a friend and confidant of the great and near great. Throughout his travels, he has been a keen observer of his fellow man and his Nation, and he has for the past quarter century been a most astute student of politics and government.

Jack has also been a close student of his own profession. The World-Herald has a distinctive philosophy of government, one which Jack wholeheartedly shared. But he never let his own convictions or his paper's views interfere with his profession, which was reporting the facts. He was an expressive writer, steeped in the history of Government and the people who have served the Nation, but most of all he was fair and honest in his coverage of those people.

He had chosen long ago to be a reporter rather than a partisan in the battle for men's minds, and he believed fiercely that having made such a choice, he was bound to restrict his activities to reporting. He felt very strongly that he could not have it both ways. He believed the tradition of a free press and a free society demanded adherence to such a distinction.

Unfortunately, reporters with such convictions are diminishing in number. A reporting position today seems so often to be viewed as a soapbox for a writer with a cause. This is not good for the newspaper industry. It is not good for the Nation.

I say that, whether the reporter's bias agrees with my own views or not. When a writer or a newspaper loses its reputation for being an objective reporter of the facts, society has also lost.

There has been a great deal of discussion about the objectivity and credibility of the Nation's news media. I note that more and more our Nation's largest and most influential newspapers are taking steps to deal with this charge. Their actions indicate they are concerned with the attitude of the public toward the news media.

It is well that they should be concerned, in my opinion. None of us is perfect and the press, like all manmade institutions, has its share of failings.

In its search for means of narrowing its own credibility gap, the press might begin with some consideration of Jack Jarrell's philosophy that the function of reporters is to report the news and—as he puts it so well—avoid "the tendency to play God."

It is pleasing to note that Jack is being succeeded by a man who shares his philosophy of reporting, Darwin Olofson, who has worked closely with Jack in the World-Herald's Washington bureau for the past 20 years.

I attended a farewell luncheon for Jack last week, sponsored by the Omaha Press Club. He received the club's "Honored Prophet" Award. A more deserving prophet would be difficult to find.

Jack's philosophy was well enunciated at that final appearance with his Omaha colleagues. I ask unanimous consent that the Omaha World-Herald account of his remarks and their farewell editorial be printed in the RECORD.

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

JARRELL: SOME JABS AT PRESS ARE JUSTIFIED

John W. Jarrell, a newspaperman for 47 years, said Monday that some of the current attacks on the press are being made "with justification."

Jarrell, retiring after 25 years as chief of the Washington Bureau of The World-Herald, said "there is much we can be proud of" in the record of the press.

"There is no doubt that reporters and editors—for newspapers, radio, television, magazines—have done much to keep the nation strong. They have exposed corruption. They have helped bring about some changes beneficial to mankind.

"They have kept people informed. They have deflated fat egos and humbled the arrogant.

"So perhaps there is a tendency to play God. But so far as I know, our profession, or vocation, or whatever you choose to call it, hasn't been deified yet," he said.

Speaking to more than 300 at a luncheon at which he received the Honored Prophet Award of the Omaha Press Club, Jarrell said: "Sometimes we seem to glory in deciding an issue without understanding it; sometimes we fail to let the other fellow air his side.

BOUGHT ADS

"Some say it is the duty of a reporter to get involved personally in the causes about which he is writing. Not long ago 99 reporters from two Chicago papers bought ads opposing the re-election of Mayor Daley.

"Recently a well-known correspondent told a college anti-war rally: 'We got one president out and perhaps we can do it again.'

"Newsmen assigned to cover stories of demonstrations have been seen participating in them.

"How can a reporter carrying a banner in the street write objectively about the demonstration?"

The veteran correspondent said he believes in the practice of labeling an article to indicate that it expresses the author's opinion so that the writer's views "don't masquerade as news."

He said it is good for reporters "to be suspicious, to be skeptical. But we should stick to the facts and skip the opinion in our news coverage and avoid the slant in what is supposed to be objective reporting."

Said Jarrell:

"What I deplore is the growing number of reporters wearing their personal view proudly on their sleeves, like a Boy Scout showing off his merit badges. In Washington, for example, there seems to be an attitude on the part of many reporters that venality, or boobery, or practiced deception, or bad faith, or perhaps a combination of them, is somehow built into the makeup of every president.

"History, when the dust settles, sometimes tells us different. When I went to Washington Harry Truman had not completed his first year as president. In recent years we have seen Truman raised to a pedestal far higher than we reporters perched him on when we were covering him every day.

"It has been interesting of late to see the switch by a number of reporters who were among the most unkind to Dwight D. Eisenhower. Fifteen years ago they were snickering at his syntax. Some bracketed him with Warren G. Harding.

"Suddenly, some of those reporters find the Eisenhower years weren't so bad after all and may, in fact, have been very good ones considering the state of the world."

Lyndon Johnson, said Jarrell, "took a terrific buffeting from the press" and Richard Nixon "is now getting much the same treatment as Johnson did.

"He shares with Johnson one weakness that seems so important in these image-conscious days—he doesn't come over as well on the tube as Rock Hudson or Gregory Peck."

Jarrell said that "while what some reporters may write about Nixon now could determine whether or not he is a one-term president, and he may well be, their views won't necessarily designate his niche in history."

The award, a large plaque shaped as a shepherd's crook, was presented by Frank Scott, club president. Jarrell is the third recipient of the award.

JACK JARRELL'S RETIREMENT

"By John Jarrell" is a byline which has appeared several thousand times in this newspaper the past quarter century. It is known and respected in the Midlands and in Washington, where, as chief of the World-Herald's bureau, the man behind the byline has been reporting and interpreting the news during the terms of five presidents and a dozen Congresses.

To his colleagues and to public figures from presidents on down, he is Jack Jarrell, a fine reporter who represented The World-Herald with distinction and who kept its readers informed.

It is the good fortune of the paper and its readers that he is being succeeded by a man of similar stripe, Darwin Olofson, who has been his coworker for 20 years in the World-Herald Washington Bureau.

At 63, Jack has chosen early retirement and he and his wife, Lois, are on their way to their new home in Santa Fe. Today in Omaha Jack Jarrell is addressing the Omaha Press Club as its "Honored Prophet." We of The World-Herald join in the applause and wish the Jarrells many happy years.

ADDRESS BY SENATOR TUNNEY

Mr. HOLLINGS. Mr. President, recently it was my privilege to hear a distinguished address by the distinguished junior Senator from California (Mr. TUNNEY), who spoke on April 5 at the South Carolina College Leadership Conference. What he said was pertinent not only to the concerns of America's youth, but to all concerned Americans. What he had to say was pertinent not only to South Carolina, not only to the South, but the entire Nation.

As a member of the audience I was moved by Senator TUNNEY'S thoughtful remarks, and I could see that those around me also were inspired. The speech is not only an exhortation to leadership, but also a summons to greatness. By working within the system on the social problems discussed in the address, Americans will open the door on a better future while at the same time they vindicate the hopes of those who gave rise to this Nation.

Mr. President, I ask unanimous consent that the text of Senator TUNNEY'S thoughtful remarks be printed in the RECORD.

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

TEXT OF SPEECH BY SENATOR JOHN V. TUNNEY

I have come to South Carolina tonight . . . as a new Senator to a State that represents the New South.

I have come to speak to you as representatives of a new generation of Southerners.

In the recent past, we have heard the voices of illogic and prejudice echoing throughout the South. We have seen the campaigns that have been waged on fear and prejudice. We have seen the results of what hatred and violence can do . . . We saw it as three young civil rights workers from the North ended up dead in a swamp in the backwaters of Mississippi . . . we saw it in Selma, Alabama as police dogs snipped and cut at a group of blacks marching for their rights . . . we saw it in a bombed out church in Philadelphia, Mississippi where children who came to pray lie dead; . . . we saw it on a Motel patio in Memphis; . . . on a backroad in Georgia.

And hatred and prejudice, unfortunately, is not restrictive either by way of geography or of politics. Prejudice and fear seem to know no political party; . . . they seem to appear in each section of our land whether it be in Carolina or in California.

These fears cut across neighborhood lines when it appears that a black man would buy a home. They pervade the factory lunch rooms when it appears that a black man wants a job. They have impact at the precinct level when it appears a black man wants to vote.

I sometimes fear that we are destined to live in an age of hatred and recrimination. I sometimes fear that people do not want to listen . . . that people will not change. But that is a foolish fear and I am wrong.

I know I am wrong when I see Senator Hollings stand up and fight for the oppressed . . . black and white . . . when I see Senator Hollings count himself among those who stand for justice and equality for all Americans.

I know I am wrong when I hear your Governor tell the people of this State that the time has come for an end to discrimination and hatred . . . . that the time has come for the South to recognize that an end to prejudice means a beginning to a better climate of commerce and of Civilization.

And I know I am wrong when I stand here and address the youth of the New South.

For it is going to be your vision and your strength that the New South will grow and prosper on; . . . and as the South grows and prospers . . . so too does America.

I ask you to reject those counselors of fear and prejudice who have so polluted our thoughts and our politics. I urge you to stand against the politics of racism; . . . to stand against a George Wallace.

I urge you to reject those advocates of violence and repression that would use a gun to try and preserve an outmoded way of life. I urge you to stand with your fellow man in fighting for equality and justice not only in the South but throughout this land.

I urge you to speak out against repression whether it comes from the Department of Justice in Washington or a store clerk in Lamar.

I urge you to speak out for each man's right to vote . . . to work . . . to go to school.

I urge you to stand and fight for the family of mankind, and I urge you to stand in defense of dissent.

Plato said, "A life without criticism is not worth living." Criticism and dissent are the underlying strength of the American system. They are what formed the basis for this country. The Bills of Rights and the Declaration of Independence are documents born in the blood of patriots who stood in dissent from prejudice. They were nurtured by those who maintained that freedom and justice were tenets of American life that would not be changed. They were defended in World Wars; . . . men died for these beliefs.

They are simple documents . . . easily understood. They mean justice and freedom. They mean an end to violence. They mean brotherhood. They mean America.

Today, from this edge of the land to the Pacific, there is a need for dissent. You people are the hope of this Nation . . . and if you are to fulfill that hope, . . . then you must recognize the need for peaceful dissent, . . . for there is much to dissent from. We must dissent from a war that has killed 53,000 American youths. We must insist that this war be ended . . . now.

As you sit here today, I would ask that you think of these men who have given their lives in the jungles of Asia.

I would ask that you think . . . how many of them had the chance to sit in a college and learn; . . . how many of them had the chance to learn a trade; . . . how many of them were merely too poor to go on in life and instead became cannon fodder in a war that nobody seems to know who started and none seems able to end; . . . which one of these men; . . . white or black . . . might not have become a doctor and saved a baby in rural South Carolina; . . . which one of these men might not have become a lawyer and defended the indigent in Chicago; . . . which one of these men might not have written a play; . . . sang a song; . . . thrilled a football crowd.

They were deprived of the one thing; . . . the most important thing; . . . that you people have been given; . . . a chance to live; an opportunity to use your lives to better the human spirit.

But, to do this . . . to rekindle the hope of America and the spirit of equality and justice; . . . we must stop the killing in Southeast Asia. We must dissent from the fact that our government's policies in that battle scarred corner of the globe has caused the deaths of millions of civilians . . . Innocent civilians; . . . I say millions, . . . but who really knows . . . and who has really cared.

We must dissent from the policies of a government that spends more on guns and useless military hardware than it does on housing. We must dissent from the policies of a Government that uses Federal files and Federal personnel to snoop and pry into the lives of its citizens.

We must dissent from the policies of a Government that would rather build SST's than schools; . . . that places more emphasis on cutting medical budgets than it does in cutting discrimination.

We must dissent from the fact that our environment is being taken from us; . . . prostituted by private interests in the name of growth and expansion.

These are but a few of the things which deserve to be the attention of a thinking man's dissent. These should be but a few objects for your attention in the future.

You people are just beginning. You are beginning a journey that can be both frustrating and rewarding. You can go in many directions. You will have many options.

You can stay here in the South and build a great future from a great heritage. You can go to seek your fortune in the North . . . or the West. You can farm the land or mold the mind. You have a future. Some of you might even envision the world of politics as a future. I ask you not to reject public life . . . public service; . . . for, I feel that it is one area where your talents and your energies are needed more than ever. There is a need for new blood and fresh ideas in the City Halls and in the State Houses of our land. There is a need for fresh talent in the Congress.

But whatever your choice is you must remember that your life and the life of this country depends on how you can turn the tide against racism and repression and violence.

Surely, we do not want to mortgage the future of our children on a bank of hatred and unreason.

We can see that a "Southern strategy" is merely verbal arson: . . . burning a bridge of human decency and communion of interest behind it. We can see that such sectional and ethnic politics mean a short future for justice and decency for all men.

Whether violence comes in the form of a gun, . . . from a sniper on a rooftop . . . whether violence comes in verbal form . . . whether we have to deal with assassins we find in school depositaries . . . flop houses . . . or kitchens . . . whether we have to ferret out the mental assassins who kill more slowly . . . more deftly by killing the human spirit; . . . we have to find them . . . and stop them . . . for they are destroying America.

We have to end the violence of war abroad and the violence that has plagued our streets in the recent past. We have to end the violence of the gun and the bomb . . . and we have to end the violence of institutions that do not respond to the human needs of our brothers. We have to do this . . . because it is right.

We must reject the counsel of those who advocate violence or repression as an answer for they are wrong. We must reject those who sit silently in our public forums refusing to answer because it is not politically expedient, for they are fools. We must reject those who speak of the past as an answer . . . for they are blind.

Our task is to offer leadership: . . . whether it be on the school board in Boston or Beverly Hills; . . . whether it be in the Halls of Congress in Washington or a Head Start Project in Watts; . . . we must offer the kind of leadership that speaks out before a problem becomes a crisis . . . before one tests the shifting sands of public sentiment . . . leadership that stands and speaks for what is right.

And so, I would ask you to think of these things as you go about the business of deciding your future . . . and I would ask you to remember that the eyes of the world rest upon you today . . . for as representatives of the youth of America . . . you are also representatives of America's future.

I would ask that you weigh your future carefully for it means much . . . both to you . . . to your State and your country.

I would ask that you seize opportunity and challenge the future.

I would ask merely . . . that you stand as decent and just people . . . for that is where your future really lies . . . and, more importantly . . . the future of mankind.

CANYONLANDS NATIONAL PARK

Mr. MOSS. Mr. President, it has become almost a standard event for a person from elsewhere in the United States to "discover" Canyonlands National Park in Utah. Last Sunday the Washington Post published an article by Mr. Richard Joseph. Mr. Joseph marvels at the spectacular beauty of Canyonlands comparing it with Grand Canyon, the Grand Tetons, Yosemite, and Yellowstone. He also comments on Arches National Monument.

As the Senate well knows, I have a bill now pending to expand the boundaries of Canyonlands because of areas which were left out when this great park was first established, and a second bill which would convert Arches National Monument into a national park. Consequently, Mr. Joseph's article is of considerable interest to me and to the Senate which must pass on these bills sometime during this session of the Congress.

I therefore 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:

CANYONLANDS: BEAUTY NOBODY KNOWS ABOUT

(By Richard Joseph)

MOAB, UTAH.—Careful, chappies, here come the superlatives!

For more than three months now, I've been sticking to my New Year's resolutions to lay off the exclamation points.

Then I fell upon Canyonlands National Park near here, and I must say that it is the greatest, biggest, most colossal, most colorful, most sensational . . .

I've done most of the Western oldtimers, like Yellowstone, Yosemite, the Grand Canyon and the Grand Tetons, but this one I'd barely heard of though it was established in 1964. It has all the grandeur of the Grand Canyon, plus many attractions of its own—and without the crowds.

Crowds? There is nobody here, yet; like myself, few people seem to have heard of Canyonlands, and within its 275,640 acres are great spaces as yet unsullied by crowds.

Flying over it is easy, but to open up some of the more remote canyons you have to be part human-fly. But the Indians seem to have made it; every time somebody does succeed in pushing through to a new area he finds Indian ruins scattered around and petroglyphs painted on rocks.

Some of this area was Zane Grey's Robbers' Roost, the land of Butch Cassidy and the Sundance Kid, and they shot a good deal of the film hereabouts.

It's fruitless to try to describe scenery anywhere, and here the scenery is indescribable—so I'll try to describe it. Back a few eons ago, this whole area was covered by an inland sea, and the weight of the water pressed the sandy soil into soft red sandstone.

Then rivers cut great canyons, and wind erosion—aided by extreme temperatures—cut the stone into fantastic shapes.

Some of the forms look like the red sandstone fortresses of Fatehpur Sikri in India, others like medieval castles and cathedrals. Still others resemble the ruined Mayan temples of Yucatan; other strange forms look like pregnant elephants lying on their backs and Renaissance saints carved by impressionist sculptors; and if you half-close your eyes while flying over some areas you get the illusion of passing over the skyscrapers of a modern city.

The colors lie in the time of the beholding: at dawn deep purple, then orange red, brightening to sandy yellow by midday, then in later afternoon back to fiery red—and to dark purple just before the sun lets go of the scene.

Much of Canyonlands National Park has the look of the Grand Canyon, which isn't surprising, since the Grand Canyon is formed by the same twisting Colorado River a few hundred miles downstream.

But the park is far from being the whole of the Canyonlands scene. Utah very cagily has reserved one of the very best lookout sports for itself at Dead Horse Point State Park, right next to the park, from which you peer down into the Colorado River below, then out over the buttes and mesas of Canyon lands to the distant Blue Mountains.

All this up to the southwest of Moab, gateway to the whole area. Five miles on the other side of Moab, to the northwest, is the Arches National Monument.

Some monument! Fifty-three square miles of some of the strangest shapes seen anywhere since Minsky got out of the burlesque business. The 88 arches were formed by great holes cut into the rock by the winds after the soft sandstones had been weakened by ice formations.

A few years ago I might have described all this as a lunar landscape, but after watching the movements of Armstrong, Aldrin, Conrad, Bean, Shepard and Mitchell on TV, I know that the moon is pale in comparison.

Recently my 11year-old namesake (on school vacation) and I at the Moab airport met a local character by the name of Ole Tex McClatchy. "Ole," Tex must be all of 35, but he hides his comparative youth behind a bushy black beard, and he enhances his character role by wearing yachting and Bulgarian army forage caps.

Behind the bushy facade, we found a sharp knowledgeable and enthusiastic tour operator. Ole Tex is the triple-threat man of the Colorado River country: he'll explore the river with you by boat, jeep or plane.

We took off from the Moab airport about mid-morning in a Volkswagen Microbus that Ole Tex had fitted out with fat dune buggy tires on the rear wheels.

We lunched around a campfire on the flat rocks near Dead Horse Point, overlooking a bend in the Colorado, almost half a mile straight down, then drove down to the canyon floor along the narrow, twisting Shafer Trail—the scariest expedition available since they closed the giant skyride at Luna Park in Coney Island.

We did the Arches in the purpling dusk to end a day that must rank with a trip through the white marble Taroko Gorge in Taiwan as our most memorable single piece of sightseeing.

The next morning we flew over all of the park with Dick Smith, a young giant who looks like the other one of the black-bearded Smith Bros. and operates Canyonlands Aviation out of Monticello Airport, a few miles south of here.

Letters addressed to Ole Tex at Moab or Dick Smith at Monticello will get you more information, but if you're in the neighborhood, maybe they'll be in touch with you.

You see, the highway police have a cute stunt around here. When things get too quiet, they'll stop a passing car—preferably with out-of-state license plates and packed with kids—and scare the driver by telling him he'll have to come with them. Then they invite him to be the guests of the Moab TraveLodge overnight and of Ole Tex for next day on the river. Everything on the cuff.

PARABLE OF THE PARKING LOTS

Mr. ALLOTT. Mr. President, I invite the attention of the Senate to a parable.

For reasons which this parable makes clear, much of what this and other august and busy Government bodies do, should not be done. Thus it is especially

important for our reordered priorities to sanction the reading of this parable, which appears in the spring 1971, issue of the Public Interest, one of the most consistently stimulating and useful public affairs journals published in the United States.

The author is Henry G. Manne, Kenan professor of law and political science at Rochester University. I ask unanimous consent that Professor Manne's essay be printed in the RECORD.

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

THE PARABLE OF THE PARKING LOTS

(By Henry G. Manne)

In a city not far away there was a large football stadium. It was used from time to time for various events, but the principal use was for football games played Saturday afternoons by the local college team. The games were tremendously popular and people drove hundreds of miles to watch them. Parking was done in the usual way. People who arrived early were able to park free on the streets, and latecomers had to pay to park in regular and improvised lots.

There were, at distances ranging from 5 to 12 blocks from the stadium, approximately 25 commercial parking lots all of which received some business from Saturday afternoon football games. The lots closer to the stadium naturally received more football business than those farther away, and some of the very close lots actually raised their price on Saturday afternoons. But they did not raise the price much, and most did not change prices at all. The reason was not hard to find.

For something else happened on football afternoons. A lot of people who during the week were students, lawyers, school teachers, plumbers, factory workers, and even stock brokers went into the parking lot business. It was not a difficult thing to do. Typically a young boy would put up a crude, homemade sign saying "Parking $3." He would direct a couple of cars into his parents' driveway, tell the driver to take the key, and collect the three dollars. If the driveway was larger or there was yard space to park in, an older brother, an uncle, or the head of the household would direct the operation, sometimes asking drivers to leave their keys so that shifts could be made if necessary.

Some part-time parking lot operators who lived very close to the stadium charged as much as $5.00 to park in their driveways. But as the residences-turned-parkings-lots were located further from the stadium (and incidentally closer to the commercial parking lots), the price charged at game time declined. In fact houses at some distance from the stadium charged less than the adjacent commercial lots. The whole system seemed to work fairly smoothly, and though traffic just after a big game was terrible, there were no significant delays parking cars or retrieving parked cars.

But one day the owner of a chain of parking lots called a meeting of all the commercial parking lot owners in the general vicinity of the stadium. They formed an organization known as the Association of Professional Parking Lot Employers, or APPLE. And they were very concerned about the Saturday parking business. One man who owned four parking lots pointed out that honest parking lot owners had heavy capital investments in their businesses, that they paid taxes, and that they employed individuals who supported families. There was no reason, he alleged, why these lots should not handle all the cars coming into the area for special events like football games. "It is unethical," he said, "to engage in cutthroat competition with irresponsible fender benders. After all, parking cars is a profession, not a business." This last remark drew loud applause.

Thus emboldened he continued, stating that commercial parking lot owners recognize their responsibility to serve the public's needs. Ethical car parkers, he said, understand their obligations not to dent fenders, to employ only trustworthy car parkers, to pay decent wages, and generally to care for their customers' automobiles as they would the corpus of a trust. His statement was hailed by others attending the meeting as being very statesmanlike.

Others at the meeting related various tales of horror about nonprofessional car parkers. One homeowner, it was said, actually allowed his fifteen-year-old son to move other peoples' cars around. Another said that he had seen an $8,000 Cadillac parked on a dirt lawn where it would have become mired in mud had it rained that day. Still another pointed out that a great deal of the problem came on the side of the stadium with the lower-priced houses, where there were more driveways per block than on the wealthier side of the stadium. He pointed out that these poor people would rarely be able to afford to pay for damage to other peoples' automobiles or to pay insurance premiums to cover such losses. He felt that a professional group such as APPLE had a duty to protect the public from their folly in using those parking spaces.

Finally another speaker reminded the audience that these "marginal, fly-by-night" parking lot operators generally parked a string of cars in their driveways so that a driver had to wait until all cars behind his had been removed before he could get his out. This, he pointed out, was quite unlike the situation in commercial lots where, during a normal business day, people had to be assured of ready access to their automobiles at any time. The commercial parking lots either had to hire more attendants to shift cars around, or they had to park them so that any car was always accessible, even though this meant that fewer cars could park than the total space would actually hold. "Clearly," he said, "driveway parking constitutes unfair competition."

Emotions ran high at this meeting, and every member of APPLE pledged $1 per parking space for something mysteriously called a "slush fund." It was never made clear exactly whose slush would be bought with these funds, but several months later a resolution was adopted by the city council requiring licensing for anyone in the parking lot business.

The preamble to the new ordinance read like the speeches at the earlier meeting. It said that this measure was designed to protect the public against unscrupulous, unprofessional and under-capitalized parking lot operators. It required, *inter alia*, that anyone parking cars for a fee must have a minimum capital devoted to the parking lot business of $25,000, liability insurance in an amount not less than $500,000, bonding for each car parker, and a special driving test for these parkers (which incidentally would be designed and administered by APPLE). The ordinance also required, again in the public's interest, that every lot charge a single posted price for parking and that any change in the posted price be approved in advance by the city council. Incidentally, most members were able to raise their fees by about 20 per cent before the first posting.

Then a funny thing happened to drivers on their way to the stadium for the next big game. They discovered city police in unusually large numbers informing them that it was illegal to pay a non-licensed parking lot operator for the right to park a car. These policemen also reminded parents that if their children were found in violation of this ordinance it could result in a misdemeanor charge being brought against the parents and possible juvenile court proceedings for the children. There were no driveway parking lots that day.

Back at the commercial parking lots, another funny thing occurred. Proceeding from the entrance of each of these parking lots within twelve blocks of the stadium were long lines of cars waiting to park. The line got larger as the lot was closer to the stadium. Many drivers had to wait so long or walk so far that they missed the entire first quarter of the big game.

At the end of the game it was even worse. The confusion was massive. The lot attendants could not cope with the jam up, and some cars were actually not retrieved until the next day. It was even rumored about town that some automobiles had been lost forever and that considerable liabilities might result for some operators. Industry spokesmen denied this, however.

Naturally there was a lot of grumbling, but there was no agreement on what had caused the difficulty. At first everyone said there were merely some "bugs" in the new system that would have to be ironed out. But the only "bug" ironed out was a Volkswagen which was flattened by a careless lot attendant in a Cadillac Eldorado.

The situation did not improve at subsequent games. The members of APPLE did not hire additional employees to park cars, and operators near the stadium were not careful to follow their previous practice of parking cars in such a way as to have them immediately accessible. Employees seemed to become more surly, and the number of dented-fender claims mounted rapidly.

Little by little, too, cars began appearing in residential driveways again. For instance, one enterprising youth regularly went into the car wash business on football afternoons, promising that his wash job would take at least two hours. He charged five dollars, and got it—even on rainy days—in fact, especially on rainy days. Another homeowner offered to take cars on consignment for three hours to sell them at prices fixed by the owner. He charged $4.00 for this "service," but his subterfuge was quickly squelched by the authorities. The parking situation remained "critical."

Political pressures on the city council began to mount to "do something" about the inordinate delays in parking and retrieving cars on football afternoons. The city council sent a stern note of warning to APPLE, and APPLE appointed a special study group recruited from the local university's computer science department to look into the matter. This group reported that the managerial and administrative machinery in the parking lot business was archaic. What was needed, the study group said, was less goose quills and stand-up desks and more computers and conveyor belts. It was also suggested that all members of APPLE be hooked into one computer so that cars could really be shifted to the most accessible spaces.

Spokesmen for the industry took up the cry of administrative modernization. Subtle warnings appeared in the local papers suggesting that if the industry did not get its own house in order, heavy-handed regulation could be anticipated. The city council asked for reports on failures to deliver cars and decreed that this would include any failure to put a driver in his car within five minutes of demand without a new dent.

Some of the professional operators actually installed computer equipment to handle their ticketing and parking logistics prob-

lems. And some added second stories to their parking lots. Others bought up additional space, thereby raising the value of vacant lots in the area. But many simply added a few additional car parkers and hoped that the problem would go away without a substantial investment of capital.

The commercial operators also began arguing that they needed higher parking fees because of their higher operating costs. Everyone agreed that costs for operating a parking lot were certainly higher than before the licensing ordinance. So the city council granted a request for an across-the-board ten per cent hike in fees. The local newspaper editorially hoped that this would ease the problem without still higher fees being necessary. In a way, it did. A lot of people stopped driving. They began using city buses, or they chartered private buses for the game. Some stayed home and watched the game on TV. A new study group on fees was appointed.

Just about then several other blows fell on the parking lot business. Bus transportation to the area near the stadium was improved with a federal subsidy to the municipal bus company. And several new suburban shopping centers caused a loss of automobile traffic in the older areas of town. But most dramatic of all, the local university, under severe pressure from its students and faculty, dropped intercollegiate football altogether and converted the stadium into a park for underprivileged children.

The impact of these events on the commercial parking lots was swift. Income declined drastically. The companies that had borrowed money to finance the expansion everyone wanted earlier were hardest hit. Two declared bankruptcy, and many had to be absorbed by financially stronger companies. Layoffs among car parkers were enormous, and APPLE actually petitioned the city council to guarantee the premiums on their liability insurance policies so that people would not be afraid to park commercially. This idea was suggested by APPLE by recent Congressional legislation creating an insurance program for stock brokers.

A spokesman for APPLE made the following public statement: "New organizations or arrangements may be necessary to straighten out this problem. There has been a failure in both the structure of the industry and the regulatory scheme. New and better regulation is clearly demanded. A sound parking lot business is necessary for a healthy urban economy." The statement was hailed by the industry as being very statesmanlike, though everyone speculated about what he really meant.

Others in the industry demanded that the city bus service be curtailed during the emergency. The city council granted every rate increase the lots requested. There were no requests for rate decreases, but the weaker lots began offering prizes and other subtle or covert rebates to private bus companies who would park with them. In fact, this problem became so serious and uncontrollable that one owner of a large chain proclaimed that old-fashioned price competition for this business would be desirable. This again was hailed as statesmanlike, but everyone assumed that he really meant something else. No one proposed repeal of the licensing ordinance.

One other thing happened. Under pressure from APPLE, the city council decreed that henceforth no parking would be allowed on any streets in the downtown area of town. The local merchants were extremely unhappy with this, however, and the council rescinded the ordinance at the next meeting, citing a computer error as the basis for the earlier restriction.

The ultimate resolution of the "new" parking problem is not in sight. The parking lot industry in this town not very far from here is now said to be a depressed business, even a sick one. Everyone looks to the city council for a solution, but things will probably limp along as they are for quite a while, picking up with an occasional professional football game and dropping low with bad weather.

* * * * *

MORAL. If you risk your lot under an apple tree, you may get hit in the head.

HENRY L. SLATER APPRECIATION DAY

Mr. HATFIELD. Mr. President, May 1, 1971, was declared Henry L. Slater Appreciation Day by the citizens of Burns, Oreg. Because of my deep respect and great regard for Henry Slater, I ask unanimous consent that an account of the proceedings of that festive day be printed in the RECORD, as an indication of the esteem and affection in which we hold Henry L. Slater, and in recognition of his superior service and dedication to the education process, to his community of Burns, and to his State of Oregon.

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

HENRY L. SLATER APPRECIATION DAY

In a resolution signed April 28, 1971, the Harney County Court, the Honorable Newton Hotchkiss, Judge, and the City of Burns, the Honorable W. A. Sawyer, Mayor, jointly proclaimed May 1, 1971, as Henry L. Slater Appreciation Day to be celebrated by all of the common citizens in recognition of Mr. Slater's 27 years as Superintendent of the Burns Grade School system, to specifically honor his professional dedication, long dedicated years of youth activity, outstanding accomplishments in the area of patriotism, and his strong moral life.

On May 1 a public banquet was held at the Elks Temple, B.P.O.E. 1680, Burns, Oregon, so that all of Henry's long time friends, of over 2½ decades, could pay tribute to Mr. Slater, his wife, Gen; daughter, Mrs. Robert (Peggy) Sitz and her husband; his son, William (Bill) and his wife, Lu; and Mr. Slater's five grandchildren. The toastmaster of the banquet was the Honorable Robert F. Smith, Speaker, House of Representatives, State of Oregon, and the principal speaker was the Honorable Dale Parnell, Superintendent of Public Instruction in the State of Oregon.

The highlight of the evening was the public announcement by Dr. Robert J. Raleigh, Chairman, Burns Grade School, that from that day forward the Burns Grade School will henceforth be known as the Henry L. Slater Grade School.

The following speech is a public tribute to Mr. Slater made during the banquet by Dr. John H. Weare, M.D., a long time personal friend of Mr. Slater's and a member of the Burns Grade School Board for 17 years, Chairman on a rotating basis for five years.

STATEMENT BY JOHN H. WEARE, M.D.

I first came to know Mr. Slater through my associations with the Burns Grade School. In the 1944–45 schoolyear I served on the Budget Board, and that spring the school board members were Cecil Bennett, Rudy Reinertson, and Pluribus Tiller. Mr. Tiller was retiring from the board and they asked me to run in his place. I was selected and served for seventeen years as a member of the board. During this time I had plenty of opportunity to see Mr. Slater as a teacher and administrator and to learn a lot about his methods and philosophy of what a school should do. I came to respect and admire him both as an educator and as a man. For a few years before Mr. Slater came to Burns the grade school district was torn with dissension over matters that need not be recounted now. I remember that there were lots of people blaming the board for hiring Mr. Slater even before he got here. They felt he wasn't the right man for the job and he wouldn't last—that he would be forced out like his predecessors had been. Tonight and the past twenty-seven years prove how wrong they were. Because of the problems that the school district was having at that time I really was not at all anxious to be a member of the board and expose myself to the problems of the district and the criticism of the people that I had heard so much of before becoming a member of the board. My fears turned out to be groundless, as Mr. Slater made my duties as a school board member quite easy. Any problems that the school board had were not of his making. When it came to the educational program of the school he could present it so logically and sincerely that he seldom had any problem in convincing the board to allow him to follow his desires.

He runs his school in the way that there is never any question as to who the boss is, yet he has never lost sight of the fact that he is responsible to the board and his constituents. He never forgets the fact that the taxpayer is paying the bill and he always asks for the basic programs without a lot of frills. As a result of this and as evidence of their confidence in him and their approval of his handling of the school, the people of his district have never voted down one of his budgets. I consider this all the more remarkable when you consider that several of our own high school budgets have been voted down during this time. He would stand up for what he considered a fair salary schedule for his teachers, but I never heard him ask for a raise in salary for himself. In fact more than once he refused or talked the board into a lesser raise than the board offered him. Truly education of the Burns Grade School children has been more important to him than the amount of his salary.

For the first few years Mr. Slater would teach a class or so in English. He is a strong teacher and enjoys teaching in the classroom. Soon the State Department of Education began saying that he shouldn't be teaching. He resisted them for a time saying that it gave him an opportunity to be a better administrator by having first-hand knowledge of classroom problems in teaching—both from the teacher's and pupil's standpoint. It also helped him maintain a personal touch with the students and they with him. Eventually the pressure from the State Department forced him to give up teaching. I seem to have read in the newspapers and seen on T.V. that during this school year our present Superintendent of Public Instruction, Dr. Dale Parnell, who will be speaking to you next on the program, spent some time teaching in the classroom and said he learned something from having done so. Even after being forced out of the classroom Mr. Slater found a way to get additional contact with and exposure to his students. He assigned himself as lunchroom monitor in order to maintain this contact.

Mr. Slater strongly feels that the first ingredient to learning is discipline. Granted that discipline can be accomplished by different people by different methods, yet if there is not discipline in the classroom the efficiency of learning is greatly reduced. He does his best at the start of each year and during each year to get this fact across to his new teacher.

I don't believe there is anyone who would not agree that he has always had a disciplined classroom. The school is one place where a firm, fair authoritarian is a great asset. I think that you will find that even after growing up a lot of his former students remember and respect the discipline and fairness of his administration. There is a sort of awe they hold. He is still Mr. Slater to them.

Mr. Slater has seen numerous teaching fads and methods come and so. I know of some that he felt were poorly conceived and wrong and either resisted using them or discontinued using them as soon as possible. Time has proved him right. He feels that every child capable of learning them should have an opportunity to learn and be well grounded in the basics of reading and arithmetic and he has always aimed toward the strongest programs possible to equip every child with these basic skills because a weakness in them handicaps the child in all his other courses and in life. He has always resented the crowding of the curriculum with—to him and me—some programs of lesser importance when it cuts into the teaching time of the basic subjects. He has had an especially strong interest in reading programs and has done everything he could to maintain a strong reading program in his school. This includes the early instituting of special reading classes taught by teachers specially trained to help children with reading problems. It involved the use of what he feels to be the best reading curriculum method available to help children become good readers.

Mr. Slater has taught many things to his students that are not taught in the regular classrooms. He teaches love and respect of God and country. He does this by his own example and through teaching programs. Now, of course, religion can't be taught in our public schools in Oregon, but he never has hesitated to tell his students to attend the church of their choice regularly and he sets the example by doing so himself. The clean—if you overlook his cigars—moral life that he lives in this small fishbowl community speaks stronger than words of his belief. He tries to hire teachers who have the same standards.

He strongly believes that patriotism should and must be taught to our students in school. In 1951 he had a small Lincoln's Day program put on by the 7th and 8th grade students. This program has been repeated and grown so that now each year it plays to standing room only audiences.

Each year at graduation exercises, there is present in the audience, nervous parents of graduates on the platform, who will be giving speeches during the course of the program. Each such parent is afraid their child is going to have some sort of a catastrophe while giving his speech, but it never happens. Instead, the child goes far beyond the expectations of their parents, in what may well have been their first exposure to public speaking. Why? Because Mr. Slater has spent hours in the evenings training these children and giving them their first lessons in public speaking. Many a person has been thankful then and later in life for the training Mr. Slater gave them. His scrapbook has letters to attest to this. I have had former students personally tell me so.

The Burns Grade School under Mr. Slater's direction has twice won a Freedom Foundation award for its outstanding program in teaching the fundamental freedoms of the American way of life. In addition to this Mr. Slater has personally received eleven separate awards from the Freedom Foundation at Valley Forge for original essays. No one else in the United States has received as many awards from the Freedom Foundation. The following list of winning essays very well shows his feelings and convictions about his country. His first winning essay was in 1951 and was entitled "My Country". In 1953 the essay was entitled "Freedom's Holy Light".

1955—"Youth, Americanism Citadel."
1957—"Let's Teach Americanism."
1958—"Let's Stand Up and Be Counted."
1959—"This is our Record."
1960—"We Have Reached the Crossroads."
1961—"Our Heritage."
1962—"Long May it Wave."
1963—"The Truths are Self Evident."
1967—"The Whites of Their Eyes."

In these days when we see so much evidence of lack of respect of our flag, our country, and of any form of authority we see more than ever the need for clear thinking far-sighted educators as Mr. Slater.

I consider myself especially fortunate that over the years I have had the privilege of being one of the hosts of Mr. Slater's friends. I have spent many hours with him under a variety of circumstances and know what a wonderful man he really is. We have had numerous confidential discussions and I have never heard him say a bad word about or run down the character of any individual no matter what the provocation might be. Anyone who has been around Mr. Slater knows how well he appreciates good humor and who has not been made to feel better as they have listened to his hilarious, highly individual laughing.

In spite of the fact that he is a recognized leader in our community, he is humble, available to all and is quick to recognize anything good or helpful done by others. Numerous are the letters of thank you and congratulations that he has written to many of us in this community. He is the author of many thank you letters in the local paper to people for helping in special projects. He has been generous of his time and talents in supporting worthy projects by letters in the paper and talks over the radio and to group meetings.

His is a well rounded life. Besides being an active leader in his profession, his off duty hours are filled with a variety of activities. He is a good husband, father of two, and proud grandfather of five. He is an avid fisherman and has spent many hours in the fields of Harney County, hunting birds. Only in the past few years has he given his faithful double barreled shotgun that he called Black Mariah. He is interested in a wide variety of sports. His midwest background and loyalties sometimes warp his judgment in the nicking of winners of contests between the Big Ten and the West Coast. He is a frequent winner of bridge tournaments and has earned a national ranking of a National Master. He is widely read in many fields and takes an active interest in politics from the local to the national level.

His accomplishments of course have not gone unnoticed. In January, 1961, he was chosen as Senior Citizen of the year for Harney County for the year 1960. I had the privilege of presenting him for that award. On August 12, 1969, President Nixon directed James E. Allen, Jr., Assistant Secretary for Education, to write a letter of appreciation to Mr. Slater for his outstanding contributions to American Education and preservation of our country's heritage. On August 16, 1969, Governor Tom McCall issued a special proclamation honoring Mr. Slater for his outstanding contributions to good citizenship in Oregon. Mr. Slater has received many letters from students and parents thanking him for the influence he has had on their life or the life of their children. I am sure that all of these recognitions have warmed his heart and helped to repay him for the many hours over and above the requirements of his position that he has willingly given over the years, but I am sure that none of these recognitions will mean as much to him as the one made possible by his admirers in the community, the renaming of Burns Grade School, officially known as Henry L. Slater Grade School.

In closing, I want to thank you, Hank, from the bottom of my heart for all that you have done for this community and more personally for all the help and guidance you have given me and my family for allowing me to benefit by your true friendship.

UP, UP, UP FOR SHOE IMPORTS—DOWN, DOWN, DOWN FOR JOBS FOR SHOE WORKERS

Mr. McINTYRE. Mr. President, the figures on shoe imports for the first quarter of 1971 are now available.

They show once again the dismal picture of shoe imports up, up, up. There has been a 27.4-percent increase over the first quarter of last year.

This means, of course, that the American shoe workers are suffering further. They are losing more jobs to foreign workers. They face an increasingly uncertain future.

The administration still does not act. They have provided some job retraining assistance. But this is just a band-aid on the severe injury suffered by the shoe industry. Congress must act.

Mr. President, I ask unanimous consent that the figures on shoe imports compiled by the American Footwear Manufacturers Association for January, February and March of this year, be printed in the RECORD.

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

AMERICAN FOOTWEAR
MANUFACTURERS ASSOCIATION,
May 7, 1971.

IMPORTS, MARCH 1971—FIRST QUARTER 27 PERCENT ABOVE LAST YEAR

In March, 31,517,000 pairs of Leather and Vinyl footwear were dropped on American shores, bringing the total for the first quarter to 87,531,000 pairs—a 27.4% increase over the same period last year.

However one compares the statistics for imports, the results are always the same—they continue to grow, and *at the expense of domestic production.* In 1970 imports represented 42% of domestic production. Compare that with 4% in 1960, 14% in 1965, and the dramatic growth of imports is quickly revealed. *The growth continues in 1971 at a lighting speed.* For the first quarter imports represented 65% of domestic production—a devastating statistic for domestic manufacturers, to say the least.

Coupled with the increase in pairs is the greater increase in the dollar value of imports. In 1970 the value of imports totaled $549,248,000 at the f.o.b. level—a 28% increase over 1969. No longer are we getting *only* cheap footwear from abroad. Leather footwear in 1970 totaled 120,395,000—78% of the value for all imported footwear. Thus far this year, the f.o.b. value of leather footwear accounts for 80% of the total f.o.b. value.

With the first three months' data in, we can readily see that as long as imports are allowed to enter the American Market freely, they will continue to stabilize their growth performance of the past few years.

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

[Thousands of pairs; thousands of dollars]

Type of footwear	March 1971, pairs	Percent change, 1971/1970	3 months, 1971			Percent change, 3 months, 1971/1970	
			Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value
Leather and vinyl, total	30,737.2	+25.9	85,251.7	176,668.5	2.07	+28.2	+31.1
Leather exclusive, slippers	17,319.8	+18.2	45,521.7	141,205.6	3.10	+27.6	+27.0
Men's, youths', boys'	4,412.8	+25.0	11,540.7	47,361.7	4.10	+34.8	+36.3
Women's, misses'	11,600.6	+17.0	30,146.4	86,610.2	2.87	+25.2	+22.1
Children's, infants'	991.5	+15.9	2,952.9	4,069.4	1.38	+36.8	+38.1
Moccasins	46.4	−79.6	133.3	175.0	1.31	−31.6	+15.3
Other leather (including work and athletic)	268.5	+17.8	748.4	2,989.3	3.99	+10.6	+22.5
Slippers	21.4	+22.3	44.5	127.4	2.86	+16.8	+42.3
Vinyl supported uppers	13,396.0	+37.6	39,685.5	35,335.5	.89	+28.9	+50.8
Men's and boys'	2,580.0	+96.0	6,844.7	7,544.0	1.10	+84.9	+82.5
Women's and misses'	9,702.3	+30.8	29,478.4	25,522.9	.87	+22.3	+46.8
Children's and infants'	989.5	+25.3	2,963.4	1,986.0	.67	+16.3	+20.3
Soft soles	124.2	−41.4	399.0	282.6	.71	−11.6	+5.7
Other nonrubber types, total	780.4	+3.3	2,279.4	2,273.4	1.00	+4.7	−13.5
Wood	155.4	−45.6	411.7	1,055.5	2.56	−43.9	−39.5
Fabric uppers	453.1	+28.5	1,361.6	818.7	.60	+11.0	+23.7
Other, n.e.s.	171.9	+46.3	506.1	399.2	.79	+134.5	+81.5
Nonrubber footwear, total	31,517.6	+25.3	87,531.1	178,941.9	2.04	+27.4	+30.3
Rubber soled fabric uppers	5,419.4	+44.3	14,917.9	14,483.2	.97	+31.9	+68.8
Grand total, all types	36,937.0	+27.7	102,449.0	193,425.1	1.89	+28.1	+32.5

Note: Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories, and slipper socks. Rubber soled fabric upper footwear includes non-American selling price types.

Source: American Footwear Manufacturers Association estimates from census raw data. For further detailed information, address your inquiries to the association, Room 302, 342 Madison Ave., New York, N.Y. 10017.

SPEEDY TRIALS—NOT PREVENTIVE DETENTION

Mr. ERVIN. Mr. President, on February 22, 1971, I introduced S. 895, a bill to give vitality and meaning to the speedy trial guarantee of the sixth amendment of our Constitution. At that time 24 Senators joined me in this effort to minister to the needs of our troubled criminal justice system. Today, I am pleased to announce that 17 more Members of the Senate have found sufficient merit in this bill to cosponsor it. I look forward to their active support as we work toward our common goal of speedy trials for all criminal suspects, and I ask unanimous consent that at the next printing of S. 895 the following Senators be shown as cosponsors: BIRCH BAYH, WALLACE F. BENNETT, LLOYD M. BENTSEN, JR., ALAN BIBLE, QUENTIN N. BURDICK, HOWARD W. CANNON, CLIFFORD P. CASE, LAWTON CHILES, ALAN CRANSTON, CARL T. CURTIS, ROBERT DOLE, THOMAS F. EAGLETON, HIRAM L. FONG, DAVID H. GAMBRELL, EDWARD J. GURNEY, PHILIP A. HART, VANCE HARTKE, ERNEST F. HOLLINGS, ROMAN L. HRUSKA, HAROLD E. HUGHES, HUBERT H. HUMPHREY, DANIEL K. INOUYE, HENRY M. JACKSON, JACOB K. JAVITS, EDWARD M. KENNEDY, CHARLES MCC. MATHIAS, JR., JOHN L. MCCLELLAN, GALE W. MCGEE, GEORGE MCGOVERN, THOMAS J. MCINTYRE, WALTER F. MONDALE, FRANK E. MOSS, EDMUND S. MUSKIE, ROBERT W. PACKWOOD, CLAIBORNE PELL, JENNINGS RANDOLPH, TED STEVENS, HERMAN E. TALMADGE, STROM THURMOND, JOHN G. TOWER, and HARRISON A. WILLIAMS.

This means that in the short space of time since S. 895 was brought to the Senate a total of 42 Members have rallied behind this effort to solve one of the most urgent problems of our day. Mr. President, this indicates to me that the Senate and the people of this Nation want legislative action to enforce the Constitution and not just an empty slogan which perverts it.

S. 895 has been referred to the Constitutional Rights Subcommittee, and I hope we can soon begin our hearings so that the bill can be refined, if necessary, and brought to the Senate floor. With the strong show of support already manifested in the Senate, I fully expect this body to pass a speedy trial bill within the very near future.

A few weeks ago at the National Conference on the Judiciary, an assemblage of prominent judges, lawyers, and educators, the President made plain his own commitment to speedy trial. On that occasion he said:

> The founders of this Nation wrote these words into the Bill of Rights: "the accused shall enjoy the right to a speedy and public trial." The word "speedy" was nowhere modified or watered down. We have to assume they meant exactly what they said—a speedy trial.
>
> It is not an impossible goal. In criminal cases in Great Britain today, most accused persons are brought to trial within 60 days after arrest. Most appeals are decided within three months after they are filed.

I am delighted to know that the President is firmly dedicated to both the principle and practice of speedy trial. His dedication will enhance our efforts to achieve a viable legislative solution to the problem.

In addition to the strong backing for speedy trial already displayed by the Senate and by the President of the United States, it is heartening to know that we also have the Chief Justice of the United States Supreme Court with us in the battle. In his address to the American Bar Association on the state of the Federal judiciary in August of last year, Chief Justice Burger said:

> If ever the law is to have genuine deterrent effect on the criminal conduct giving us immediate concern, we must make some drastic changes. The most simple and obvious remedy is to give the courts the manpower and tools—including the prosecutors and defense lawyers—to try criminal cases within 60 days after indictment and let us see what happens. I predict it would sharply reduce the crime rate.
>
> Efficiency must never be the controlling test of criminal justice but the work of the courts can be efficient without jeopardizing basic safeguards. Indeed the delays in trials are often one of the gravest threats to individual rights. Both the accused and the public are entitled to a prompt trial.

In declaring that criminal trials within 60 days would sharply reduce the crime rate and that both the accused and the public have a fundamental right to speedy trial, the Chief Justice plainly enunciated two consummate truths which neither the legislature, nor the judiciary, nor the executive can ignore any longer.

Recently, Mr. President, we have seen some encouraging signs emerge from within the judiciary both at Federal and State levels. On January 5, 1971, the Judicial Council of the Second Circuit Court of Appeals promulgated a series of new speedy trial rules for the Federal courts of the Second Circuit. This action assumes great significance when we consider the fact that the Second Circuit contains the Southern District of New York which is one of the busiest Federal district courts in the land.

The new rules require that the U.S. attorney must be ready for trial of an unconvicted, detained defendant within 90 days of detention. If not, the defend-

ant is to be released, unless exceptional circumstances appear. The rules also require the Government to be ready for trial in all cases within 6 months from the date of arrest, service of summons, detention, or filing of a complaint or a formal charge, whichever is earliest. Otherwise, the case shall be dismissed upon motion of the defendant or the district court. The rules also give a clear priority generally to criminal cases and particularly to detained defendants and detained defendants believed to present unusual risks. In announcing the rules, the Circuit Judicial Council stated:

> The deterrence of crime by prompt prosecution of charges is frustrated whenever there is a delay in the disposition of a case which is not required for some good reason. The general observance of law rests largely upon a respect for the process of law enforcement. When the process is slowed down by repeated delays in the disposition of charges for which there is no good reason, public confidence is seriously eroded.

At the State level the New York Court of Appeals, the highest court in that State, has sought to set its own house in order by boldly following the pattern set by the Second Circuit. It announced new rules just 2 weeks ago which will require release on bail of nearly all defendants whose trials have not begun within 90 days of their arrest and the outright dismissal of defendants who have not been brought to trial, through no fault of their own, within 6 months of their arrest. In recognition of the immediate administrative and financial burden the rules would impose, the effective date for the new court rules is May of 1972.

The kind of initiative displayed by the second circuit court of appeals and by the New York Court of Appeals will serve as a useful adjunct to the legislative efforts of the Congress and of State legislatures throughout the country who tackle the problem of trial delay.

In addition, Mr. President, many of our courts already have exemplary records in this field. For them, neither legislation nor court rules need be imposed. In a recent letter from Chief Judge Albert Stephens, Jr., of the U.S. District Court for the Central District of California, which includes part of Los Angeles, I learned that for the first 7 months of fiscal year 1970–71, the average number of days elapsing from the date of arraignment to disposition was only 34.8 days. That commendable record shows that speedy trial can be a reality even in the busiest of districts.

Mr. President, our courts are beginning to pay heed to defendants' assertions that their constitutional right to speedy trial has been denied. For example, in the recent case of *United States* v. *Wahrer*, 319 F. Supp. 585 (1970), the court granted the defendant's motion for dismissal where the alleged offense occurred on January 28, 1970; an indictment was returned on September 17, 1970; and the defendant was taken into custody on September 28, 1970. Holding that the defendant's right to a speedy trial had been denied, the Court dismissed the case and recognized a fundamental truth when it said:

> The greater the period between the date of the alleged offense and arrest or indictment the more difficult it will be for the defendant to put forth his defense. With the passage of time he will be less able to remember the circumstances and happenings on the day of the alleged crime.

I ask unanimous consent that the case of United States against Wahrer be printed in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Moreover, Mr. President, I am encouraged by the increasing support from private citizens and newspapers across the country for S. 895. This response shows that our people have long been counting the cost to society of unreasonable delay. It demonstrates that they recognize the need for a major overhaul of our judicial machinery and that they are looking to Congress for the imaginative leadership necessary to achieve the task. Perhaps most important of all, it shows that they share our commitment to attain the goal of speedy trial. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks several recent newspaper editorials in support of S. 895, the speedy trial bill.

(See exhibit 2.)

Mr. President, with the support of the President of the United States, a major portion of the Senate, the Chief Justice of the U.S. Supreme Court, significant segments of the Federal and State judiciary and citizens and newspapers across the land, I am optimistic about enactment of a speedy trial bill this year. I do believe that the time has arrived when we shall overcome the obstacle of trial delay which has been exacting an unduly high price from accused and society alike.

Depite this wide-ranging support for speedy trial, I am still very much aware that more must be done before S. 895 is ready to be enacted. As the President said recently:

> "Reform" as an abstraction is something that everybody is for, but "reform" as a specific is something that a lot of people are against.
>
> A good example of this can be found in the law: Everyone is for a "speedy trial" as a constitutional principle, but there is a good deal of resistance to a speedy trial in practice.

It is far simpler, indeed, to call for reform than it is to achieve it.

Nowhere is that more true than in respect to this specific proposal, for while the press, the Senate, the people, and the President all support speedy trial, the Justice Department has so far maintained a stolid silence. I remember last year's unrelenting efforts by the Justice Department in behalf of its preventive detention bill despite the existence of a speedy trial proposal which offered a clearly constitutional alternative to preventive detention.

I hope the Department's silence does not mean that we should expect more proposals to imprison persons without trial for suspected criminal tendencies. I should like to think that all such devices have been forever laid to rest.

We do not need another divisive fight over an effort by the Department to enact preventive detention legislation which would place allegedly "dangerous" defendants in prison without trial by denying them their constitutional right to reasonable bail. I hope all of us can instead unite and focus our attention and energy on the viable alternative to preventive detention—speedy trial.

I hope my lingering doubt that Justice Department preventive detention proposals are not yet dead will quickly be calmed. And yet I wonder why nearly a year has elapsed since introduction of S. 3936, predecessor to S. 895, with no statement from the Department about speedy trial. I fear that the Justice Department is still enamored for the sloganeering approach to law and order while the rest of the country has come to realize that only hard work can bring safety to our streets and justice to our courts.

Mr. President, the Department's silence is particularly strange. On September 17, 1970, I first wrote to the Attorney General to solicit the Department's views on S. 3936 and to invite suggestions for any changes it thought advisable. I requested a response by December 1, 1970, if possible.

On October 8, 1970, I received a reply from Deputy Attorney General Kleindienst which informed me that the Department was then making a careful study and evaluation of the bill and that it would make every effort to send comments to me by December 1, 1970.

Having received no reply by January 25, 1971, I wrote to Mr. Kleindienst to tell him of my intention to reintroduce S. 3936 this session and to ask again for the Department's comments. In addition, as an aid to scheduling the Constitutional Rights Subcommittee's activities for this year, I asked whether the Justice Department planned to reintroduce S. 2600, its preventive detention bill, or other proposals to amend the Bail Reform Act of 1966. To date I have had no response from Mr. Kleindienst.

I hope the failure of the Justice Department to respond can be read as a mere oversight, even if it is oversight of a serious proposal to enforce the Constitution. Or perhaps it can be attributed to an honest and continuing effort to suggest improvements in the bill, although I do not believe my bill can be so bad that it requires 8 month's worth of suggested changes. I certainly hope it does not signal a continuing desire to pursue the vain and false panacea of preventive detention.

For the life of me, I cannot understand why any Department of Justice would rather have preventive detention, which holds vital provisions of the Constitution in utter contempt than speedy trial, which seeks to enforce fundamental constitutional rights. I wish I were endowed with the rhetorical ability to persuade the Justice Department that preventive detention ought to be confined forever in some special branch of the Smithsonian Institution designed to house legal curiosities.

In 1789, the year in which the United

States began under the new Constitution, Congress passed the Judiciary Act of 1789 and thereby established a practice which has prevailed throughout the intervening 182 years; namely, that all persons charged with noncapital crimes have an absolute right to be released on bail pending their trial and conviction. That principle is incorporated in Federal statute, Federal rules of criminal procedure, and in the constitutions and laws of some 40 States.

Notwithstanding these facts, the Justice Department submitted a proposal to Congress last session asking that this 182-year tradition be abrogated. Inherent in any such proposal is the authorization for judges to imprison persons charged with crime prior to trial and conviction if they are charged with crime designated as either "dangerous crimes" or "crimes of violence," and if the judge predicts that they may commit some crime if freed on bail.

That clearly means imprisonment and punishment of persons for crimes which they have not yet committed and may never commit. Preventive detention is manifestly repugnant to our traditions. It will undermine one of the keystones of American liberty—the right to reasonable bail. It will handicap an accused and his lawyer in preparing his case for trial. It will result in the incarceration of many innocent persons.

I have long believed that if America is to remain a free society, it will have to take certain risks. One is the risk that a person admitted to bail may flee before trial. Another is the risk that a person admitted to bail may commit crime while free on bail.

In my judgment, it is better for our country to take these risks and remain a free society than it is for it to adopt a tyrannical practice of imprisoning men for crimes which they have not committed and may never commit merely because some court may peer into the future and surmise that they may commit crimes if allowed freedom prior to trial. I have always felt that the risks of freedom are greatly to be preferred over the certainties of tyranny.

The Department of Justice has failed to see the many constitutional difficulties which countless others perceived in preventive detention. If it still adheres to that view, it would seem that the practical problems alone would by now have provided reason enough to abandon this nostrum.

For example, the need for preventive detention legislation concededly rests on the inability to provide speedy trials for criminal suspects. It is an attempt to compensate for a progressive breakdown in our law enforcement structure and especially our over-burdened courts. Yet, preventive detention, the Justice Department's solution, would impose heavy additional administrative burdens on the already heavily backlogged courts.

A full adversary hearing and the need to make informed decisions on predictability would, in many instances, take as much time as would actual trial of the principal case. Court congestion would get worse. Delays in criminal trials would increase. If preventive detention were ever used to the extent sufficient to provide community protection, it would so burden the courts that all hope would be lost for providing speedy trials for all criminal suspects.

Furthermore, before the Justice Department digs out the preventive detention stratagem again, it should think of the effect on the personal freedom and livelihood of detained individuals, at least some of whom would be innocent. Obviously 60 days of preventive detention would cost the detained individual his job. Loss of employment plus physical absence from his home would unquestionably have a detrimental effect upon his family. The taxpayers would probably be required to contribute to the financial support of his family and would certainly pay the costs of his detention.

Testimony during the Constitutional Rights Subcommittee bail reform hearings a few years ago estimated that the public cost of pretrial detention before the Bail Reform Act was $2 million. How much more sensible and effective it would be to use money to provide speedy trials than to detain preventively mere suspects who are presumed innocent.

Nor should the Department forget the impact on the individual of subjection to the physical and psychological deprivations and degradations of prison life. Prisons all across the land are engulfed with problems of assault, narcotics, and homosexual rape, as well as general turmoil and unrest, all of which result primarily from overcrowding and inadequate supervision. The jails and prisons of our country are a disgrace. Yet preventive detention would inject untold additional individuals, many of them innocent, into this problem-ridden, overcrowded prison system.

Needless to say, a period of 60 days of preventive detention in such a system is not likely to improve an individual's reputation. It makes securing employment difficult. In all probability, it increases rather than reduces any existing criminal tendencies. And it sharply detracts from the defendant's ability to secure a fair trial or a probationary or suspended sentence in the event of conviction.

Mr. President, I do not question the motives of those persons in the Justice Department who still advocate preventive detention. They mean well. They view preventive detention as a means of controlling crime, and their objective is an honorable one. In this case, however, I fear that they fail to see the forest of liberty for the trees of convictions.

I want to make it abundantly clear that I too am deeply concerned about the crime problem in this country, and about the safety of our law-abiding citizens. The existence of a crime problem, however, should not prompt Congress to enact deceptive legislation which is unconstitutional and unwise. Rather, it should provide us with the opportunity to make those difficult legislative decisions which are essential if our court and corrective systems are to cope with the demands of modern society.

Perhaps, Mr. President, I should subdue any prolonged suspicion I might have that the Justice Department intends to attempt a revival of its preventive detention bill. Yet the lack of any response to my inquiries gives me pause.

Perhaps another reason my suspicion lingers is that I have not yet forgotten the manner in which the Department circumvented normal legislative process in order to thrust its nationwide preventive detention plan onto the District of Columbia. Knowing full well that its preventive detention scheme would not survive a test on its merits before the House and Senate Judiciary Committees, nor a full debate on the floor, the Department had its plan attached to the House version of the District of Columbia court reorganization legislation.

It was literally hidden away under false colors in the deepest recesses of the House rendition of the District of Columbia crime bill. The effect of this tactic was to foreclose a full and free debate on the constitutional and practical issues raised by the Department's preventive detention proposal.

The Justice Department's preventive detention bill received only a few minutes of discussion on the last day of the House District Committee hearings and the only witness called to testify was from the Justice Department. Not a single judge or law professor testified. Nor did the committee have the benefit of the nearly finished Justice Department statistical study prepared by the National Bureau of Standards.

That statistical study, which severely undercut the Department's arguments for preventive detention, was released just a few weeks after the device had been secreted in the District of Columbia crime bill. Needless to say, the Department made no effort then to have preventive detention removed from the bill. It ignored the study and pushed its bill.

The time for serious hearings on the Department's preventive detention bill arrived only after the National Bureau of Standards study was completed because no reliable statistics had been available until then. When that study was released, the Constitutional Rights Subcommittee began extensive hearings on the Department's national preventive detention bill. The witnesses who appeared were almost unanimous in their opposition to the proposal.

In the meantime, however, the District of Columbia crime bill, containing the Department's preventive detention measure, went to a conference committee of House and Senate District Committee for the resolution of some 170 major differences. Interestingly enough, a vanguard of four or more Department of Justice attorneys constantly remained, like faithful servants, by the conference committee door to aid the House conferees.

The end result was a massive, unamendable conference report. The Senate was forced to vote for preventive detention or risk having no District of Columbia crime bill at all. That bill contained many wise and constitutional provisions along with some very unwise and unconstitutional provisions like preventive detention. The Justice Department was thus able to put itself in the position

of the apple seller who buried his rotten apples at the bottom of the barrel and put his good apples on top so he could sell all of his apples, both good and bad.

That sort of activity by the Justice Department frustrated any consideration of the issues and was a cynical perversion of acceptable legislative principles. I strongly oppose any effort to seek enactment of such controversial legislation by such sly and furtive procedures.

Mr. President, I have always been taught that the cunning of the fox is as murderous to a shepherd's lambs as the violence of the wolf and that therefore we ought to guard equally against both. Having seen important constitutional safeguards of citizens of the District of Columbia fall victim once to the cunning of the Justice Department, I am wary of extended periods of silence from that quarter. I hope that in the days ahead I can look back and find that I have been unduly and unjustifiably cautious. Though I must confess that little in that Department's recent record gives me much cause for optimism.

Preventive detention, which the Department so vigorously sought last year, became available to prosecutors and courts in the District of Columbia more than 3 months ago when the infamous District of Columbia crime bill took effect on February 1, 1971. Out of the first nine defendants against whom the Justice Department sought to use preventive detention only one was being preventively detained as of April 2, 1971. In all other cases some intervening factor precluded preventive detention notwithstanding the Justice Department efforts to use that provision.

Initially, the preventive detention hearings were open proceedings. It was then possible to begin an indispensable and thorough study of the Department's efforts to implement preventive detention. It has become progressively more difficult to conduct any such study, however, because of the tightened cloak of secrecy being imposed on preventive detention proceedings.

From the open public proceeding which prevailed at the first, and which may be required under the Sixth Amendment, the procedure has shifted to a secret hearing with information available only about the alleged crime and the result of the hearings. Thereafter, a Superior Court judge drew the curtain even tighter when he forbade the Government prosecutors, defense attorneys and court personnel from revealing any aspect of the hearing including the alleged crimes, names of defendants or the results of the hearing.

Mr. President, it was reprehensible, indeed, ever to begin this experiment with the civil liberties of District of Columbia citizens. It is unpardonable to carry out the experimentation in secret. For now we have not only preventive detention but a return to the star chamber as well. This is not an enviable record for a government agency which contains the word "justice" in its name.

Notwithstanding the apparent decision of the District of Columbia Superior Court, the secrecy issue seems far from settled. In the only case thus far to get from the U.S. magistrate level or the District of Columbia Superior Court level up to the U.S. District Court for the District of Columbia, the judge there expressed some views showing considerable disagreement with the clandestine approach being used.

In that case a defendant had been ordered into preventive detention at a secret hearing. Two weeks later when the grand jury got the case it did not even find sufficient evidence to return an indictment. The defendant's counsel then sought release for his client by bringing a petition for a writ of habeas corpus to the Federal District Court.

At the hearing on that petition, the judge spoke out against the secret preventive detention hearings and said he feared they would grow and spread like a cancer. The judge doubted that a secret preventive detention hearing would comport with the sixth amendment guarantee of a public trial.

His criticism also reached several other practices apparently fostered by the U.S. Attorney's office and sanctioned by the lower courts. In addition to the cloak of secrecy, he specifically objected to the citation of prior criminal records without proof or documentation in the court; the reliance on hearsay evidence by the Government in trying to show prior conduct for detention; and the failure to give a defendant explicit instructions on whether any testimony he gives at the detention hearing may later be used against him.

What a shame it is, Mr. President, that the unlimited time, effort, and money spent by the Justice Department in pushing preventive detention for the District of Columbia through the Congress and the untold manpower and resources already expended by the U.S. Attorney's office and the courts could not have been devoted to providing speedy trials for all criminal suspects in the District of Columbia. What a shame it is that the same attitude expressed by the Justice Department in having its bill enacted is being followed in applying the law in the courts. The Department has no more faith in the merits of the bill now than it had last year. Secrecy and cynicism have become the Department's main weapons.

To many people it is a strange paradox that the untried, unconvicted suspects, presumed innocent, often seem to have the most difficult time of all those enmeshed in our criminal justice system. Life magazine recently told the story of a defendant who had been in jail for 10 months while awaiting trial. In a conversation with his lawyer, he was told that if he entered a guilty plea, the likely sentence was 1 year. With credit for his good behavior, the defendant could plead guilty and, having already served his sentence, walk out a free man. If, on the other hand, he maintained his innocence and insisted on trial, he would spend more time in jail prior to trial and would probably get a stiffer sentence if he should be found guilty. The baffled defendant could not believe his predicament. Life quoted him as saying:

> You mean if I'm guilty, I get out, but if I'm innocent, I stay in jail?

That is the strange paradox that often arises when a defendant is not allowed or cannot afford bail. It is like the discussion between two characters in a scene from "The Duchess of Padua" by Oscar Wilde:

> FIRST CITIZEN. They will try him first, and sentence him afterwards, will they not, neighbor Anthony?
>
> SECOND CITIZEN. Nay, for he might 'scape his punishment then; but they will condemn him first so that he gets his desserts, and give him trial afterwards so that no injustice is done.

Michael Gartner, an editor of the Wall Street Journal, who also happens to be a lawyer, wrote an interesting article about this bizarre turn of events in the April 7, 1971, Journal. In that article he contrasted the release of Lt. William Calley after his conviction for murder and the preventive detention of Sylvester Vick who is being held in the District of Columbia Jail without bail even though he has not been tried or convicted of his alleged offense of selling narcotics.

Mr. Gartner finds that situation to be an "alarming paradox." He points out that despite a murder conviction Lieutenant Calley is comfortably situated in his own apartment with frequent visits from his financee and other persons, including high State officials. His freedom results from a special executive dispensation.

Mr. Gartner finds a stark contrast when he looks at Sylvester Vick. Vick has not been convicted, and yet he sits in a cell of the D.C. Jail and undergoes all the physical and psychological deprivations and degradations which accompany detention there. He is a victim of the Justice Department's preventive detention bill. The author calls our attention to the fact that the same administration which freed Lieutenant Calley also pushed a bill through Congress last summer which made preventive detention a part of the law of the District of Columbia. To Mr. Gartner, those situations are glaringly inconsistent.

He believes that if preventive detention could ever pass constitutional muster it could do so only when surrounded with so many procedural safeguards as to make it impractical. As he states it:

> Preventive detention as a practical matter is simply unconscionable, unconstitutional and unworkable.

He believes, as I do, that the enormous resources which must be poured into a preventive detention program to make it work should instead be devoted to the task of speeding up the time between arrest and trial. Preventive detention, with all its practical and constitutional problems, would then be unnecessary.

In calling upon the Justice Department to alter its position in favor of preventive detention, Mr. Gartner says:

> The President and his associates are busy men. But if they take the time to release from the stockade a convicted murderer, maybe they can take a few moments to consider the consequences of jailing men who haven't been convicted of anything.

Mr. President, I ask unanimous consent that the article by Mr. Gartner be included in the RECORD at the conclusion of my remarks.

(See exhibit 3.)

Mr. President, one of the most troublesome problems with preventive detention is that it rests on the theory that a judicial officer can pick with precision those suspects who will commit crime if released on bail. That theory of predictability is fraught with serious practical difficulties which, in turn, raise issues of constitutional dimension.

The National Bureau of Standards study, commissioned by the Department of Justice, was the very first reliable statistical study to tackle the predictability problem in a scientific manner. To a significant degree the National Bureau of Standards study undercut the primary Justice Department arguments in support of preventive detention.

For one thing, it showed that the amount of pretrial crimes was extremely low. The rearrest rate was 17 percent when both felony and misdemeanor arrests were considered. That figure for rearrests dropped to 5 percent when "dangerous" or "violent" crimes were considered. The study thus showed that there is not a high rate of serious crimes by persons free on bail between arrest and trial. When we consider the fact that the study is talking about rearrests only and not convictions, we can see that the actual rate would be even lower.

The National Bureau of Standards study also showed that there was no correlation between the type of crime for which the first arrest was made and the severity of the second alleged offense. Those initially charged with a felony who were rearrested were more often than not rearrested for misdemeanors and not felonies. Thus preventive detention of "dangerous" or "violent" offenders would not give any assurance that serious bail offenses could be significantly reduced, let alone be eliminated.

In addition the study showed that most bail recidivism does not occur in the immediate post-arrest period. Yet, the Justice Department bill would detain for the first 60 days—the very time when defendants are not likely to commit crimes. Thus, preventive detention would have no effect of any consequence on bail recidivism.

Finally, the National Bureau of Standards study took a preliminary look at the predictive mechanism employed by the Justice Department bill for determining which of the persons falling in the class susceptible to detention could be expected to commit a future offense. The Bureau tried to correlate each of the indicators, mentioned in the Justice Department plan, to bail recidivism and found that none of them, considered singly, showed any promise of being a reliable predictor. The Bureau did not test all the factors together and so its work in this respect was not complete. It did, however, survey briefly parole and probation which also involve attempts to predict future criminal conduct. It concluded that prediction in criminal law is a chancy process at best. Moreover, the study saw virtually no likelihood of development in the near future of a reliable preventive detention prediction system.

Mr. President, I am pleased to report that another study has just been released which also discusses the theory of predictability that must underlie all preventive detention schemes and devices. The new study is titled "Preventive Detention: An Empirical Analysis," and it appears in volume 6 of the Harvard Civil Rights—Civil Liberties Law Review at page 300.

The study was done by a research team of four law students who viewed the District of Columbia preventive detention law as if it applied in Boston. Arrest records for a 6-month period in 1968 were used and each defendant who would have been subject to preventive detention under the District of Columbia law was examined. The results of the Harvard study confirm the conclusions of the National Bureau of Standards work of last year.

Moreover, the Harvard study goes beyond the National Bureau of Standards analysis to consider in detail the predictive mechanism of the preventive detention law. The Harvard researchers applied the 10 factors mentioned in the Justice Department's preventive detention bill in an effort to measure their reliability. They constructed two point systems modeled after experiments used in the bail reform studies of a few years ago.

In the first test, they assign weights to the 10 factors on a "hunch" basis—that is, they use a system which is very much like that which judges and magistrates use in implementing the law by relying on their experience with criminal types and their characteristics. While this is a rather unscientific approach, it is the one heavily relied upon by preventive detention advocates and the one which is actually used when preventive detention is applied in the courtroom.

As a former trial judge and a former appellate judge, I am convinced that mortal men are invested with no such divine prophetic power to make predictions about future criminal conduct when they don their black robes and take up the gavel. The Harvard study bears out my belief that the hunch system is an unreliable prediction method. At its best, it appears that the hunch system will be accurate about 30 percent of the time—that is, for every three actual recidivists detained, seven persons who would not have been convicted of an offense would also be wrongly jailed. The 30 percent accuracy figure, however, is not limited in time, and thus recidivism would in some cases be occurring months after the initial arrest and release. When a 60-day period—the actual period of preventive detention—is used, the 30 percent rate falls to an effective rate of only 5 percent.

The second system employed in the Harvard study is one of statistical analysis which should show the preventive detention plan's predictive system at its theoretical best. The researchers measured nine of the 10 factors set out in the bill to determine the actual correlation of each to recidivism and then gave each factor a weight which corresponded to the relationship it had to further crime. This statistical analysis system produced a 40 percent accuracy rate—that is, four out of every 10 detained were actually recidivists. Again, considering the number of crimes prevented during the 60-day detention compared with the total number of persons detained, the score falls to about 15 percent.

The Harvard study also discusses the two major constitutional defects of the preventive detention law which are particularly susceptible to empirical analysis—the related questions of reasonable classifications under equal protection and the rational relationship test of substantive due process. The conclusions are apparent. A scheme which tried to classify arrestees for the purpose of detention and at its best achieves little more accuracy than the imprecise method of random selection, is purely arbitrary and violates due process. It is obvious from the study that the factors upon which detention is to be based bear no rational relationship to the conclusion that persons with these characteristics will commit crimes if released.

Mr. President, the Harvard study constitutes a valuable addition to the present state of our knowledge about the theory of predictability of future crime. I especially commend it to those who put their faith in the alleged prophetic power of judges to single out accurately those persons who will in the future commit crimes.

The study is lengthy, and, therefore, I ask unanimous consent to have excerpts from it placed in the RECORD at the conclusion of my remarks.

(See exhibit 4.)

Mr. President, Prof. Alan M. Dershowitz, of the Harvard Law School, counts himself among the many who believe that judicial prediction that a citizen will commit crime in the future is virtually impossible. He has argued that proposition most persuasively in hearings before my Constitutional Rights Subcommittee. He restates his theme in brief but convincing form in the New York Times of Sunday, April 25, 1971.

There, he makes plain the basic fact that preventive detention necessarily rests on the assumption that some expert is able to predict which individuals will go out and commit violent crimes.

He says:

> Throughout history, there has been no paucity of crystal ball gazers claiming an ability to glimpse the future. They have ranged from Cesare Lombroso, a 19th Century Italian who spotted future criminals by the bumps on their heads to Dr. Arnold Hutschnecker, a friend of President Nixon's, who recently proposed that all six-year-olds be subjected to psychological testing as a means of spotting delinquent tendencies.

Professor Dershowitz believes that no truly systematic experimentations have ever been carried out to determine whether predictions of violence are accurate. To do that, it would, in his judgment, be necessary first for an expert to predict that a given individual will be violent or dangerous. Then it would be necessary to allow the individual his freedom notwithstanding the predicted violence or danger. Once such a prediction is made, the natural community response is to confine rather than release the person, and thus, says Dershowitz, "it will be

impossible to determine whether the prediction was correct."

On the basis of the few followup studies that have been undertaken of escaped or judicially released inmates, he finds increasing evidence that the vast majority of predictions of danger or violence are inaccurate.

According to Professor Dershowitz, one recent effort to secure reliable information has been thwarted by the Justice Department. In his article he says:

> The Justice Department was recently asked to cooperate in an experiment under which a small number (say 10%) of defendants judicially predicted to engage in nonviolent crimes would be released at random; they would then be followed up in order to determine the accuracy of the predictions.

The Department of Justice refused the proposal claiming that "it did not want to experiment with the safety of its citizens." In his article the professor quite properly reminds the Department "that a confinement of people on the basis of untested predictions is also an experiment—an experiment with liberty."

Mr. President, I ask unanimous consent that the article by Professor Dershowitz be printed in the RECORD at the conclusion of my remarks.

(See exhibit 5.)

Mr. President, all available evidence points to the utter impracticality of preventive detention. Laying aside all the constitutional imperfections and looking only to the practical problems, is it not abundantly clear to all that preventive detention is as useless as last year's almanac?

The only way preventive detention could ever possibly become an effective tool to reduce future crime would be to put all potential offenders, including those of us here, in jail. It is theoretically possible to place so many of our citizens behind bars that there would be no more street crime. But then there would be no more freedom either. With freedom we at least all have the chance to be better; the deprivation of liberty by preventive detention destroys that chance and brings virtual certainty of the worse. These truths are so evident, Mr. President that I believe they can pierce even those heavy steel portals of the Justice Department.

We all know that a doctor does not seek to cure a patient suffering pain and anguish by merely silencing his cries. Neither can we solve our crime problems with a dose, no matter how strong, of preventive detention. We must instead clearly focus on the many difficult tasks that lie along the road to our ultimate objective of improving the quality of criminal justice in America.

In his address to the National Conference on the Judiciary, President Nixon stated the problem forthrightly when he said:

> Justice delayed is not only justice denied—it is also justice circumvented, justice mocked, and the system of justice undermined.

On that same occasion he pointed to some of the avenues we must travel as we approach our problem. He said:

> We must make it possible for judges to spend more time judging, by giving them professional help for administrative tasks. We must change the criminal court system, and provide the manpower—in terms of court staffs, prosecutors, and defense counsel—to bring about speedier trials and appeals.

Mr. President, 42 of us in this body are now backing S. 895 because we believe that speedy trials and active pretrial services agencies offer a realistic, effective and constitutional approach to the problems before us. We are no longer willing to stand idly by while the critics say it cannot be done, for we know that it must be done. The bill provides the way for each Federal district to chart its own course for speedy trials and to communicate with Congress if it requires special assistance to carry out the bill's provisions. It is a vehicle through which we can bring the long overdue improvements into our system of criminal justice.

Mr. President, the great Learned Hand once said:

> If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.

I fear that we have come perilously close to rationing justice in this country. Unless we bring quick and effective improvements to our criminal justice system, I am certain that we shall soon see that commandment tragically broken.

I am convinced that there is one effective path immediately available which provides the opportunity for Congress to combat crime and at the same time to display our fundamental concern for the individual rights guaranteed to all by the Constitution. Our unique opportunity lies in a return to the course set for us by the Founding Fathers who wrote the sixth amendment.

We must act to insure the sixth amendment right to speedy trial for accused and society alike. I believe that all of us can unite with force and common purpose behind a carefully drawn proposal to give renewed vitality to that right. Together, we can change a laudable but unattained ideal into a living, practical reality.

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

EXHIBIT 1

UNITED STATES OF AMERICA, PLAINTIFF, *v.* JAMES W. WAHRER, JR., DEFENDANT.

(No. A–66–70 Cr. United Sates District Court, D. Alaska. Nov. 18, 1970)

Proceedings on motion to dismiss indictment. The District Court, von der Heydt, J., held that where alleged unlawful possession of firearm by convicted felon occurred on January 28, 1970, indictment was not returned until September 17, 1970 and defendant was taken into custody on September 28, 1970, and government failed to present any explanation for delay, defendant's right to speedy determination of charges was prejudiced.

Motion granted.

1. CRIMINAL LAW—573

Right to speedy determination of defendant's guilt or innocence should not be lost merely because delay occurs before arrest or indictment, rather than after. U.S.C.A. Const. Amends. 5, 6.

2. CRIMINAL LAW—573

Rights guaranteed under Sixth Amendment provision relating to speedy trial do not necessarily coincide with limits set by applicable statute of limitations. U.S.C.A. Const. Amend. 6.

3. CRIMINAL LAW—573

Where alleged unlawful possession of firearm by convicted felon occurred on January 28, 1970, indictment was not returned until September 17, 1970, defendant was taken into custody on September 28, 1970 and government failed to present any explanation for delay, defendant's right to speedy determination of charges was prejudiced. 18 U.S.C.A. App. § 1202(a); U.S.C.A. Const. Amend. 6.

Douglas B. Baily, U.S. Atty., Anchorage, Alaska, for plaintiff.

Charles R. Tunley, Ross & Tunley, Anchorage, Alaska, for defendant.

MEMORANDUM AND ORDER

Von Der Heydt, District Judge.

Defendant, James Wahrer, Jr., has filed his motion before this Court requesting that the indictment returned against him be dismissed. As grounds for this dismissal he asserts the claim that delay from the day of the alleged violation to the day of his arrest deprived him of due process, contrary to the Fifth Amendment, and of his right to a speedy trial, contrary to the Sixth Amendment. Briefs were presented by counsel and oral argument was heard by the Court.

The indictment charges the defendant with unlawful possession of a firearm by a convicted felon[1] in violation of 18 U.S.C. App. § 1202(a). The violation is alleged to have occurred on January 28, 1970. The indictment was returned on September 17, 1970, and on the same date a warrant was issued for the defendant's arrest. Defendant was taken into custody on September 28, 1970.

The crux of defendant's argument is that the unjustifiable relay of the United States caused serious prejudice to defendant's case. The period of time which elapsed between the alleged violation and defendant's arrest was two hundred forty-seven days or eight months. Two hundred thirty-three days elapsed between the time of the alleged violation and the return of the indictment.

The first question to be considered by this Court is whether the right to a speedy trial arises before a formal complaint is lodged against the defendant. The government reasons that the language of the Sixth Amendment precludes its application until after arrest or indictment. The government cites as authority for this proposition and as Ninth Circuit law Benson v. United States, 402 F.2d 576, 580 (9th Cir. 1968). See Venus v. United States 287 F.2d 304, 307 (9th Cir. 1960), rev'd on other grounds, 368 U.S. 345, 82 S.Ct. 384, 7 L.Ed.2d 341 (1961). The defendant, however, urges the Court follow Mr. Justice Brennan's directive in his concurring opinion in Dickey v. Florida, 398 U.S. 30, 39–57, 90 S. Ct. 1564, 26 L.Ed.2d 26 (1970), which decision antedates *Benson* and *Venus*.

[1] Indeed, the advancing concept is that the entire period between the date of the offense and the sentencing must be considered. The right to a speedy determination of the defendant's guilt or innocence should not be lost merely because the delay occurs before the arrest or indictment, rather than after.

The greater the period between the date of the alleged offense and arrest or indictment the more difficult it will be for the defendant to put forth his defense. With the passage of time he will be less able to remember the circumstances and happenings on the day of the alleged crime. Furthermore, without notice that criminal charges are to be brought against him, he will have no reason to fix such events in his mind. Witnesses also may disappear or die and evidence may be lost. All of these things tend to prejudice the defendant's defense, especially when the government utilizes the delay to strengthen

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Footnotes at end of article.

and document its case. As Justice Brennan, concurring in the result in *Dickey* observed: "Thus, it may be that for the purposes of the (speedy Trial) [C]lause to be fully realized, it must apply to any delay in the criminal process that occurs after the government decides to prosecute and has sufficient evidence for arrest or indictment."[2]

[2] Some courts have held that an indictment can be returned at any time within the period prescribed by the statute of limitations. See *e. g.*, Benson v. United States, 402 F.2d 576, 580 (9th Cir. 1968); United States v. Panczko, 367 F.2d 737, 739 (7th Cir. 1966), cert. denied, 385 U.S. 1009, 87 S.Ct. 716, 17 L.Ed.2d 546 (1967); United States v. Kaye, 251 F.2d 87, 90 (2d Cir. 1958). The applicable statute of limitations may be considered the primary guarantee against bringing overly stale criminal charges,[4] but it does not have to be the only guarantee. There is no statute of limitations for some crimes; when there are such statutes their limits are subject to change at the will of the Congress, and the rights guaranteed under the Sixth Amendment, Speedy Trial Clause, do not necessarily coincide with the limits set by the applicable statute of limitations.[5]

The defendant further asserts that he has been denied due process of law in violation of the Fifth Amendment. For this proposition he relies most heavily on a line of cases arising in the District of Columbia Circuit.[6] In Ross v. United States, 121 U.S.App.D.C. 233, 349 F.2d 210 (1965), a conviction for a narcotics violation was reversed on the ground of denial of due process. The court stated that the defendant was unduly prejudiced by the seven month delay between the alleged offense and the sworn complaint.

In the case at bar, the defendant is charged with unlawful possession of a firearm by a convicted felon. This is not a complicated or involved accusation; either the defendant had a .30 calibre carbine in his possession on or about the day alleged or he did not. The government required no long period of time to produce evidence and make certain that it had a case against the defendant. An indictment could have been returned forthwith, and an arrest made promptly. The government has made no showing that it required eight months in which to determine whether or not to indict and subsequently arrest the defendant. When queried by the Court at time of oral argument as to why the government did not present the cause to a Grand Jury prior to September, 1970, when the crime alleged took place on January 28, 1970, the government counsel stated that he did not know. No valid reason for the delay was suggested. Rather, the government urged that the net result was that there was no entitlement to dismiss, as defendant had shown no prejudice. This is not entirely true. The defendant, in his memorandum in support of motion to dismiss, asserts that he now is unable adequately to prepare his case because of the long delay, that his memory has grown stale, and that he will experience great difficulty in locating witnesses if any remain in the area. The government does not refute these claims.

The Court stated in *Ross* that the defendant's "failure of memory and his inability to reconstruct what he did not remember virtually precluded his showing in what respects his defense might have been more successful if the delay had been shorter * * *[7] The specific showing of prejudice can be a difficult task. In what manner can a defendant show that he would have been able to find a particular witness, or piece together a certain bit of evidence if the government had carried through the indictment and arrest judiciously.

Furthermore, it has been held that "a showing of prejudice is not required when a criminal defendant is asserting a constitutional right under the Sixth Amendment," United States v. Lustman, 258 F.2d 475, 477–478 (2d Cir. 1958), cert. denied, 358 U.S. 880, 79 S.Ct. 118, 3L.Ed.2d 109 (1958). Also, it has been proposed that after lengthy delay one may assume prejudice, *e.g.*, Hedgepeth v. United States, 124 U.S.App.D.C. 291, 364, F.2d 684, 687 (1966); Taylor v. United States, 99 U.S.App.D.C., 183, 238 F.2d 259, 262 (1956); Petition of Provoo, 17 F.R.D. 183, 203 (D.Md.), aff'd mem., 350 U.S. 857, 76 SCt. 101, 100 L. Ed. 761 (1955). As Justice Brennan stated in *Dickey*, "Thus, it may be that an accused makes out a prima facie case of denial of speedy trial by showing that his prosecution was delayed beyond the point at which a probability of prejudice arose and that he was not responsible for the delay, and by alleging that the government might reasonably have avoided it."[8]

[3] Under the special facts and circumstances peculiar only to this case and considering that the government has failed to present any explanation for the delay of eight months, the defendant's right to a speedy determination of the charges was prejudiced.

Therefore, it is ordered:

That defendant's motion to dismiss be granted.

FOOTNOTES

[1] In 1966 defendant was convicted of a felony, burglary not in a dwelling, by a state court of the State of Alaska.

[2] Nickens v. United States, 323 F.2d 808, 812–15 (1963) (Wright, J., concurring).

[3] Dickey v. Florida, 398 U.S. 30, 46, 90 S.Ct. 1564, 1573 (1970) (Brennan, J., concurring).

[4] United States v. Ewell, 383 U.S. 116, 122, 86 S.Ct. 773, 15 L.Ed.2d 627 (1966).

[5] Dickey v. Florida, 398 U.S. 30, 47, 90 S.Ct. 1564 (1970) (Brennan, J., concurring).

[6] Woody v. United States, 125 U.S. app. D.C. 192, 370 F.2d 214 (1966); Ross v. United States, 121 U.S.App.D.C. 233, 349 F.2d 210 (1965); Nickens v. United States, 116 U.S. App.D.C. 338, 323 F.2d 808 (1963) (Wright, J., concurring).

[7] Ross v. United States, 121 U.S.App.D.C. 233, 349 F.2d 210, 215 (1965).

[8] Dickey v. Florida, 398 U.S. 30, 56, 90 S.Ct. 1564 (1970) (Brennan, J., concurring).

EXHIBIT 2

DISORDER IN THE COURTS

Appraisals of what's wrong with the nation's courts were offered last week by Chief Justice Warren E. Burger of the U.S. Supreme Court and FBI Director J. Edgar Hoover.

Justice Burger, in a memo to federal judges, said the public is rapidly losing patience with a court system that takes two or three years or more to dispose of criminal cases.

In a message to police officers, Mr. Hoover complained that:

"A witness or victim involved in court proceedings in some jurisdictions may be subjected to such callous, indifferent or belittling treatment that he comes away bewildered and thoroly disgusted with our judicial machinery."

Mr. Hoover said citizens are tired of showing up for trials and not being called to testify; or being browbeaten in court as tho they were the defendant.

Delays and snafus have become so common that some people will do anything to stay out of court—even if it means ignoring a neighbor attacked on the street or refusing to "get involved" in an auto accident 20 feet away.

This is a sad situation in any society, but particularly in a society that claims to be based on the majesty of the law and the dignity of the individual.

Fortunately, the federal government—prodded by Justice Burger—seems determined to do something about it.

Not only did Congress create 61 new federal judgeships last year, but it also authorized each of the 11 federal circuit courts to hire a highly paid (up to $36,000 a year) administrator to expedite cases and screen appeals.

Another promising reform is being tried in the Federal District Court in Minnesota, where juries in most civil cases will be cut from 12 members to six this year in an effort to save money and speed the judicial process.

One way to make some sense out of the current disorder would be to require that all persons accused of serious crimes be tried within a fixed time.

This would force the courts to clear up their backlogs. And it would prevent prosecutors and defense lawyers from dilly-dallying while the accused (in some cases) languish in jail. The Federal Appeals Court in New York just this week laid down a rule that criminal cases must be tried within six months or the charges will be dismissed.

A 60-day limit in federal cases was proposed last June by Sen. Sam J. Ervin Jr., D-N.C., as part of his speedy-trial bill. Since then, the senator has been surveying judges and lawyers and hopes to conduct public hearings on the bill early this year.

The Ervin bill may not be a complete solution to the problem. No bill is. But it's an attempt to do what needs to be done if the courts are to recapture the confidence of the American people.

LANGUISHING IN JAIL

More than half of the inmates in city and county jails all over the United States are imprisoned without having been convicted of a crime. This lugubrious statistic is culled from a speech made on Monday by Senator Sam Ervin when he introduced a bill (on behalf of himself and a splendidly diverse roster of co-sponsors ranging from Birch Bayh to Strom Thurmond) to require trials of criminal suspects within 60 days. As almost everybody knows, no more than a very minor fraction of criminal suspects are in federal custody; most of those accused of crimes are in markedly inferior state or local facilities. So the Senate bill cannot be said to go directly to the heart of the problem. It does, however, offer, as Senator Ervin pointed out, "a concrete and viable proposal for breathing life into the Sixth Amendment speedy trial guarantee" and "an exemplary pattern for states to consider."

Just a few days ago Attorney General Mitchell had something to say along the same lines about jail conditions in the states and about delays in bringing accused persons to trial. Speaking at the dedication of a new courthouse in Pasadena, Calif., he remarked that "one state reports that the number of days per year that courts are in session ranges as low as 72 . . . another state, 76." And he added: "State after state reports that most of its prisons and jails have no program to rehabilitate the offender. On the contrary, conditions prevail which can make a criminal where none existed before. One state reported that about half of those in jail in its largest municipalities had not been convicted, but were held because they could not raise bail under the existing or nonexisting bail system. In many localities no effort is made to separate first offender from hardened criminals, or juveniles from adults."

The main point of Mr. Mitchell's speech appeared to be that the federal Law Enforcement Assistance Administration—which he called "the forerunner of revenue sharing"—is providing national leadership in improving the criminal justice system by "opening the eyes of the states and localities to their own faults through critical self-examination." Well, maybe so. But we were rendered slightly skeptical by the recent news from Alabama that a grand jury is now looking into scandalous misapplications of LEAA funds. One of the matters reportedly under investigation, for example, according to John

Herbers in the New York Times, is a $200,000 officer education program, abruptly canceled this week, allegedly used largely to send the sons of high-ranking Public Safety Department officials to college, with scholarships and pay of up to $6,000 a year.

But the need for reform is by no means limited to the deep South. A report on the Montgomery County Detention Center just released by the Montgomery County Civil Liberties Union discloses that about 80 per cent of the prisoner population is awaiting trial or sentencing. "In the past few weeks," according to the report, "there have been savage beatings and homosexual attacks reported in the dormitories at night." It is worth pondering what involvement in such an attack must mean to a youth whether he is innocent of the crime for which he has been arrested or, if guilty, hopeful of rehabilitation and reform.

There are two overwhelming considerations which cry out in support of Senator Ervin's bill. One is that the effectiveness of punishment as a deterrent to crime is in direct ratio to the speed with which it is administered; delays in trial and sentencing are a signal to criminals that they can get away with crime, while speedy justice affords a stern warning of the law's inexorability. The other compelling consideration is the simple truth that punishment without trial is the very essence of injustice; it breeds contempt for the law. And jails which are nothing more than places of detention frustrate the main purpose of punishment: to return convicts to life as decent citizens.

Senator Ervin's bill embodies a practical plan for speedy trials. It seems to us the best possible beginning for a reform of the criminal justice process in America.

[From the Detroit Free Press, Feb. 28, 1971]

OUR COURTS DON'T WORK

The farther along in years he gets, the greater Sen. Sam Ervin seems to serve the public good. His unrelenting fight to protect the individual and to assure justice in our bureaucratic society has earned him the gratitude of all who love liberty, even those who find his earlier racist excursions unforgiveable.

Sen. Ervin is an adherent of that unusual viewpoint that the Free Press has been advancing: That law and order and justice are not ideas in conflict, but essentially two sides of the same idea.

The trouble with America's courts, federal as well as state, is not that they coddle criminals or that they deal harshly with them. Quite simply, the trouble with the courts is that they don't work, that they are unable to cope with the job they are asked to do.

Thus, as Sen. Ervin says, the nation itself "commits a disgraceful crime" when it permits people to languish in overcrowded jails awaiting trial. And while it is true that correcting the situation will take money, "If the nation truly wants law and order, and not merely a panacea, it will pay that cost."

So Sen. Ervin and 24 other senators, including Sen. Phil Hart, have introduced a bill requiring the federal courts to try a criminal suspect within 60 days of arraignment. The bill would require the courts and the Justice Department to put a price tag on such a system. Then Congress would have to make the allocation.

It is a matter of deep conviction with us that the nation, the state of Michigan and the city of Detroit must move swiftly to make the courts work. No one need be squeamish about confining the guilty in prison. We ought to recoil in shame and horror, however, from our failure to sort out quickly the innocent from the guilty.

Perhaps, if Sam Ervin's health holds out on a national level and we can press the Supreme Court and Legislature on the state level, there can be again a system of justice worthy of the great American democracy.

[From the Muskegon Chronicle, Mar. 18, 1971]

A WELCOME ALTERNATIVE

The Eighth Amendment, a part of the Bill of Rights, the essential guarantor of our liberties, says flat out that "excessive bail shall not be required . . ." However, the concept of preventive detention—holding an accused person in jail without bail on ground that if he were released, he might commit crimes while awaiting trial—has gained considerable support.

It cannot be maintained that no problems exist in letting some arrested persons out on bail. Experience shows that in some cities, especially in ghetto areas, there has been a high incidence of crime committed by accused persons out on bail. And so there is a temptation to say, in effect, slap them in jail, keep them there without bond, and the rate of crime from this source will decrease.

Preventive detention doubtless would help to reduce crime—but at the questionable cost of flouting a basic constitutional right.

Something must be done about the problem, however, and Sen. Sam J. Ervin, Jr., of North Carolina, a leading constitutionalist in Congress, has come up with an approach that makes sense.

The senator proposes a law requiring that federal criminal suspects be tried within 60 days. Besides getting at the problem of preventive detention, the idea has the added advantage of implementing another constitutional provision; that of the Sixth Amendment, which provides for "a speedy and public trial."

Sen. Ervin's proposal is a welcome suggestion for all who cherish our constitutional liberties, but recognize the danger in many cases of turning suspects back into the streets on bail.

[From the Kane (Pa.) Republican, Mar. 5, 1971]

A BETTER ALTERNATIVE

The poisonous concept of so-called preventive detention has gained some popular headway over the past year or so. This does not alter the fact that the idea of holding people in prison without bail in the name of protecting society against crime runs counter to an important constitutional guarantee.

The Eighth Amendment—a part of the Bill of Rights, which is central to our liberties—says flatly that "excessive bail shall not be required." The question arises: What could be more "excessive" than no bail at all—than holding an accused man behind bars without bail on grounds that if he were released he might commit crimes while awaiting trial?

It cannot be maintained that no problem exists. In urban ghetto areas, notably, there has been a high incidence of crime committed by accused persons out on bail. It is a temptation to say, in effect: clap them in jail, and keep them there without bond, and your rate of crime by those accused of crime will drop.

Doubtless the rate would decline, all right. But is it wise to gain this advantage at cost of flaunting a basic constitutional right? Categorically not, in our judgment. Still, something must be done about the problem.

Sen. Sam J. Ervin Jr. of North Carolina, a leading constitutionalist in Congress, offers an approach that makes sense. He proposes a law requiring that federal criminal suspects be tried within 60 days. This idea, besides getting at the problem of "preventive detention," has the added advantage of implementing another constitutional provision—the one in the Sixth Amendment providing for "a speedy and public trial."

Such a requirement would go far toward solving the problem within the framework of revered constitutional liberties.

[From the Grand Forks (N. Dak.) Herald, Mar. 5, 1971]

SLOWPOKE JUSTICE

Sen. Sam Ervin, D, N.C., has introduced a bill which would require trials of criminal suspects within 60 days. If statistics he recites are correct, it's about time. According to Ervin, more than half of the inmates in city and county jails all over the United States have not been convicted of a crime. They are awaiting trial and either cannot raise the necessary bond or are not permitted it.

Meanwhile, Attorney General John Mitchell has reported on conditions in jails across the country, saying that most have no program to attempt to rehabilitate prisoners and, in fact, that "conditions prevail which can make a criminal where none existed before." In many localities, Mitchell says, no effort is made to separate first offenders from hardened criminals, or juveniles from adults.

If Ervin and Mitchell are both right, it is a national scandal that so few suspects are able to get the "speedy trial" which they are guaranteed under the constitution.

EXHIBIT 3

[From the Wall Street Journal, Apr. 7, 1971]

WILLIAM CALLEY AND SYLVESTER VICK

(By Michael Gartner)

Lt. William Calley has been convicted of murdering at least 22 persons and has been sentenced to life at hard labor.

Sylvester Vick has been arrested and charged with selling narcotics in Washington, D.C., but he has not yet been tried.

Since Americans are thought to be innocent until proven guilty, it stands to reason that one of these men is in jail and one is not. But which is in jail? As the world knows, not Lt. Calley. Rather, the man in jail is Mr. Vick, a man who, in theory, is presumed to be innocent.

This alarming paradox has come about because of the unusual views on law and order and justice that seem to prevail in the White House. Despite his conviction, Lt. Calley has been taken out of the stockade at the personal intervention of President Nixon, who over the weekend added (perhaps prejudicially to future proceedings) that he alone would decide the fate of the convicted murderer after all appeals had been exhausted.

As for Mr. Vick, he is in jail because of an anticrime bill that the administration pushed and Congress passed last summer. Among other things, it calls for preventive detention before trial of a suspect who might commit crimes if he were released. Mr. Vick is such a suspect.

And so today Lt. Calley is comfortably ensconced in his apartment in Fort Benning, Ga., chatting with his fiancee, receiving such noted visitors as Gov. George Wallace of Alabama and traveling to an officer's dining hall for fine meals. And Mr. Vick is in a cell in the jailhouse in Washington.

Besides pointing up once again that the President, a lawyer, seems to have preconceived notions of justice (last summer he declared that Charles Manson was guilty of eight murders long before a jury convicted him), this glaring conflict in the treatment of two Americans should again raise questions about the District of Columbia "anticrime" bill and, particularly, about the concept of preventive detention.

A CONCERN OF ALL

The preventive-detention plan, which went into effect only on Feb. 1, has so far affected only two persons, according to a source in Washington. (The second person has escaped.) But all Americans should be concerned. "Preventive detention cannot be imposed on a person with normal capacity to control his behavior without threatening the liberty and security of all free citizens," Lionel H. Frankel, a professor of law at the Uni-

versity of Utah, wrote in the December 1968 issue of the Yale Law Journal.

Americans should be especially concerned because the administration would like to see the concept expanded to jurisdictions all across the country.

Though fraught with legal perils, preventive detention is, in theory, an acceptable concept. If a person is arrested, if a hearing is held that definitely determines his propensity to commit crime, if at that hearing he has a lawyer and can cross-examine witnesses and enter and examine evidence, and if while he is detained he is treated not like a prisoner but rather as Lt. Calley is being treated, with the loss of as few rights and as little dignity as possible—then preventive detention is probably a constitutional concept.

Indeed, it could be a fine thing. "If we use it sparingly, like the Europeans, we will empty our jails by 50%," asserts Gerhard O. W. Mueller, director of the Criminal Law Education and Research Center at New York University and a professor of criminal law at the university's law school. He says that far too many persons are in jail now awaiting trials because they can't raise bail money. If preventive detention, with all the safeguards, replaced bail, then far fewer people would be held, he reasons.

To detain a person before trial. Prof. Mueller says, there should be more than probable cause that the defendant committed the crime in question, and it should be proven that he is dangerous to himself and others or is likely to kill witnesses or somehow obstruct justice.

A NOBLE THEORY, BUT . . .

That is a noble theory, but noble theories can somehow become ignoble practices. Nobody has said that a U.S. system would replace bail or would be used sparingly. What's more, preventive detention is deemed necessary because of the jam in the courts that makes increasingly long the time between arrest and trial. Yet a proper hearing on whether a person should be detained would simply add to the court jam. And if the hearing is improper or if the detention is more restrictive than Lt. Calley's (who, it must be remembered, has been convicted), all sorts of rights are being violated.

"If the restrictive conditions under which detainees are held constitute punishment, subjecting detainees to those conditions violates the due process of law guaranteed by the fifth and 14th amendments and the proscription against cruel and unusual punishment of the eighth amendment," says a "note" in the April 1970 issue of the Yale Law Journal.

Therefore, new types of apartment house-jails would have to be built to house the detainees, a proposal that is ridiculous when weighed against the fact that New York City's jails are so short of cash that prisoners at the Tombs must go without clean underwear, soap and hot food.

If persons being preventively detained are just thrown into regular jails, as Washington's Mr. Vick has been, then this not only violates the Constitution but also adds to the already crowded conditions in jails. Of course, those who are casual about constitutional rights may also be casual about crowded jails.

The American Bar Association is concerned about both, however. When the District of Columbia anticrime bill was proposed, the ABA took a stand against preventive detention. Jerome Shestack, then chairman of an ABA committee that studied preventive detention, said that among other things it would be difficult to determine if harmless persons were among those being jailed. "Detention would involve a self-fulfilling prophecy," he said, "No detained defendant would commit crimes while detained." The ABA remains opposed to preventive detention.

SENATOR ERVIN'S VIEW

Conservative Sen. Sam Ervin of North Carolina, an authority on the Constitution, called the bill embodying the provision "a garbage pail of some of the most repressive, near-sighted, intolerant, unfair and vindictive legislation that the Senate has ever been presented.

Advocates of preventive detention say it is in the best interests of the commonwealth. "The test is one of reasonableness, which involves a weighing of the individual's interest in freedom against society's just claims for protection against dangerous defendants," Richard Kleindienst, deputy U.S. attorney general, wrote in a letter to the editor of this newspaper nearly two years ago.

Others point out that the concept is nothing new. The mentally ill, the sexually deviant and juveniles have long been incarcerated without benefit of trial, they say. The practice of setting high bail for indigent defendants is in effect the same thing as preventive detention, they add. And the wartime detention of Japanese on the West Coast was preventive detention on a grand scale.

But it is easier to argue that the retarded or the deviant will harm someone than it is to argue that a suspected criminal will rape or murder before he comes to trial. (If there's a 60% chance a suspect will commit a crime, then four out of 10 suspects are jailed needlessly. Where do you draw the line?) The setting of high bail is itself a deplorable practice and should not be used as an excuse for preventive detention. And the rounding up of the Japanese is not even comparable to the matter at issue here.

Preventive detention as a practical matter is simply unconscionable, unconstitutional and unworkable. "A constitutional program of preventive detention will be unworkable in the real world unless enormous resourses are devoted to its operation," the Yale Law Journal "note" says. But if enormous resources are available, why not use them to hire more judges and to speed up the time between arrest and trial? Then preventive detention wouldn't be needed.

The President and his associates are busy men. But if they take the time to release from the stockade a convicted murderer, maybe they can take a few moments to consider the consequences of jailing men who haven't been convicted of anything.

EXHIBIT IV

[From the Harvard Civil Liberties-Civil Rights Law Review, vol. 6, March 1971]

PREVENTION DETENTION: AN EMPIRICAL ANALYSIS

FOREWORD

(By Sam J. Ervin, Jr.)

The passage of the 1970 District of Columbia crime bill marks the symbolic, if not the actual end of an extraordinary decade of criminal law reform. Perhaps in no other single period of our history have the American people taken such a hard look at criminal law, found so much wrong, and made so many radical changes as a result. Looking back over those ten years, it may be difficult to recall the low regard in which criminal law was held in the 1950's. There was almost no visible public interest in criminal law, and compared with today, relatively little concern with crime as a social problem. "Crime in the streets," "law and order," and the other issues which take up so much of our political and personal attention today were largely absent from the public scene ten years ago.

Similarly, it is difficult to recall that, as recently as a few years ago, what are now accepted as essential prerequisites of a just system of law were not required. In the matter of legal assistance alone, we have come far in this short period. At the start of the decade, the right to counsel existed only for defendants who could afford one, and even then, the obligation to admit the lawyer's participation came relatively late in the criminal process. An absolute right to counsel at trial existed only in capital cases. In the 1960's, the right to counsel was extended to all serious criminal cases. Private and public groups of lawyers now provide free counsel to all who need one, and the federal government and some states have established full-scale, publicly financed defender offices. The public obligation to defend an accused has now been accepted almost to the same extent as the public obligation to prosecute. The requirement of legal assistance has advanced to the very threshold of the citizen's encounter with the law. If lawyers are not yet required to ride in police cars in order to be present at the moment of arrest, certainly the participation of counsel is required immediately thereafter.

The most visible symbol of the reform movement of the past decade has been the court system, most prominently the Supreme Court. Whether the Court warrants the full credit and blame which it has received for its role in criminal justice reform is a matter of individual judgment. But the fact remains that revolutionary change in criminal law was not the exclusive province of nine or five men on the Court. Criminal law reform has been very much the concern of Congress, the Executive branch, the legal profession, and private citizens. In many instances, the Executive branch, particularly the Justice Department, has taken a leading role in experimenting, encouraging, and developing many of the changes that were later expressed in legislation or in judicial decisions. Quite a number of reforms of the last decade did not and probably could not have come from even the most activist Supreme Court.

One of the landmark reforms of the 1960's, and one in which the courts did not play a significant role, was the bail reform movement which culminated in the passage of the model Bail Reform Act of 1966. The history of the Bail Reform Act is a fascinating and instructive one because it demonstrates how successfully the legal profession, the Executive branch, and private citizens can work together with the Congress to institute a needed, careful, practical solution to a legal and social problem. The legislative effort involved over five years' work by all these parties. The end result is still regarded as a good, if only partial solution to the complex problem of pretrial release of persons accused of crime.

By way of contrast, the passage of the preventive detention legislation in last year's District of Columbia crime bill is an illustration of what happens when politics, public fear, and creative hysteria join together to find a simple solution to a complex problem. The preventive detention bill is an example of all that can go wrong when the wrong things happen in Congress. The legislative history extends barely eighteen months. In contrast to the effort undertaken to achieve bail reform only minimal attention was directed toward solving the problem of bail crime. The Bail Reform Act went through numerous legislative revisions over five years. Every word was carefully studied, revised, and revised again. With two or three minor exceptions, the preventive detention legislation for the District of Columbia that passed in July, 1970, was word for word the same as that which was introduced by the Justice Department in July, 1969. The House Committee on the District of Columbia held exactly five minutes of hearings on the bill. They heard from one witness, the bill's drafter. No effort was made to analyze how the problem of bail recidivism might be met, to devise a system for discriminating between recidivists and good risks, to construct a procedural process which struck a fair balance between justice

and emotion, or to search out other remedies with less drastic effect on personal liberty or the criminal process.

The House took one hour to debate preventive detention in the context of an omnibus 400-page bill revising the entire court system of the District of Columbia. The Senate's sole opportunity to consider it came in a parliamentary situation which permitted no division and no amendments, but only an up or down vote on the entire complex package. If the Bail Reform Act is an example of the legislative process at its best, preventive detention is an example of Congress at its worst. If the Bail Reform Act is a legislative milestone in the criminal justice reform effort of the 1960's, the preventive detention law marks the end of this movement and perhaps the beginning of an era in which fear and politics control our approach to criminal justice.

Empirical analysis of preventive detention—The National Bureau of Standards Study

The Harvard study reported in the following pages is an attempt to provide the kind of hard, reliable, factual information and objective analysis which should form the basis for all legislation, and certainly for all legislation dealing with so critical an issue as public safety and personal liberty. Its publication follows the passage of the law by half a year, and the effective date of the law by a few weeks. While the findings of this study will no doubt be useful in court tests of the law and in further legislative consideration of preventive detention, it obviously comes too late to influence the District of Columbia legislation. This is not to say that had it been available earlier, the study would have affected the result. In the law and order mood of the past few years facts, like reason and temperance, have not been influential factors.

In the last stages of the preventive detention debate, Congress did have the benefit of a study on preventive detention and bail recidivism which had been conducted by the National Bureau of Standards. This study was commissioned by the Department of Justice in August, 1969, some weeks after the Department's bill had been drafted and introduced. The Bureau's report was released in draft form in March, 1970, and its major findings had been available to both sides some months before. Available, also were literally thousands of pages of hearings by the House and Senate Judiciary Committees discussing the practical, legal, and constitutional problems which preventive detention entails. None of this material influenced the Justice Department, and none of it restrained the Congress in its desire to "do something about crime."

The National Bureau of Standards study undercut the arguments for preventive detention on a number of critical counts. First, it showed that the amount of pretrial crime was extremely low, running about 17% if both felony and misdemeanor arrests were considered, but only five percent when successive arrests for serious felonies were counted. This finding goes to the heart of the major assumption underlying preventive detention—that there is a high rate of serious crime by persons free on bail between arrest and trial.

The second conclusion of the Bureau's study was that there was no correlation between the type of crime for which the first arrest was made, and the severity of the second offense. Persons arrested for felonies and then rearrested were charged with misdemeanors the second time more often than with felonies. This finding also strikes at the heart of preventive detention because the bill is predicated on the assumption that the detention of serious offenders is the means to control serious bail recidivist offenses. The Bureau's study shows that detention of dangerous and violent offenders does not provide adequate assurance that serious bail offenses can be eliminated, or even significantly reduced.

The third finding, perhaps most ignored by preventive detention supporters, was that most bail recidivism does not occur in the immediate post-arrest period. Since preventive detention under any of the suggested forms is not indefinite but is limited to a sixty or ninety-day period following arrest, for detention to be effective it must occur in the time period during which bail recidivism occurs. It makes no sense to detain defendants when they are not likely to commit crimes. The Bureau's study showed a relatively low rate of recidivism during the first period following arrest and a similarly low rate in the period immeidately preceding trial. The incidence of rearrests bunched in the middle period and peaked between 120 and 240 days following the first arrest. Under the Department of Justice analysis of its bill, preventive detention orders are not renewable. Presumably, detainees are to be released under normal Bail Reform Act standards if their trial does not occur within that initial sixty-day detention period. Furthermore, the bill enunciates a policy of accelerated trials for detainees. They are to be tried within sixty days of detention—"to the extent possible" in the bill's terms. This means that preventive detention will have no effect of any consequence on bail recidivism if the detention, as advertised, is limited to the first two months following arrest.

The last major finding of the Bureau's study related to the predictive mechanism employed by the bill for determining which of the persons falling in the class susceptible to detention could be expected to commit a future offense and so should properly be detained. The bill sets out some ten characteristics upon which this finding must be based. The Bureau tried to correlate each of these indicators to bail recidivism and found that none of them, considered singly, showed any promise of being a reliable predictor. The Bureau did not test all the factors together and so its work in this respect was not complete. But it did survey briefly other attempts at predicting future criminal conduct, such as in parole and probation, and concluded that prediction in criminal law is a chancy process at best. It indicated very little faith in the early development of a reliable system of prediction for preventive detention.

While the Bureau's analysis of the prediction mechanism was not complete, it suggests strongly that there is little reason for confidence in the bill's accuracy. This suspicion is enforced by the fact that the criteria listed in the bill were for the most part lifted whole from the Bail Reform Act. The Bail Reform Act lists nine factors which had been developed from empirical studies of bail by the Vera Foundation and other bail studies. They are factors which are significant in evaluating the likelihood of flight from prosecution. They were not designed to show a predilection to bail recidivism. Their usefulness in predicting future crime, at least so far as could be known, might only be as great as the color of hair, the height and weight, and the age of the defendant. To these factors, the preventive detention legislation added a tenth—"past conduct"—the meaning of which is obscure. It does not refer to the crime the defendant is accused of, nor his past convictions. If it means anything, past conduct refers to arrest records or other unverified accounts of the individual's social behavior or misbehavior. Undoubtedly, the factor is a shorthand means of encouraging the detention of "bad apples" without going through the tedious necessity of proving wrongdoing. It is a way of giving a taste of jail to those whom judges in their discretion think deserve it.

Empirical Analysis of Preventive Detention—The Harvard Study

The study presented here is a valuable addition to the present state of knowledge on at least two accounts. First, it confirms the findings of the Bureau's study on such questions as the incidence of bail crime, the relationship of first offense to second offense, and the time frame of bail recidivism. While the precise findings vary somewhat from the earlier study, they are close enough to show that both studies are reliable measures of these important points.

The Harvard study goes beyond the National Bureau of Standards analysis, however, to consider in detail the predictive mechanism of the preventive detention law. The Harvard researchers have applied the ten factors of the preventive detention bill in an effort to measure their reliability. They have constructed two point systems modeled after the experiments used in the bail reform studies of a few years ago. In the first test, they assign weights to the factors on a "hunch" basis—that is, they use a system which is very much like that which judges and magistrates will use in implementing the law, relying on their experience with criminal types and their characteristics. Needless to say, this is a very "unscientific" approach, but it is the one which actually will be used when preventive detention is applied in the courtroom. Further, it is the system which the proponents rely upon to give the process its validity. As they said time and time again, they place their trust in the "good faith" of the magistrates and judges who apply the law.

It should not be too surprising to discover from the following pages that the first system, the hunch system, fails as a reliable prediction method. Charting the persons labeled dangerous and violent and thus subject to possible detention, the Harvard project discloses that at no point on the scale does the point system include more actual recidivists than nonrecidivists. Wrong answers, improper detentions, occur more often than right answers wherever the cut-off point is placed. What is worse, the ratio of wrong to right answers is never less than about five to two. By the same token, the first system at its best point leaves out more recidivists than it includes, both in numbers and in the severity of the crimes committed. At its best, it appears that the hunch system will be accurate about 30% of the time—that is, for every three actual recidivists detained, seven persons who would not have been convicted of an offense would also be wrongly jailed. At its best, it fails to capture about 60% of the recidivists.

The 30% accuracy figure is considerably higher than one might expect considering past estimates. But this is not an actual measure of what will happen when preventive detention is applied in the courtroom. First, the accurate and detailed information used in the study will not be available to the judicial officer. The detention hearing is to be held following the arraignment, when bail is set, or if continuances are permitted, within three to five days. While the bail agency information which can be gathered within this short time is accurate enough for estimating the risk of flight, it is nonetheless incomplete and unconfirmed. It is this same unverified, incomplete information, supplemented perhaps by inaccurate and incomplete information from police records, which will be used in the preventive detention hearing.

Second, it must be remembered that the recidivism defined by the Harvard project is not limited in time. The right answers in this analysis relate to arrests and convictions for offenses occuring perhaps months following the initial arrests and release. Preventive detention is limited to a sixty-day period after which presumably the individual is to be tried or subject to relase on bail. Under the first system most persons who would be detained would not commit crimes during that period. An accurate measure of the effectiveness of preventive detention must consider the number of persons detained who would have committed crimes during the

detention period only. Under this measure the 30% accuracy figure falls to about 5%.

The second, or statistical analysis employed in the study shows the bill's predictive system at its theoretical best. The researchers measured nine of the ten factors to determine the actual correlation of each to recidivism, and then gave each factor a weight which corresponded to the relationship it had to further crime. By this means, they obtained the most accurate measure of the predictive value of the bill's mechanism. Of course, they were restricted to the factors set forth in the legislation and thus even this statistical analysis was doomed to failure because of the arbitrary manner in which the factors were originally selected.

Under the second system, the optimum point on the scale produces 40% accuracy. That is, four out of every ten detained were actually recidivists. The breakoff point included almost 60% of the recidivists and most of the serious crimes committed. Again, considering the number of crimes prevented during the sixty-day detention compared with the total number of persons detained, the score falls to about 15%.

Constitutional defects of preventive detention

The constitutional arguments against preventive detention are so numerous that their recitation looks like the model answer to an issue-spotting question on a law school examination. The preventive detention law is unconstitutionally defective on at least the following grounds:

It violates the eighth amendment right of reasonable bail in noncapital cases.

It imprisons for unproved, anticipated crime, rather than actual criminal conduct.

The offense of "dangerousness" is unconstitutionally vague.

It violates the presumption of innocence.

It convicts on the basis of "substantial probability" rather than "beyond reasonable doubt."

Preventive detention severely prejudices the defendant in the trial of the actual offense.

The bill does not afford procedural due process in the detention hearing.

Detention prejudices the right to access to counsel.

The detention hearing forces the defendant to waive his privilege against self-incrimination.

The hearing forces the defendant to disclose his defense to the prosecution prior to trial.

It imprisons on the basis of hearsay and other forms of "evidence" not admissable at trial under the rules of evidence.

The Harvard study discusses two other major constitutional defects in the law which are particularly susceptible to empirical analysis—the related questions of reasonable classifications under equal protection and the rational relationship test of substantive due process. The conclusions are obvious, even from the brief summary of the study I have given. Quite clearly, a bill which tries to classify arrestees for the purpose of detention, and at its most ideal achieves little more accuracy than random selection, is purely arbitrary and violates due process. It is obvious from the study that the factors upon which detention is to be based bear no rational relationship to the conclusion that persons with these characteristics will commit additional crimes if released.

Speedy trials—the constitutional alternative

A law with as many defects as preventive detention cannot survive a constitutional test. Preventive detention is clearly a waste of time, and a cruel hoax on the American people. It promises what it cannot deliver—safety and a reduction of crime—at a cost to its victims and the public which we can ill afford. The problems of crime are overwhelming, and the inadequacies of law enforcement are staggering. Yet for two years, Congress and the present Administration have been preoccupied with a law and order slogan which has served only to delay the effort to achieve the kind of reform which promises to make a significant impact on bail crime and law enforcement. One such reform is easy to state, if admittedly difficult to achieve. First and simply, we must have speedy trials. The statistical evidence shows a small amount of bail recidivism in the first sixty-day period following arrest and larger amounts as trial is further delayed. Bail recidivism could be effectively eliminated if trials were held within two months after arrest. The impact of speedy trials would be even greater than the statistics indicate because swift and certain judgment will have a profound impact on any inclination to lawlessness that released defendants may have. The imminence of judgment for wrongdoing is probably society's greatest deterrent to potential crime activity.

Speedy trials will also have a beneficial impact on the state of mind of all potential law breakers. Criminals may or may not read *Law Week* to see whether the Supreme Court is soft on crime and whether a new technicality now puts a further premium on crime. But the criminal class is well aware that in America justice is neither swift nor certain, and that there are many opportunities between arrest and jail to slip through the net and avoid justice. If arrest led inexorably and quickly to trial, and trial to conviction and punishment of the guilty, the potential criminal would no longer be confident that he could beat the rap. Speedy trial must be the first goal of any serious effort to deal with crime.

Speedy trial is a forgotten guarantee of the Constitution. One looks in vain for court decisions applying this principle just as one looks in vain for statutes and court rules which would give it teeth. Now, in the face of jail riots, unconscionable court backlogs, and despotic measures such as preventive detention, there is finally appearing some renewed interest in this sixth amendment right. Recently, the U.S. Court of Appeals in the Second Circuit has taken a first, important, but still tentative step towards imposing and enforcing time limits on the traditional lethargy of the criminal court process. A number of bills have been introduced in Congress to bring the right to speedy trial somewhat closer to reality in the federal system. Hopefully, as false panaceas such as preventive detention are acknowledged as worthless, more and more attention will be directed at the fundamental deficiencies of our criminal justice process. If these are faced squarely and if legislatures, courts, lawyers, and the public show a willingness to make the substantial effort required to put the criminal justice system in order, there is hope of achieving a real measure of law and order in the future.

PREVENTIVE DETENTION: AN EMPIRICAL ANALYSIS

Interest in preventive detention is the result of two developments of the past decade: bail reform, which has resulted in the pretrial release of more accused criminals than ever before; and fear that crime is increasing dramatically, eliciting calls for strong crime prevention measures.

Under the traditional monetary bail system, poor defendants without property to post as security or cash to pay bondsmen's fees often awaited trial behind bars, while wealthier defendants went free. In the late 1960's, application of equal protection and due process principles expanded the rights of the poor in all phases of criminal procedure and focused increasing attention on the bail system and its inadequacies. As a result, Congress and several state legislatures enacted bail reform acts, which authorized judges to "release on their own recognizance" (without requiring monetary security) defendants whom they believed would appear for trial. Many defendants were released before trial who would otherwise have been detained because of their inability to meet money bail. But at the same time, mounting concern over reports of increasing crime made "law and order" a major public issue, politicizing the debate over the appropriate scope of protection for the criminally accused.

Part of the Congressional response was the passage of the District of Columbia Court Reform and Criminal Procedure Act, which was described as a model for other jurisdictions. One section of the act provides for the "preventive" pretrial detention of arrested persons felt to pose a threat to the safety of the community.

Preventive detention raises fundamental questions about basic principles of the criminal justice system. All involve how individual freedoms are to be accommodated with the needs of the State. Although the constitutionality and practical effects of preventive detention have been debated vehemently, both advocates and opponents agree that the empirical basis for an informed evaluation has not been developed. The purpose of this Note is to report and evaluate the results of an empirical study designed to supply that basis by testing the probable operation of the District of Columbia preventive detention act.

In order to assess the act's impact on the overall crime picture, the study first measures the amount of pretrial crime that can be attributed with certainty to defendants charged with serious crimes. Then, after identifying the defendants convicted of crimes committed while free awaiting trial (referred to as recidivists), the study evaluates how effectively the preventive detention act's criteria for assessing "dangerousness" identify which defendants commit subsequent crimes. Based on this empirical data, the study measures the likely operation of the act against constitutional standards. The likely costs and benefits of preventive detention are analyzed, and some alternative means of reducing bail crime are suggested.

PART I. THE EMPIRICAL STUDY

A. Methodology and findings

1. Methodology. Under the District of Columbia preventive detention law, any defendant charged with a "dangerous" crime, with obstructing justice, or with a "violent" crime if certain conditions are met, may be held for a pretrial detention hearing, at which a judicial officer is to determine whether any form of release can satisfactorily protect the community. If the judicial officer decides that "no condition or combination of conditions . . . will reasonably assure the safety of the community . . ." he may order the defendant detained for up to sixty days.

With this act as a framework, a research team of four Harvard Law School students studied pretrial crime committed by defendants arrested in Boston, Massachusetts during six months of 1968 to assess the number and seriousness of criminal offenses the act might have thwarted had it been in effect. Initially the researchers combed the Boston Police Department's computer printout of 1968 arrests to identify defendants arrested for violent or dangerous crimes during the six sample months. All juvenile defendants were eliminated from the pool of potential subjects, as were 179 defendants tried the day of their arraignment and 213 defendants never released before trial because of their failure to raise the bail set. This left for detailed study 657 defendants, charged with crimes defined in the preventive detention act as violent or dangerous, who had been free pending trial. Two hundred thirty (230) of these defendants were charged with violent crimes, but did not trigger any of the three subqualifications of the act and would not have been eligible for preventive detention.

Although they were studied separately from those eligible for preventive detention, full data were collected and analyzed for them. The chief focus of the study became the 427 remaining defendants, referred to as the "sample," who would have been subject to preventive detention had the District of Columbia law been in effect in Boston in 1968.

2. The Sample. A clear profile of the sample population to which the preventive detention act would have applied emerges from the data on the 427 defendants. Most were poor and marginally employed, with little education. Nine of ten earned less than $6,000 in 1967, 75% lacked a high school diploma and 90% held jobs in low-status occupations, but many were not fully employed during the year prior to their arrest. A high percentage were young, male, black, unmarried or separated from their spouse. Most had extensive criminal records; all but 16% had been arrested previously, and four of every ten had been imprisoned before.

The sample defendants were charged with every crime defined as "dangerous" by the preventive detention act. Burglary and robbery charges accounted for more than half the offenses, and crimes involving personal violence constituted just over 20%. In the incident which precipitated the sample arrest, one-third of the defendants were armed or used violence, and almost half operated with an accomplice. At arraignment, nearly half the sample were charged with more than one offense. Of the sample, 19% were released on personal recognizance, 36% posted moderate bond (less than $1,500), 36% posted bond of $1,500–10,000, and 9% were released on bail of $10,000 or more.

3. Recorded Recidivism. By tracing the sample defendants through court papers, probation department records, and the statewide probation files of all criminal court appearances in Massachusetts, it was determined that 62 of the 427 (14.5%) were arrested for crimes committed during the pretrial period. Forty-one (41) of these (64% of those arrested—9.6% of the 427 released) were convicted of these crimes. Twenty-two (22) of the convictions were for the crimes defined as dangerous or violent in the preventive detention act (5.2% of the sample committed such crimes). The other 19 were misdemeanors, sumptuary offenses, or crimes that did not involve serious bodily harm to the victim.

B. The ability of the Preventive Detention Act criteria to predict dangerousness

This section evaluates the extent to which defendants who are convicted for serious bail crimes can be distinguished in advance from defendants who are not. The District of Columbia preventive detention act directs judicial officers, in deciding which criminal defendants pose so great a danger to the community that they will be detained without bail, to "take into account such matters as [1] the nature and circumstances of the offense charged, [2] the weight of the evidence against such person, [3] his family ties, [4] employment, [5] financial resources, [6] character and mental conditions, [7] past conduct, [8] length of residence in the community, [9] record of convictions, and [10] any record of appearances at court proceedings, flight to avoid prosecution, or failure to appear at court proceedings."

The act does not indicate the relative importance, singly or in combination, or the precise meaning, of the criteria. The research team therefore compiled twenty-six items of personal data for each defendant which were chosen to give substance to all the general criteria of the act except "weight of the evidence." The measure of "circumstances of the offense," for example, was whether the defendant had been armed during the initial offense, whether violence had been employed against persons or property, whether the defendant had acted alone or with accomplices, and the number of charges lodged against him.

The study assesses the relation of each of the twenty-six variables to recidivism. Then, the overall dangerousness of each defendant in the sample is measured by two numerical dangerousness scales, each of which combines in one index the defendant's scores on all of the variables. The first dangerousness scale, DS–1, was formed by assigning weights to the variables composing it on the basis of a subjective assessment of their importance. A second dangerousness scale, DS–2, was constructed using a statistical technique, readjusting the weights of the variables on the basis of their actual correlations to recidivism in the sample, in order to provide the best possible predictor of recidivism for this sample. The ability of the nine criteria, alone or combined, to distinguish recidivists from nonrecidivists is reported below.

1. Individual Criteria. Among the four data items used to measure the "nature and circumstances of the offense charged," the initial charge, often considered one of the most important factors in setting bail, proves to be little better than a random indicator of recidivism. Although it might be expected that defendants initially charged with drug offenses would have a higher recidivist rate, the data does not confirm this hypothesis. Similarly, defendants charged with robbery, the most likely to recidivate according to several other studies, have a recidivism rate barely 2% higher than that of the whole sample. Although the data suggest that the "circumstances of the initial offense"—whether the defendant was armed, violent, or with accomplices—do identify subsequent recidivism to some extent, the accuracy is not substantial. Family ties, as measured by marital status, number of dependents, and living arrangements, exhibit a similar small predictive ability, as does length of residence in the community. There does not seem to be any substantial relationship between the defendant's economic situation—his income level and employment record—and recidivism. The variable "occupational status" suggests that housewives and students are less likely to be recidivists, but does not otherwise identify those likely to be.

The criteria of "character and mental condition" and "past conduct" were evaluated by variables such as number of arrests for drunkenness, indications of drug use, and indications of mental illness, as well as military service and years of education completed. The usefulness of these factors in distinguishing recidivists from nonrecidivists is limited to some extent because so many defendants, recidivists and nonrecidivists alike, shared the same characteristics. For example, high school graduates were found to be better risks than those who only finished junior high school, but 75% of the sample, including 90% of the recidivists, had left school before receiving their diplomas. Likewise, 70% of the sample, including 86% of the recidivists, had never served in the armed forces. The items measuring drug use and mental illness correlated with recidivism to a fairly substantial extent, but only a small percentage of the recidivists exhibited these characteristics.

Several aspects of each defendant's record of convictions were also analyzed in an attempt to establish a correlation with recidivism. Data was gathered on age at first known encounter with the law, age at first incarceration, all known juvenile arrests and commitments, and all adult arrests, convictions, and incarcerations. Defendants who had any juvenile arrests, those who had been previously incarcerated, those who had been convicted of a violent or dangerous crime within the past ten years, or convicted of four or more "misdemeanors," all had recidivism rates substantially higher than those who did not, in several instances almost twice as high as the rate for the overall sample.

"Record of appearance at court proceedings, flight to avoid prosecution, or failure to appear at court proceedings, was measured by the number of prior defaults on a defendant's record. Defendants with more than two prior defaults had a relatively high recidivism rate of 21.3% (20 of 94 compared with 4.6% (12 of 262) for those with no prior defaults.

2. Intuitive Multivariable Analysis (DS–I). This section assesses whether combination of the data items discussed above provides a more reliable indicator of "dangerousness." A numerical index of dangerousness was formed by assigning points to each of the twenty-six data items based upon knowledge of what variables had been identified in previous research as relevant to predicting recidivism and weighted according to the researchers' perceptions of their significance in predicting recidivism. "High risk" factors were assigned more points so that, for example, defendants who had two prior defaults on their records received two points, while defendants who had never defaulted received none. Similarly, defendants who had been sporadically employed received 1.5 points; those unemployed, 3.0 points. Each defendant's scores on the twenty-six variables were totalled to produce the defendant's first "dangerousness score" (DS–1). Possible scores ranged from zero to seventy, with higher scores presumed to be indicative of a greater likelihood that the defendant would commit a crime if released before trial. The purpose was to determine whether recidivists shared certain characteristics which distinguished them from nonrecidivists, and whether they would obtain the highest dangerousness (DS–1) scores. Most importantly, DS–1 made possible an evaluation of how successfully a combination of the preventive detention act's criteria predicted recidivism when translated into quantifiable variables.

Figure 1 depicts graphically the DS–1 scores of the sample defendants, which ranged from 1 to 45. A majority were bunched between 14 and 28. If DS–1 were used as an index of dangerousness to determine who should be detained, some "dangerousness" cutoff point would be chosen such that everyone with a higher (more dangerous) DS–1 would be detained, while those with a lower score would be released. The cutoff point presumably would be chosen to detain the maximum number of recidivists while attempting to minimize the number of nonrecidivists detained. The distribution of DS–1 scores for the sample reveals that the seventy lowest DS–1 scores (11.0 and below) were obtained by nonrecidivists, while the 70 highest scores (30.0 and above) included 18 recidivists (25.7%). Whatever score is chosen as the cutoff, however, more nonrecidivists than recidivists would be detained. To detain every recidivist and prevent all 41 offenses would require the detention of all defendants with a DS–1 greater than 11 (357), an eight to one (316/41) ratio of nonrecidivists to recidivists. If the cutoff point were halfway through the DS–1 scores (22.5 or higher), 186 defendants would be detained, 33 of whom actually recidivated, a ratio of 4.6 nonrecidivists to every recidivist (153 to 33).

A DS–1 cutoff point which yields a comparatively low ratio of nonrecidivist-recidivist detentions, while still identifying many of the recidivists, is at 30.0. For scores below this point the nonrecidivist-recidivist ratio becomes very high. At points above this, ratios are lower, but fewer recidivists are caught. With 30.0 as the cutoff point, 70 of the 427 sample defendants (16.4%) would be detained, of whom 18 recidivated, and 52 did not. Those crimes that would have been prevented, however, do not include many of the more serious offenses which were com-

mitted by defendants with a DS–1 below 30.0.

3. Statistical Multivariable Analysis (DS–2). Although DS–1 was constructed with a subjective assignment of weights to the data items which measure the criteria enumerated in the act, the availability of full data and actual knowledge of which defendants recidivated made possible the construction of a more objective scale to test the soundness of the combined criteria. A linear discriminant analysis was performed with the aid of a computer to provide the maximum linear predictor for the data. This was accomplished by measuring the correlations among the individual variables and recidivism, and adjusting the weights of the variables in the overall dangerousness scale accordingly. Using these recomputed weights, a revised dangerousness score (DS–2) was computed for each defendant. This analysis established the maximum degree of correct linear prediction possible for this set of data, under the act's criteria as measured by these variables. DS–2 is not a *pre*dictor, but a *post*dictor constructed with weights readjusted to correlate with prior recidivist acts.

DS–2 scores ranged from 13.5 to 52.13. They indicated recidivists by high "dangerousness" scores and nonrecidivists by low scores more often than DS–1 scores did. One hundred sixty-one (161) nonrecidivist defendants had a DS–2 lower than the lowest recidivist. As with DS–1, however, no point on the DS–2 scale would detain more recidivists than nonrecidivists. To detain all recidivists, for example, the DS–2 cutoff score would be at 24.0. Of the 266 defendants who scored above 24.0, 225 nonrecidivists would be included along with the 41 recidivists. A DS–2 cutoff point at which the nonrecidivist-recidivist ratio was relatively low and the percent of total recidivists caught high, was at 35.0. Sixty-three defendants had a DS–2 above this point (14% of the sample); 26 (63% of all the recidivists) were recidivists.

DS–2 also identified more of the perpetrators of serious crimes than did DS–1, even though the seriousness of the second charge was not included in the weight adjustments used to refine DS–1 to DS–2. Nevertheless, the five highest DS–2 scores (presumably indicating the five most dangerous defendants) were nonrecidivists, and the recidivists with the four highest DS–2's were two who committed larcenies and two who committed drug offenses.

PART II. AN ASSESSMENT OF THE EMPIRICAL FINDINGS

A. Implications of the data

Advocates of preventive detention have claimed that its enactment would significantly affect overall crime levels and reduce the incidence of the crimes which people fear most—offenses involving physical danger to the victim. This section attempts to assess what impact preventive detention might have on the rising tide of serious street crimes.

1. The Amount of Bail Crime. The 427 sample defendants were free on pretrial release an average of 112 days, during which 62 (14.5%) were rearrested for crimes committed while on bail. Forty-one (41) of these (64%–9.6% of the total sample) were subsequently convicted for these offenses. Thus, had preventive detention been applied to all of the defendants studied, 10% would have been prevented from committing crimes for which they were later convicted. These 41 *convicted* bail offenders represent approximately 0.75% of the total number of persons arrested for violent or dangerous crimes in Boston during 1968, and 2.5% of those convicted for these offenses. Nineteen (19) of the 427 sample defendants (4.4%) were on pretrial release for a previous crime at the time of the arrest that first brought them into the sample. The figures reported by the National Bureau of Standards reflect a similar rate.

The most accurate measure of the amount of pretrial crime is a matter of considerable dispute. Most previous studies have measured the incidence of bail crime by the number of defendants *rearrested* for *any* offense during pretrial release, whether or not a conviction resulted.

This measure has been criticized as an inflated figure, because as many as half of all arrests do not result in convictions. One reason for using the rearrest measure is that some arrested defendants go free on legal technicalities rather than because they are innocent; another is that it compensates, in part, for unreported, undetected, and unsolved crimes committed by defendants on pretrial release. While it is undeniable that these categories include some bail crime which is not measured by reconviction figures, several considerations suggest limits on the amount of the serious uncounted bail crime, which is the focus of preventive detention.

The amount of *unreported* crime, for example, is estimated to be several times the reported amount. But there is some evidence that serious street crimes, the major concern of preventive detention, are reported most frequently. Tentative indications are that the ratio of unreported to actual crime decreases when the offense is serious and the victim is unacquainted with the criminal. One study estimates that although only one-tenth of all consumer frauds and one-third of all burglaries are reported, half of the aggravated assaults and larcenies, and two-thirds of all robberies, the principal source of violence between strangers, are reported to the police. The relatively low reporting rates for aggravated assaults and rapes (only 2/7 of which are reported) can be partially discounted, however, because a large proportion of these offenses (50% for rape; 66% for aggravated assault) are ones where the criminal and victim are acquainted, or related. These crimes, though at times serious, are not generally part of the pattern of hardened criminality at which preventive detention is aimed.

Undetected bail crime is defined here to mean subsequent crime, which is committed in jurisdictions other than the one in which the initial arrest occurred, and is unknown in the first jurisdiction. The National Bureau of Standards study of Washington bail crime estimated that District of Columbia rearrest rates failed to count 30% of the bail offenses because they occurred outside the District. However, Washington's urban pattern, encompassing two adjacent states and the District, involves atypical problems of imperfect interdistrict communication. Interdistrict underinclusion was not a significant factor in the Boston study because of the availability of statewide arrest records and nationwide FBI reports included in some superior court probation files, which indicated very little extrajurisdictional crime committed by Boston defendants. Another indication that the Washington estimate of 30% is atypical is the report of a Seattle study which found a 13.2% out-of-district rate and a lower rate for out-of-state offenses. The amount of undetected crime not measured by the Boston data therefore appears insignificant.

Unsolved crimes represent another category of bail offenses not measured by rearrest or reconviction figures. The clearance rate (the percentage of reported crimes solved) varies with the type of crime and the quality of law enforcement. Outside estimates place the ratio at eight or ten crimes for each charge which reaches the courtroom. More moderate estimates of the violent and dangerous crimes with which preventive detention is concerned place the amount at a ratio of approximately two to one. According to the Uniform Crime Report for 1968, the clearance rate for Index crimes of violence (46%) was almost three times that for crimes against property (16%). In 1968, "police were successful in solving 86% of the murder offenses, 55% of the reported forcible rapes, 66% of the aggravated assaults and 27% of the robberies." In short, the serious crimes which trigger preventive detention are the ones most often solved.

It is also unlikely that the clearance ratio is uniform throughout the criminal population. The full ratio cannot necessarily be attributed to recidivists for the purpose of estimating bail crime. Some individuals who commit crimes are more likely than others to be caught; if the sample defendants (initially arrested for a serious crime) represent criminals who are more likely to be caught, their bail crimes are also more likely to be detected. Defendants released on bail are also more likely to be apprehended for subsequent offenses because they are more likely to be watched, more likely to be identified with particular methods of operation, more likely to be questioned on suspicion and more likely to be apprehended if sought. Finally, certain identifiable groups, including youth, ghetto residents, and racial and ethnic minorities, are more likely to be arrested whether or not they have committed a crime. The Boston sample was predominantly young (median age 26), and 40 percent were black. They were thus members of groups more likely to be arrested for a higher percentage of the crimes they commit, and more likely to be arrested erroneously.

Considered together, bail crimes which are unreported, undetected, and unsolved undoubtedly represent an omission from a measure of bail crime based on the number of convictions for these crimes. The difficulty lies in assessing the number omitted. While the use of arrest rather than conviction figures might compensate for the omission, many factors suggest that bailed defendants are more susceptible than the average citizen to arrest and conviction. Also, balancing two uncertain quantities—the number who committed bail crimes but were not apprehended and the number who were arrested but not convicted—against one another is highly questionable. It adds known statistical error to the measure rather than making it more exact, and creates the false impression of arithmetical certainty where there is really indeterminacy.

It is unclear which standard is the most appropriate basis for policy making. Farmers of social policy should take into account what is likely, as well as what can be definitively established. Perhaps all that can be stated with certainty is that some criminal act committed while on bail can be traced with certainty to 10% of the defendants eligible for a preventive detention hearing under the current act.

Other studies confirm these findings. Six studies, some directed at assessing the effect of bail reform acts, in cities as diverse as Washington, New York, St. Louis and Des Moines reported rearrest rates of 7–10% for persons on bail awaiting trial, 4–6% for serious offenses. Only two studies, both conducted in the District of Columbia, both dealing with robbery defendants only, and both criticized for methodological shortcomings, have reported results which vary significantly from these findings. The only other systematic investigation of bail crime geared specifically to the preventive detention act was conducted in Washington, D.C. in 1969 by the National Bureau of Standards. It reported an overall rearrest rate of 11%.

2. The Seriousness of Bail Crime. A complete evaluation of preventive detention must examine the heinousness, as well as the amount, of bail crime. Although "any crime

is a matter of seriousness to the community in time of pretrial release," society is of course more concerned with crimes for which it imposes higher degrees of moral opprobrium and punishment. The preventive detention act likewise distinguishes among crimes by creating a hierarchy of offenses, defining some as violent or dangerous, and providing that only persons arrested for these offenses shall be subject to its provisions. As noted above, barely one half (22 of 41) of the bail crime convictions were for violent or dangerous offenses which, if they had constituted the initial sample offense, would have qualified the defendant for a preventive detention hearing. Several of them were sumptuary or involved no threat of serious bodily harm. More than half involved no weapons, one-quarter, no violence. In short, the data indicate that only 5.2% of those to whom the preventive detention act would apply were apprehended, tried and convicted for violent or dangerous pretrial crimes. These findings corroborate the report of the National Bureau of Standards that only 7% of those initially charged with a felony were rearrested for a second felony, and only 5% of those initially charged with violent or dangerous crimes were rearrested for violent or dangerous crime.

Because of the way in which the act is drawn, however, many of the identifiable pretrial crimes might not have been prevented even had preventive detention been in effect. The act allows only 60 days of preventive detention after arraignment, but only four of the serious pretrial offenses occurred during that period. This means that barely 30% of the definite identifiable bail crimes occurred during the time period for which the preventive detention act provides protection. Very significantly for policy considerations, the act did not protect against the murder or any of the rapes or robberies.

Little crime, by absolute or relative measure, can be attributed with certainty to defendants awaiting trial, and half of the attributed crimes are petty rather than heinous offenses. Preventive detention, even if absolutely effective, would have little impact on overall crime levels. The extent of the asserted need for preventive detention—protection of the community from crimes committed by defendants on pretrial release—is small.

B. The ability of the Preventive Detention Act criteria to predict dangerousness

As the previous section explained, 15% of the sample were rearrested at some time during pretrial release, while two-thirds of those rearrested (10% of the sample) were actually convicted of the second offense and can be identified with certainty as perpetrators of bail crime. Half of these persons (5% of the sample) can be assigned definite responsibility for serious bail offenses.

A perfect preventive detention system would identify and incarcerate only those few defendants who would commit serious crimes if released. At the other extreme, a system whose predictive capacity was so low that it required the detention of many defendants, most of them innocent, to thwart the few serious offenses could hardly be considered successful. This section evaluates, on the basis of the empirical results of the study, the likely accuracy and impact of the preventive detention act.

1. Individual Criteria. The ten criteria of the District of Columbia act are virtually the same as those provided under the 1966 Bail Reform Act. This study is the first attempt to investigate systematically the extent to which bail criteria used to predict the probability of flight correlate with bail crime. The data suggest that variables used for predicting default are of little value in predicting recidivism. None of the variables investigated had a correlation with conviction of bail crime higher than .229. For most, it was considerably lower. The unweighted criteria, absent a standard with which to evaluate their significance, are not nearly as accurate predictors as a combined variable analysis might become if refined over time by studying the nature of pretrial recidivism.

Insofar as the unweighted criteria lead judges to rely on intuitive notions of the significance of individual criteria in determining detention, prediction is unlikely to be accurate. For example, the initial offense charged, often considered the most important factor in setting bail, provides little indication of future recidivism. Nor do drug and armed robbery charges, the traditional high bail offenses, indicate significantly high rates of recidivism. Length of residence in the community, and employment records are also unreliable in identifying significant rates.

Defendants with indications of hard drug *use,* however recidivate nearly twice as often as defendants with no indication, confirming to a limited extent the expected higher recidivism rate of those who support expensive drug habits. Although preventive detention has been offered as a means of protecting the community from the addict, addiction is a disease and should be treated medically rather than criminally. Moreover, the predictability of addict recidivism does not lessen the difficulty of predicting non-addict recidivism where the complexities of voluntary motivation enter in.

One criterion, weight of the evidence, was not studied. Since weight of the evidence only indicates the probability that an accused committed the offense charged, it is relevant to the prediction of a second crime only if defendants substantially likely to have *committed* a crime are more dangerous than defendants merely *arrested* for the same offense. No available information supports this proposition. Nor do the data show significant differences in recidivist rates for defendants charged with different offenses, instead they indicate the minor relevance of other variables related to the initial offense. Only variables that measure the overall pattern and history of defendants' behavior show any significance.

Over two-thirds of the recidivist convictions were for offenses different in kind and seriousness from the initial charge. This absence of any discernible pattern plus the similar recidivism rates of defendants charged with violent and dangerous crimes, suggest that the act's distinction between triggering qualifications for these two classes of charges has little relevance to the likely commission of bail crime. The high recidivism rate for defendants with multiple prior convictions for misdemeanors also casts doubt on the act's apparent assumption that serious criminal conduct isolates serious bail offenders. Persons arrested for violent and dangerous crimes are not the only significant groups of recidivists. Rather the actual pattern of repetitive crime in Boston is an unpredictable combination of minor and serious offenses.

Analysis of the recidivism rates by subclassifications within each variable confirms the findings of pretrial release projects that certain characteristics may provide a basis for identifying defendants who represent good risks, but not for identifying bad risks accurately. Only 1 of 39 housewives and students, for example, were convicted of a bail crime (2.6%), an indication that they are good risks, but recidivism rates for the other subclassifications of "occupational status" do not identify bad risks. Although certain subclassifications within different variables have a recidivist rate higher than the sample as a whole, all contain at least three times as many nonrecidivists as recidivists.

2. Multivariable Analysis. The two dangerousness scales are attempts to predict individual bail recidivism systematically at the time decisions about pretrial release are made. As statistical indices of dangerousness, they provide a method of weighting and combining personal characteristics and calculating numerical scores for individual defendants.

The best measure of the accuracy of a preventive detention dangerousness scale is gauged by the ratio of defendants detained to recidivist crimes prevented. Figure 3 illustrates the number of defendants who must be detained to prevent a given number of recidivist crimes, comparing the accuracy of a random predictor, a perfect predictor and DS–1 and DS–2. It also illustrates the relative accuracy of their predictions. A perfect dangerousness predictor would assign the 41 highest dangerousness scores to the 41 sample recidivists, but the accuracy of both DS–1 and DS–2 is roughly half-way between a random guess and a perfect prediction. DS–2 is somewhat more accurate. Eighteen (18) and of the 41 recidivists are among the 70 highest DS–1 scores, and 26 are among the 63 highest DS–2's. The lowest 67 DS–1 scores and the lowest 161 DS–2 scores belong to nonrecidivists, but nonrecidivists are distributed all along both curves: the four highest scores in each scale were nonrecidivists. Both scales indicate again that it is not as difficult to identify good risks as it is bad ones, but that only a relatively small fraction of the sample are obviously good risks.

The accuracy of DS–1 and DS–2 may also be evaluated in relation to other statistical and clinical efforts to predict infrequent human conduct. DS–1 represents an attempt at controlled intuitive prediction more systematic than that which judges are likely to attain when deciding criminal cases. There is also some evidence that the kind of clinical (*i.e.,* case-by-case) prediction judges make is generally inferior to statistical prediction (like dangerousness scales). The accuracy of DS–2 is greater than a number of previous statistical attempts at prediction, yet the attempt in DS–2 to formulate a statistical measure must be considered only a tentative step beyond intuitive prediction. Before the DS–2 analysis could be used as a predictive tool for other arrest populations, further study and refinement is necessary.

Several factors unique to pretrial judicial decisionmaking suggest that hearing officers under the District of Columbia act are unlikely to attain in actual application even the limited accuracy of DS–1. First, it is unlikely that judges will readily substitute a numerical scale for their own personal intuition developed over years on the bench. Intuition based on bail experience is often inaccurate, and the tendency to rely on single criteria compounds the inaccuracy. Second, as the criminal process presently operates, much of the information necessary for accurate prediction is unavailable immediately following arrest. Gathering and evaluating this extensive information will require the commitment of significant resources. Without this commitment, less accurate prediction is inevitable. The flow of information necessary to refine clinical judgments in practice is limited further both by the fact of incarceration and by the isolation of the hearing officer from adequate post-prediction feedback.

3. The Comparison Group. Projections of bail crime based only on defendants currently released may be distorted if significant numbers of defendants are being detained for dangerousness *sub rosa* by the setting of high money bail. Bail is intended to be used only to ensure that the accused will appear for trial, "[Y]et it is no secret that many judges, when faced with a defendant whom they fear will commit 'additional crimes' if released, feel compelled to set bail beyond his reach."

As a result, the study investigated a group of 213 defendants, charged with the violent and dangerous offenses enumerated in the

preventive detention act, but who had not been released because of failure to meet the bail amount set. The objective was to determine whether the detained defendants appeared to be more dangerous than the released defendants, either because of lower scores on the individual personal data variables which measured the criteria for bail and preventive detention determinations, or higher scores on the multivariable dangerousness scales (DS–1, DS–2). The study also attempted to estimate how the rate of bail crime would have been affected had these defendants been released. Because limited resources prevented full study of all 213 defendants, 102 of the defendants never bailed were selected as a comparison group on the basis of high bail, eventual trial in superior court, and maximum representation of the serious crime categories.

On virtually all personal data variables, defendants who did not meet bail scored more poorly than those released. A higher percentage had broken marriages, had received less formal education, were living alone, working in blue collar and unskilled labor jobs, were not steadily employed, and had indications of mental illness. For variables measuring criminal record, the comparison group also had poorer scores. A higher percentage had previously committed dangerous crimes or crimes of violence, had prior juvenile records, misdemeanor convictions, arrests for drunkenness, arrests for drug use, and imprisonments. More of the detained defendants had been armed or used violence in committing the crime which brought them into the sample than those released.

The dangerousness scale scores (DS–1 and DS–2) calculated for the 102 defendants in the comparison group were significantly higher than those of the sample. A different form of DS–2 score represented each defendant's likelihood of recidivism as a decimal fraction between 0 (a nonrecidivist) and 1 (a recidivist). Only four of the 102 comparison defendants scored higher than a .500 likelihood of recidivism, one chance out of two. By adding all the individual fractional probabilities of recidivism, the likely number of defendants who would have been convicted of a bail crime, if released, was calculated to be 24 of the 102 (23.5%). If the 102 comparison defendants had been released in the same manner as the other 657 defendants, the projected conviction rate for all defendants on pretrial release would have increased from 8.2 to approximately 10.3%.

The comparison group defendants thus appear to be more dangerous than those released, but they all passed through three "dangerousness" filters—arrest for serious crimes, detention for failure to meet bail, and a selection process designed to include the most dangerous. Nonetheless almost no individual defendants had a better than 50% likelihood of recidivism. Adding 102 poor risks to the population released before trial (an increment of almost 16%) would have increased the rate of bail convictions by slightly more than 2%.

C. Constitutional Standards and Empirical Considerations

Constitutional debate over preventive detention has centered on fifth amendment due process and the application of the eighth amendment prohibition against excessive bail. The crux of the eighth amendment debate is the limit of congressional authority to deny bail to certain classes of offenders, and whether preventive detention violates the presumption of innocence. The due process argument has debated whether preventive detention punishes a person on the basis of status alone—for "being dangerous"—without conviction for an illegal act.

Advocates of preventive detention defend the system by balancing the government's interest in reducing bail crime against the individual's right to be free until judged guilty. Drawing analogies to other deprivations of individual liberty which occur without an adjudication of criminal guilt, *e.g.*, detention by high money bail, discretionary detention in capital cases, detention pending appeal, and civil commitments for the mentally ill, they conclude that the test for confinement is "reasonableness," and that preventive detention, on balance, meets this criterion. Critics of preventive detention reply that analogies to other forms of commitment are inapposite because some presuppose the subject's lack of personal responsibility, while others are premised solely on preventing flight to avoid trial in order to protect the integrity of the judicial system. Critics also object to the lack of a clear standard of proof for "dangerousness," and guidelines as to which personal characteristics will precipitate detention.

This section does not reexamine these constitutional issues. Rather it analyzes a new aspect of the debate over preventive detention: whether the probable operation of the act is likely to satisfy the equal protection test of reasonable classification and the due process test of rational relation. Statistical data generated by this empirical study, particularly as to cumulative predictive capacity, form the basis of the analysis.

1. The Standard for Active Judicial Review

The threshold question in a constitutional challenge to preventive detention is whether it shall be subject to an active or passive standard of judicial review. In suits challenging legislative classifications, those which do not involve suspect racial classifications or severe deprivations of fundamental rights generally receive passive judicial scrutiny. Under this standard, courts give the legislative body "wide scope of discretion" and uphold the legislation if it is not purely arbitrary. However, classifications which effect a severe deprivation of fundamental rights must demonstrate a rational relation between their purpose and the classes upon which the burdens and benefits are placed.

Under this "fundamental interest" doctrine the Court has actively reviewed limitations on voting rights, travel, procreation, education, and certain criminal procedural rights. These cases all rest on an analysis of the *severity* of the restraint imposed upon the *fundamental right*. Whether preventive detention must satisfy the more stringent requirements of active review may depend, therefore, on whether it constitutes a sufficiently severe deprivation of a fundamental right.

Detention entails virtually a complete loss of personal liberty, an interest the Court has described as being of "transcending value," without a determination of guilt or personal responsibility. Labeling the detention "preventive" does not make it any less penal or a punishment to the defendant. The injury to the accused may be severe and carry beyond the sixty day detention period, prejudicing his chances for acquittal or a nonjail disposition at trial. Unlike detention for failure to meet financial conditions imposed as a condition for release, these effects are beyond the power of the defendant to neutralize by raising bail money.

Even under the restricted view of "fundamental interest" to which *Dandridge* v. *Williams* indicates the Court may be retreating, preventive detention should be subject to active judicial review because it places severe limits on rights specifically singled out for protection in the Constitution, namely the eighth amendment right to bail. Although the *scope* of the amendment may not guarantee the right to bail in all noncapital cases, the mere fact that bail is mentioned in the Bill of Rights suggests under the *Dandridge* test that it is sufficiently fundamental to justify careful scrutiny of legislative attempts to limit it.

2. Acceptable Classifications and Standards: The Concept of Preventive Detention

Once the threshold question of the standard of judicial review has been resolved preventive detention must face the equal protection test of reasonable classification and the due process test of rational relation. If the purpose of preventive detention is to reduce pretrial crime, a perfect correlation between purpose and practice would be achieved by a classification that detains all persons who would commit crimes if released pending trial, and none who would not.

The following analysis uses Venn diagrams, overlapping circles drawn to scale to represent groups (sets) of defendants, to illustrate the extent to which the preventive detention criteria correlate purpose and application by identifying perpetrators of pretrial crime. Using Figure A to represent recidivists (i.e., defendants *convicted* of pretrial crime) and Figure B to represent defendants detained under preventive detention, a perfect correlation between recidivists and detained defendants would be represented by Figure C. This would be an unchallengeable classification, *qua* classification, "rational" under *any* standard of review. In contrast, a classification which detained no recidivists, but instead detained all nonrecidivists, would be represented by Figure D. This classification has zero correlation between the purpose of the law, reduction of pretrial crime, and the persons affected by it. No recidivists are detained, and all who are detained would not have recidivated. It is completely arbitrary and could not withstand constitutional challenge even under a passive standard of review.

Preventive detention falls somewhere between these two extremes. The classification it makes could be represented by something like Figure E. Some persons who are detained are recidivists (the shaded portion), but other detainees are not, and some recidivists remain free. Preventive detention thus combines an underinclusive classification (failing to detain some recidivists) and an overinclusive classification (detaining some nonrecidivists).

In suits challenging the constitutionality of classifications, underinclusion has been tolerated because of the legislature's need (perhaps duty) to strike at evils only partially amenable to regulation, to experiment by treating part of a larger problem, and in order to conform to the needs of legislative and administrative convenience. Legislative schemes which overinclusively subject innocent persons or bystanders to restraints have received less judicial deference. The dragnet is a typical example. Only under exigent circumstances, or when the burden imposed by the classification is extremely mild, will an overinclusive classification be upheld. In overinclusive situations, the experimentation rationale, recognized in underinclusive situations, is weakened, and administrative flexibility, used to sustain underinclusive schemes, is allowed to be enhanced only by narrowing the burden imposed by the classification.

Courts have been reluctant to uphold classifications which are both under- and overinclusive. *Rinaldi* v. *Yeager* invalidated a statute which required unsuccessful imprisoned appellants who received free trial transcripts to pay for them, while exempting those who received suspended sentences, probations, or fines. The Court, applying a test of "some rationality in the nature of the class singled out" examined the plausible purposes of the law and held that the sentence received was an inappropriate basis for forced reimbursement. It found that the invidiousness of the distinction was not overcome by the administrative convenience in collecting only from imprisoned appellants. Rather than discouraging frivolous ap-

peals, the classification, by imposing the cost of appeal only upon inmates, burdened many whose appeals, while unsuccessful, were not frivolous (overinclusion) and left unburdened many whose appeals were frivolous but who received non-jail sentences (underinclusion). Similarly, in *Carrington* v. *Rash* the Court found the possible purposes of a Texas provision which excluded military personnel from local elections to be the protection of local interests from being overwhelmed and preservation of the integrity of the electorate from transients. The Court struck it down however, because, by singling out servicemen, Texas failed to consider other groups equally transient and overwhelming to local interests (underinclusion). By preventing servicemen from showing that they were bona fide residents who should be given the right to vote, Texas created a conclusive presumption against all servicemen (overinclusion), which constituted an invidious discrimination.

Rinaldi and Carrington are examples of cases striking down legislation which entails a severe deprivation of a fundamental right, and which sweeps both the deserving and undeserving within its net, while permitting many "deserving" to escape. Since preventive detention imposes at least as severe a burden on the interests of affected individuals, it will be liable to the same exacting scrutiny to determine if its classifications are sufficiently rationally correlated with its purpose.

Correlation of purpose and effect are especially important in the criminal law. The conviction of innocent persons, and improper imposition of criminal sanctions, are extremely severe and invidious forms of overinclusion. The protections developed to insure that this rarely happens comprise the highest expression of the doctrine of rational correlation in our society. Two recent decisions of the Supreme Court demonstrate the concern with rationality and reliability in the fact-finding process which is at the core of these protections. In *Leary* v. *United States* the Court reaffirmed the "rational connection" test for criminal presumptions in ruling unconstitutional part of the Narcotic Drugs Import and Export Act. That test requires a rational connection between the basic fact proved and the presumed fact, if the presumption is to satisfy the requirements of due process. The Court in *Leary*, for the first time, indicated that the standard to be used to determine if that connection exists is if it can "at least be said with substantial assurance that the presumed fact is *more likely than not* to flow from the proved fact." The Court emphasized the importance of this standard by undertaking an independent examination of the factual data on the importation and possession of drugs. In *In re Winship* the Court held that the due process clause requires proof beyond a reasonable doubt of every fact necessary to constitute the crime with which a defendant is charged, and that this standard must be applied to the adjudicatory stage of delinquency proceedings.

Although some tensions exist between *Leary* and *Winship*, they are two pillars of the same temple, both supporting the requirement of rationality and accuracy when severe sanctions are applied. Each recognizes that when criminal penalties threaten an individual's interest in liberty and reputation, any device which increases the probability of an inaccurate determination is highly suspect and possibly a violation of due process of law. The device in *Leary* was an irrational presumption; in *Winship*, a lower standard of proof.

Winship is especially significant for preventive detention because the Court looked beyond New York's civil label on the proceedings to the interests which invoke the concern for accuracy in criminal prosecutions. The Court singled out stigmatization and institutional confinement as the two components of a criminal sanction that require the higher standard of proof, and found them present in the civil delinquency proceeding.

Clearly, the preventive detention stamp of "dangerous" stigmatizes the accused as much as New York's "delinquent" label. The Court's concern for accuracy where stigma and confinement are involved may compel it to require a high degree of accuracy in preventive detention determinations. Whether the level of accuracy must equal that apparently required of presumptions by *Leary*—fifty percent or more—or by *Winship*—subjective certainty (an undetermined amount higher than fifty percent)—is speculative. "[M]ore likely than not," however, it should be the lowest acceptable tolerance of its predictive capacity.

3. Unacceptable Classifications and Irrational Standards: The Application of Preventive Detention

Even under the "more likely than not" test, preventive detention's classifications fail. Despite the most sophisticated controls, they impose the burden of detention on more persons who do not recidivate than on those who do. Use of either DS–1 or DS–2 as criteria for predicting dangerousness and predicating detention results in the incarceration of more nonrecidivists than recidivists (and the release of many recidivists). Detention on the basis of DS–2's maximization of correlations yields a simultaneously under- and overinclusive result, as represented in Figure F, which shows the effect of detaining the 63 most likely recidivists. Only the 26 defendants in the double cross-hatched portion of the diagram are detained correctly, while 37 are incorrectly detained (overinclusion) and 15 recidivists go free (underinclusion). Moreover, in all likelihood the results of an actual application of the DS–2 scale by a judicial officer would be even less accurate. As the nondetained recidivists return to court for their bail crimes, the temptation to dip lower on the detention scale to the next most likely group of recidivists in the hope of correcting these mistakes will be great, possibly irresistible. As more defendants are detained, however, the overinclusion becomes greater.

Figure G illustrates the result if 100, rather than 63, defendants are detained by judicial officers hoping to reduce the number of recidivists mistakenly released. Seventy-two percent of all detainees would be overinclusions, yet underinclusion would still be substantial—13 persons. Thwarting two additional recidivist offenses would require the detention of 35 additional nonrecidivists, increasing the overinclusion further. Figure H represents the result if pressure continued to mount because of the visibility and publicity of the remaining 13 "mistaken" releasees, forcing judicial officers to descend on the DS–2 scale until all recidivist offenses were eliminated. Finally, underinclusion and visible errors would be eliminated, but only at the cost of the "invisible" overinclusive detention of 225 persons who were not convicted of crimes during release. And there is potential for still further overinclusion because the judicial officer can never know precisely how low he must descend on the DS–2 scale to prevent the crime of the lowest scoring recidivist.

Predictions of this sort may not be amenable to computerized techniques and actuarial tables, however. "After a while," it has been suggested, "a judge and a prosecutor kind of get the hang of these things," and will be able to make accurate intuitive predictions of recidivism. DS–1 was constructed to test the accuracy of intuitive predictions, but as Figures I, J, and K show, it is even less accurate than DS–2. At each cutoff point on the scale the subjective determination of DS–1 singles out a smaller percentage of recidivists than does DS–2. To eliminate all recidivism by detaining all who are convicted of pretrial crime requires, under either scale, the detention of a huge number of nonrecidivists. Under DS–1, however, the number of incarcerated nonrecidivists amounts to little less than a dragnet.

Besides being less accurate, and therefore inherently less desirable than DS–2, the use of broad judicial discretion in detention raises serious constitutional questions. The possibility exists that some judges, absent rigid restrictions on their discretion, will detain the poor, the politically unpopular, and members of minority groups by labelling them "dangerous." The motives of judicial officers do not have to be called into question, however, to refute the desirability of broad judicial discretion. Judges motivated to detain only the truly dangerous need rigorous, empirically tested standards in order to achieve the precise predictions demanded by preventive detention.

4. Violations of Due Process

Preventive detention's reliance on status and personality as determinants of commitment is reminiscent of other devices used to control recidivism, vagrancy and loitering statutes for example, that have been struck down regularly as violations of due process. The concerns expressed by the Court in voiding statutes found intolerably vague are present in the District of Columbia detention law, even though those cases involved the imposition of criminal liability. Lack of warning to citizens as to what will justify incarceration, lack of causal connection between incarceration and actual social harm, and open invitation to unrestrained administration all inhere in the preventive detention law. A defendant trying to prove himself "non-dangerous" will not find his task any easier than that of a citizen trying to prove he is not a suspicious person to a policeman on the beat.

As the Court of Appeals for the District of Columbia stated:

We do not gainsay the importance of crime prevention or the need for effective measures to combat transgression of the criminal law. But as desirable as these goals are, they cannot be achieved through techniques that trample on constitutional rights. Many years ago this court held that a citizen cannot be punished merely for being "a suspicious person." Statistical likelihood that a particular societal segment will engage in criminality is not permissible as an all-out substitute for proof of individual guilt. And not even past violation of the criminal law authorizes one's subjection to innately vague statutory specifications of crime.

The problems raised by the operation of the preventive detention law are familiar to the courts. Its irrational classifications deprive individuals of their most basic judicial protection—a reasoned adjudication of their individual rights and responsibilities. It will be difficult for courts to avoid invalidating preventive detention as a violation of the due process and equal protection guarantees.

* * * * *

CONCLUSION

This study is an empirical assessment of the likely operation of the District of Columbia preventive detention system based on an analysis of bail crime in Boston in 1968. The data indicate that the percentage of serious offenders who can be said with certainty to have committed pretrial crime is low (9.6%), and lower still for serious offenses (5.2%). The District of Columbia law's criteria for identifying defendants likely to commit bail offenses provide little hint of which defendants will become double offenders. At no time do the criteria individually or collectively provide a means of isolating even a small group of defendants, more of whom are recidivists than are not. And because 70% of

recorded bail crime occurs after the first sixty days of pretrial release, the District of Columbia's model scheme seems unlikely to thwart much serious bail crime. Locking up defendants before trial may prejudice the outcome of their cases and make them more rather than less likely to become habitual criminals. Making justice swifter and surer by bringing criminals to trial promptly is a more effective means of reducing bail crime.

Empirical analysis of legal and governmental policy is still a relatively rare phenomenon. Where empirical analysis is employed to test the fairness of existing programs, it may illuminate inequities and provide guidance for reform. But many difficult issues concerning the use of empirical data remain unsettled. Is empirical justification necessary when a program is enacted in response to a public outcry for action? If technology and actuarial tables are able to create classifications circumscribing individual responsibility, will preventive law enforcement become a tool of repression? Can use of the scientific method, which tends to subordinate individual interests to empiricism, classification, and quantification, resolve the tension between the need for classifications necessary to implement social policies, and the uniqueness of individual citizens? With the enactment of preventive detention, these questions are becoming more immediate than theoretical.

There are other potential abuses of preventive detention. The District of Columbia statute includes no limit to the concept of "danger to the community," the standard which precipitates incarceration. The preventive detention hearing officer's interpretation of "past conduct"—defined in this study as relating to prior incarceration and proven criminal conduct, but neither defined nor limited in the act or legislative history—could encompass unpopular or inflammatory political activity or mere allegations of inchoate criminal intent, eroding the distinction between constitutionally-protected conduct and conduct regulated by criminal law. And criteria related to economic or social status, even narrowly construed, open the door to invidious class and racial distinctions perpetuated under the guise of principled adjudication of the characteristics of dangerousness. The assertion that preventive detention will rationalize the archaic bail system by bringing into the open improprieties which have smoldered sub rosa, is not supported by a corresponding inclination of its proponents to narrow the scope of detention. Rather, the measure forbodes the likely denial of bail to as many groups as are presently detained.

The findings and analysis of this report do not answer all the questions preventive detention raises, however. Hard-to-measure factors prevent an exact quantification of the incidence of bail crime. Nor can the value of a complex predictive mechanism be judged conclusively on the basis of a single application in one locale at a given time. Nonetheless, it is hoped that the results of this empirical study can become the starting point for a dispassionate evaluation of preventive detention based on concrete data rather than on rhetoric or fear. Whatever shortcomings exist in the methodology or analysis will hopefully provide an impetus to, and a framework for, more precise study. When fundamental liberties are at stake, no less will suffice.

EXHIBIT 5

[From the New York Times, Apr. 25, 1971]

PREVENTION: "WHEN IN DOUBT, DON'T LET THEM OUT"

(By Alan M. Dershowitz)

We live in a nation that prides itself on championing the principle that a man is innocent, and free to pursue his normal life, until his guilt is proven. As Justice Robert Jackson once put it: "Imprisonment to protect society from predicted but unconsummated offenses is . . . unprecedented in this country and . . . fraught with danger of excess and injustice. . . ."

Yet today in America, more than twice as many citizens are confined on the basis of a *prediction* that they may commit a crime in the future than on the basis of a *conviction* for having committed a crime in the past. More than half a million such persons are being held in institutions ranging from mental hospitals to reformatories—and there are indications that this number may be on the increase.

ILLUSTRATIVE CASES

Some recent examples:

John Hamrick was charged with raping two women. His defense was that they had consented. Both cases were set for trial, and the first jury unanimously acquitted him. Rather than risk a second acquittal, the District Attorney invoked the sex psychopath statute which authorizes life imprisonment for defendants who possess "criminal propensities to the commission of sex offenses." Following a psychiatric prediction that he might commit future rapes, Mr. Hamrick was committed to the county jail; the Supreme Court denied review.

Antonio Garcia witnessed a killing one night in Springfield, Mass. Although he had nothing to do with the crime, he was jailed for six months as a "material witness" because the judge predicted that he might violate a court order not to leave the state.

Bong Yol Yang, a 41-year-old United States citizen, approached the White House asking to see the President. He appeared disoriented and was taken to a mental hospital where he vigorously protested his confinement. A psychiatrist diagnosed him as paranoid schizophrenic and concluded that although he had never been violent in the past, "he may potentially attack somebody." Under the District of Columbia statute, a mentally ill person can be committed if found "likely to injure himself or others. . . ." Accordingly, Mr. Yang was ordered to join the thousands of mentally ill people confined on the basis of psychiatric predictions.

Psychiatrists are not the only experts whose predictions are relied on for preventive confinement. A social worker's prediction that a youngster is "in danger of becoming morally depraved" may result in his institutionalization as a juvenile delinquent. And a judge's prediction that the release of a defendant awaiting trial would not "reasonably assure . . . the safety of other persons or the community" would, under a recently enacted Federal statute, justify 60 days of detention.

HARMLESS ACTS

Some traditional "crimes" focus on acts which are themselves harmless, but which are viewed as the smoke of possible future fires. Vagrancy laws were recently described by an appellate court as a predictive device to "suppress crime in the future." And conspiracy—the law under which the Berrigan indictment was brought—is commonly used to head off anticipated harms (in that case, an alleged kidnapping and bombing).

Preventive imprisonment is widely employed during wars and emergencies—witness the mass internment of Japanese-Americans during World War II on the basis of a prediction that some of them might help the enemy, witness the preventive detention provisions of the McCarran Act which authorizes preventive detention of persons who would "probably" engage in espionage or sabotage during an "internal security emergency."

It is not surprising, therefore, that we have seen—and may continue to see—an increased reliance on preventive imprisonment during these times of burgeoning violence and growing dissatisfaction over the criminal laws perceived inability to deter crime.

The preventive devices catalogued above—and other like them—rest on the assumption that experts are indeed able to predict which individuals will commit violent crimes. Throughout history, there has been no paucity of crystal ball gazers claiming an ability to glimpse the future. They have ranged from Cesare Lombroso, a 19th century Italian who spotted future criminals by the bumps on their head to Dr. Arnold Hutschnecker, a friend of President Nixon's, who recently proposed that all six-year-olds be subjected to psychological testing as a means of spotting delinquent tendencies.

But systematic experimentation designed to determine whether predictions of violence are accurate has never been carried out—and for understandable reasons. When an expert predicts that a given individual will engage in violence if allowed to remain free, the natural community response is to confine him and take no chances. But if he is confined, it will be impossible to determine whether the prediction was correct: whether he would, in fact, have engaged in the predicted conduct had he remained at liberty.

UNWILLING TO EXPERIMENT

This understandable unwillingness to experiment with violence has characterized virtually every technique of preventive confinement. For example, few psychiatrists are willing to say: "I predict that this man will be homicidal, but I am going to release him in order to test the correctness of my prediction." Psychiatrists rarely learn, therefore, about their erroneous prediction of violence. But they frequently do learn about their erroneous predictions of nonviolence—from newspaper headlines announcing the released inmate.

This same phenomenon—the higher visibility of erroneous predictions of non-violence—is likely to plague judicial efforts to predict violence among defendants awaiting trial. And it will probably incline judges—as it has psychiatrists—to err on the side of confining rather than releasing. ("When in doubt, don't let 'em out.")

EVIDENCE OF INACCURACY

There is growing evidence (based upon follow-up studies of escaped and judicially released inmates) that psychiatric and judicial predictions of violence are extremely inaccurate—that the vast majority of persons confined on the basis of these predictions would not, in fact, engage in violence if released. This evidence is not conclusive; nor could it be until society is prepared to incur the risks of releasing at least some detainees under controlled conditions. The Justice Department was recently asked to cooperate in an experiment under which a small number (say 10 per cent) of defendants judicially predicted to engage in nonviolent crimes would be released at random; they would then be followed up in order to determine the accuracy of the predictions. The Department turned down the proposal, saying that it did not want to experiment with the safety of its citizens. But the confinement of people on the basis of untested predictions is also an experiment—an experiment with liberty.

ORDER FOR RECOGNITION OF SENATOR GRAVEL ON A NON-GERMANE MATTER

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the expiration of the period for the operation of the rule of germaneness today and at such time thereafter as the floor is yielded, the Senator from Alaska (Mr. GRAVEL) be recognized for not to exceed 30 minutes to speak on a non-germane subject.

The PRESIDING OFFICER. 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 legislative clerk proceeded to call the roll.

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

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

The time has expired for the transaction of morning business.

THE MILITARY SELECTIVE SERVICE ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

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.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Massachusetts (Mr. KENNEDY), I ask unanimous consent that during the remainder of the debate on H.R. 6531, Mr. Mark Snyder may be allowed the privilege of the floor, except during rollcall votes.

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

Mr. GRAVEL. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the Mathias amendment in the nature of a substitute for the Mansfield amendment to H.R. 6531.

Mr. GRAVEL. The Dominick amendment was not called up yesterday?

The PRESIDING OFFICER. It was not called up.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President I suggest the absence of a quorum. It will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 59 Leg.]

Aiken	Curtis	Pearson
Allen	Eagleton	Prouty
Anderson	Ervin	Schweiker
Baker	Fulbright	Scott
Bentsen	Goldwater	Smith
Boggs	Gravel	Sparkman
Burdick	Gurney	Stennis
Byrd, Va.	Mansfield	Stevens
Byrd, W. Va.	McClellan	Stevenson
Church	McIntyre	Taft
Cooper	Metcalf	Talmadge
Cotton	Montoya	Young
Cranston	Packwood	

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Connecticut (Mr. RIBICOFF), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL) is absent by leave of the Senate because of illness.

The Senator from South Dakota (Mr. MUNDT) is also absent because of illness.

The Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. JORDAN), and the Senator from Delaware (Mr. ROTH) are absent on official business.

The Senator from Illinois (Mr. PERCY) is necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

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

Allott	Hansen	Mondale
Bayh	Hart	Moss
Bellmon	Hartke	Muskie
Bible	Hatfield	Nelson
Brock	Hollings	Pastore
Brooke	Hruska	Pell
Buckley	Hughes	Proxmire
Case	Humphrey	Randolph
Chiles	Inouye	Saxbe
Cook	Jackson	Spong
Dole	Javits	Symington
Dominick	Jordan, N.C.	Thurmond
Eastland	Kennedy	Tower
Ellender	Long	Tunney
Fannin	Magnuson	Weicker
Fong	Mathias	Williams
Gambrell	McGee	
Griffin	Miller	

The PRESIDING OFFICER. A quorum is present.

MESSAGE FROM THE PRESIDENT

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

REPORT OF THE OFFICE OF ECONOMIC OPPORTUNITY FOR 1969 AND 1970—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–111)

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

To the Congress of the United States:

Pursuant to the Economic Opportunity Act of 1964, as amended, I have the honor to transmit herewith the Annual Report of the Office of Economic Opportunity for Fiscal Years 1969 and 1970.

RICHARD NIXON.

THE WHITE HOUSE, *May 12, 1971.*

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the 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.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Mathias substitute.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment at this time.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

QUORUM CALL

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

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

THE PENDING QUESTION

Mr. GRIFFIN. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Maryland (Mr. MATHIAS) to the amendment offered by the Senator from Montana (Mr. MANSFIELD) to H.R. 6531. On this question, the yeas and nays have been ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. The yeas and nays having been ordered on the Mathias amendment, it would not be possible now for the Senator from Maryland (Mr. MATHIAS) to modify his amendment without unanimous consent; is that correct?

The PRESIDING OFFICER. No, it would not be possible, except by unanimous consent.

Mr. GRIFFIN. I ask unanimous consent, Mr. President, that despite the fact that the yeas and nays have been ordered, the sponsor of the pending amendment, the Senator from Maryland, be permitted to modify his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I shall not object—it was at the behest of the majority leader that the yeas and nays were ordered on the pending amendment, and it was at his request that it be in order to order the yeas and nays on his own amendment.

Subsequent to that time, I have discussed the matter with him, and I have reason to believe that he would not object to the unanimous-consent request of the distinguished minority whip; therefore, I interpose no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from Michigan? The Chair hears none, and it is so ordered. The Senator from Maryland is accorded the privilege of modifying his amendment.

QUORUM CALLS

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

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

The question is on agreeing to the amendment——

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

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

The question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Maryland (Mr. MATHIAS).

Mr. THURMOND. Mr. President, I rise in support of the amendment of the distinguished Senator from Maryland (Mr. MATHIAS) to H.R. 6531, as amended. My remarks at this time, however, will be chiefly in opposition to the main amendment by the distinguished majority leader.

I oppose the amendment of the distinguished majority leader to H.R. 6531 which would deny funds after December 31, 1971, for the maintenance or support in Europe of any military personnel of the United States in excess of 150,000.

The Mansfield amendment, while well intended, would throw into disarray the strongest and most successful military alliance our Nation has had during this century.

With U.S. forces in Europe at around the 280,000 strength level, the effect of this amendment would be to cut our military personnel strengths in half. This meat-ax approach in dealing with U.S. military commitments is another example of a rapidly growing rush toward isolationism.

This is not to say, Mr. President, that I oppose troop reductions in Europe. The international monetary situation concerns me as much as anyone, and I favor strong steps to meet this crisis. One such step would be troop reductions in Europe, but such cutbacks should take an orderly and phased course.

The Nixon administration has been giving this matter high priority. Just last year, efforts to obtain larger NATO support from our allies there resulted in a 5-year $1 billion plan for force improvements by them. This was an important and significant first step on the part of our NATO partners toward a long-needed readjustment in United States-European relations.

The wording of the amendment by the distinguished majority leader implies that the present monetary crisis results from the lengthy time that U.S. military forces have been deployed in Europe. This is incorrect. The U.S. balance-of-payments deficit of $10 billion in 1970 resulted from the flow of U.S. capital to Europe in search of a higher return. It had nothing to do with our military commitment there; and, in fact, there was a payments surplus of $2.7 and $1.6 billion in 1969 and 1968, respectively.

In 1968 and 1969 the United States had approximately the same troop strength in Europe as was there in 1970.

Mr. President, in addressing myself to this amendment by the Senator from Montana, I would like to divide my remarks into three sections. First, I wish to address the importance of NATO and how this country has reduced its manpower there in the last decade. Second, I would like to comment on the balance-of-payments issue which appears to have precipitated this drastic amendment. Third, I would like to point out the numerous adverse effects of the drastic congressional action entailed in this amendment.

NATO COMMITMENT

First, our NATO commitment. As my colleagues know, the United States established NATO after World War II to counter the expansionistic policies of the Soviet Union. In the early 1950's our Nation had to provide all the major elements of the NATO structure—money, talent, equipment, and significant personnel.

Since that time, however, our 14 NATO allies have steadily built up their forces and the equipment of these forces. Vast amounts of this equipment has been bought from U.S. manufacturers.

Today, U.S. forces constitute only around 10 percent of the ground manpower in NATO Europe. From a total manpower commitment of 417,000 in 1961 the United States dropped to 366,000 in 1966 and to around 280,000 today.

Thus, it is clear the U.S. commitment is being reduced although not as fast as we might desire. However, it would be reckless and very damaging to NATO if our remaining forces in Europe were slashed in half by the end of this year.

The value of NATO to this country rests on the vital fact that our security is firmly tied to the security of Western Europe. If the resources of Western Europe fall into hostile hands, through either military conquest or political subversion, then the balance of world power would tip against us.

In view of the history of the two world wars, and of today's rising military power in the Soviet Union, it is very clear that a U.S. military presence is needed in Europe to preserve the balance of power between the East and West.

The NATO alliance would be seriously damaged by such a deep cut as proposed by the Mansfield amendment. Since the majority of U.S. troops are in West Germany the impact of our sudden withdrawals would be especially harsh on this valued ally.

Further, such large and sudden troop withdrawals would necessitate greater dependence on the U.S. nuclear weapons in Europe. Presently there is a balance between nuclear and conventional power. It would be unwise to throw our hopes mainly on the use of nuclear weapons.

NATO stands as the first line of allied defense against the numerically superior Warsaw Pact forces behind the Iron Curtain. It is better to have our first line of defense in Europe rather than on our own shores.

BALANCE OF PAYMENTS

Second, Mr. President, I wish to address myself to the balance-of-payments problem because the author of amendment No. 86, now pending before the Senate, appears to propose this drastic action because of the current monetary crisis.

Last year, the U.S. balance-of-payments deficit in Europe hit $10 billion. I would be the first to agree this is an extremely serious problem and undoubtedly predicated the attack on the dollar last week.

However, to propose to the Senate that our NATO commitment is causing these monetary upheavals is nonsense.

In 1966, 1968, and 1969 this country had a surplus in our balance-of-payments account. From 1961 to 1965 and in 1967 there were deficits varying from $1.3 billion to $3.4 billion.

The current problem is related to the tremendous outflow of U.S. investment capital that left this country in 1970 seeking a higher return in Europe. This resulted from the decline of interest rates in the United States at the same time these rates were rising in Europe.

Furthermore, other factors figure into this problem. U.S. industry, seeking cheaper labor sources, had poured billions into plants abroad. Also, Americans are buying Volkswagens and other European products in greater quantities.

It is true military expenditures have an impact on our balance-of-payments problem. However, U.S. tourists spend as much in Europe as the military does. No one has proposed we shut off the flow of tourists to Europe.

Also, the Senate should remember much of current U.S. military expenditures in Europe are offset or neutralized through cash receipts from arms purchases by our allies. Our friends in Europe also undertake bond purchases for the express purpose of relieving the U.S. balance of payments on the military account.

Mr. President, a drastic reduction in U.S. military expenditures in Europe would also undoubtedly result in a substantial drop in the purchases of U.S. military equipment and U.S. securities by our allies there. Thus, the net savings in our balance-of-payments account might be small.

Finally, it should be emphasized that West Germany, where the majority of U.S. forces are deployed, has worked closely with us in covering the balance-of-payments deficit by commercial military purchases and bond purchases.

DRASTIC RESULTS OF CUT

Third, I would like to point out the numerous and adverse results which

would flow from approval of the Mansfield amendment. These would include:

First. Throws the balance of power in Europe to the advantage of the Warsaw Pact nations.

Second. Denies our allies in NATO sufficient time to fill the manpower gaps which would result from sudden U.S. withdrawals.

Third. Requires costly prepositioning of equipment and supplies for use in any redeployment of American forces in the event of a NATO military alert or crisis.

Fourth. Leaves remaining U.S. forces in positions which would quickly be overrun by any would-be aggressor.

Fifth. Places greater reliance on U.S. nuclear weapons, thereby increasing chances of escalation into nuclear exchange between major powers.

Sixth. Delivers greatest blow to NATO's strongest ally, Germany, where most of U.S. troops are stationed.

Seventh. Would undermine the confidence of all our NATO allies in this Nation's mutual defense assurances.

Eighth. Troop cuts of this size would be seen as a move toward isolationism as the remaining commitment would be viewed as only a token force.

Ninth. Returning such sizable forces to the United States in such a short time would entail one-time costs of billions not currently in the budget.

Tenth. There would be small, if any, savings between having these forces stationed in the United States against allowing them to remain in Europe.

Mr. President, approval of amendment No. 86 would be an action destructive of our own security. It would throw the military balance of power in Europe clearly to the side of the Soviets. The political stability of our NATO allies will be threatened.

If the Senate wishes to take upon itself the determination of how many forces we should have in Europe, we should at least have hearings on the subject. The President and the Defense Department should be heard. The facts should be considered in the calm of the committee room, not in the heat of the Senate arena.

One might ask of the proponents of this amendment, why place the ceiling at 150,000? Why not 100,000 or 200,000? What is magic about 150,000? Many questions will hang in the air if we start the tried and true legislative processes in matters of such importance as this one.

Also, let me say again I would be favorably inclined toward some troop reductions in our NATO forces. But first I would like to know exactly how much risk we take in proportion to the reductions. I would probably favor a higher ceiling than that proposed by the authors of the Mansfield amendment, but without testimony and the probing of committee work it is impossible to find the magic figure.

Finally, Mr. President, I understand and share the desire for an alleviation of the long continued strain on our finances, manpower, and other resources, but let us not go overboard and act in haste. Adoption of this amendment is not the way to go about it. In my judgment it will do more harm than good to both our immediate and long term national security interests. I hope the Mansfield amendment will be defeated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMINICK. Mr. President, yesterday I submitted amendment No. 88, in the nature of a substitute for the Mansfield amendment, which I understand is the pending business, except for the fact that the Mathias amendment has been offered as a substitute for that amendment. Am I correct procedurally?

The PRESIDING OFFICER. The pending question is on agreeing to the Mathias amendment in the nature of a substitute for the Mansfield amendment.

Mr. DOMINICK. I thank the Chair.

Mr. President, as I believe most Senators know, when the distinguished majority leader some years ago offered a sense-of-the-Senate resolution that a substantial reduction of forces should be made in the European theater—and after all, at that point some 22 or 23 years after World War II we were maintaining extensive forces in Europe—I was in the Chamber and I immediately cosponsored his resolution. I am not a bit sure we did it for the same reason.

To start with, I might say I am concerned over the Soviet threat along the borders of Western Europe. I am aware of the growth of their power structure, and the growth of the size of the conventional forces they have there. The distinguished Presiding Officer (Mr. HUGHES), who serves on the Committee on Armed Services, also has knowledge of that. I am concerned about it.

Nevertheless, it seems to me to be somewhat ironic, to say the very least, for us to have over 300,000 troops, and a total of over 525,000 American uniformed personnel and civilian dependents, in the European theater some 25 years after World War II, particularly at a time when we are hoping to reach agreement on the SALT talks and the nuclear weaponry which the Soviets have been developing so rapidly.

Therefore, I am in sympathy with his efforts to try to get a reduction in force. I have brought up that problem in our committee meetings of the Committee on Armed Services on a number of separate occasions.

Despite my feelings in this matter, however, I think the Mansfield amendment, as presently drawn, is the wrong way to go about it. What he is doing is putting a limit on appropriations to determine how many troops we can have there. Under our Constitution, as I understand it, the President, as Commander in Chief, has the major responsibility to determine where troops ought to be positioned for the defense, not only of our country, but also for the defense of our allies, with whom we have made commitments which have been endorsed on almost all occasions by the Committee on Foreign Relations, and of which the distinguished majority leader is a member.

For us to take the position that we in Congress can determine what the tactical maneuvers should be for the defense of this country seems to me to be a very bad mistake.

It was for that reason that yesterday I sent to the desk for printing amendment No. 88, which is now printed and on the desk of every Senator.

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

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

In lieu of the matter proposed by amendment numbered 86 (the Mansfield amendment), insert the following:

At the end of the bill add a new title as follows:

"TITLE IV—REDUCTION OF UNITED STATES MILITARY FORCES IN EUROPE

"SEC. 401. The Congress hereby finds that the amount of funds expended by the United States to support and maintain military forces of the United States and their dependents in Europe materially contributes to the unfavorable balance of payments problem of the United States which, in turn, results in periodic international monetary crises involving the dollar. It is therefore the sense of the Congress that the President should take immediate action to withdraw from Europe a substantial portion of the military personnel of the United States and their dependents at the earliest practicable date, without in any way denigrating our commitment to the NATO alliance."

Mr. DOMINICK. Mr. President, what this amendment would do would be to find that the amount of money expended by the United States to support and maintain our forces and their dependents in Europe materially contributes to the unfavorable balance-of-payments problem of the United States which, in turn, results in periodic international monetary crises involving the dollar.

We are involved in such a crisis at this time. Part of the reason, I have ascertained from sources downtown, is the defense cost we are incurring overseas in a number of different areas, and particularly in Europe.

The proposed substitute goes on to state:

It is therefore the sense of the Congress that the President should take immediate action to withdraw from Europe a substantial portion of the military personnel of the United States and their dependents at the earliest practicable date, without in any way denigrating our commitment to the NATO alliance.

Mr. President, this is based on two theories. First of all, it seems to me apparent that we should withdraw a substantial portion of our personnel from that area, as we are now expending between 7- and 8-percent of our gross national product on defense around the world, in general. Perhaps our major expense is in Vietnam but we have cut that by over 50 percent since this President took office, and we have more people in uniform in the European Theater now than we do in any other area of the world.

Our allies, on the other hand, are spending, in the case of Germany, about 3 percent of their gross national product. If we look at the Asian theater, recognizing they have constitutional limits on what they can do with their internal forces, they are spending about one-half of 1 percent of their gross national product on defense.

Meanwhile, we have placed an umbrella over our allies with our nuclear power and conventional forces and we have put our own people in front lines where I think they do not belong.

The substitute I have sent to the desk, therefore, is not mandatory on the President. It simply recites the sense of Congress—which the President, as Commander in Chief, if he feels the defense of this country is in any way endangered by a reduction of forces is entitled to ignore—and does indicate a feeling of many of us that we have been going too long down this same road in Europe and that we should be making reductions there just as we are in other areas of the world.

Furthermore, it does not specify any exact number of troops. It seems to me by giving an exact number of troops we are going to maintain in the European theater we do nothing except give away our intentions to a potential enemy without having any assurance that our allies are going to take up the slack.

The substitute amendment as I have proposed it would permit the administration to take such action as it deems necessary to try to get our allies to build up their own forces in the meanwhile in order to provide the necessary defense for their own borders against the very people they have asked us to defend against.

I think frankly that this is a far more reasonable method of going about the objective that we have before us than is the Mansfield amendment.

Now, I shall comment on the Mathias amendment.

Mr. COTTON. Mr. President, will the Senator yield at that point?

Mr. DOMINICK. I am happy to yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, first I wish to commend the distinguished Senator from Colorado for his statement, his position, and for the amendment that he has sent to the desk.

I find myself precisely in his position. I, too, joined the distinguished majority leader several years ago and again more recently in cosponsoring a sense of Senate resolution, or perhaps it was a sense of Congress measure, calling for a reduction of our forces in Europe.

I, too, feel we have too many troops there. We have assumed too heavy a burden and it is having a highly unjustified effect on the balance of payments that is so important to the fiscal situation of this country at this time.

I agree wholeheartedly with the Senator from Colorado that his amendment would be the proper approach, and I want to support that amendment. It is highly possible that if Congress, having control of the purse strings, in its wisdom saw fit to put a limitation of some kind in an appropriation bill that could be spent in a certain quarter, that would be constitutional and would be a proper exercise of the authority of the Congress. But I feel that a bill that directs the President to have so many men at any given point is a distinct invasion of the authority of the President as Commander in Chief of the forces, with the generally recognized authority to deal with the deployment of forces. In other words, a limitation of dollars might well be a proper exercise of the authority of the Congress, but a limitation of men I believe to be a clear invasion of the constitutional powers of the President. Therefore, I am anxious to be able to vote for the Senator's amendment.

I want to register, by my vote, my protest at the number of forces we have in Europe, and the size of the burden that we are assuming. At this point I am afraid I could not support the measure presented by the majority leader in its present form with its distinct limitation of numbers.

I thank the Senator.

Mr. DOMINICK. I certainly appreciate the support of my very good friend from New Hampshire, who has had long experience in this field. I think his comments add greatly to the situation that we are facing here. Suppose, for example, a threat should emerge in the Mediterranean area to a greater degree than it now is, with Soviet forces pushing down farther and farther into that very vital Middle East area. I wonder whether we would then be asked to say "No," that the President is not entitled to do anything about defending our interests in that area, because we are not going to appropriate any funds for that purpose. I think perhaps we would do it. On the other hand, if it is going to violate our commitment to our allies by taking such action, or if it would endanger the security of the United States or its territories, I think we would be outside the bounds of our constitutional rights that we have within this great body.

I wanted to make one or two other comments which I think are of some significance. Because of other committee business, I must of necessity be away all day tomorrow and all day on Friday and then all day on Monday, so I shall not be here until Tuesday. These are commitments that have already been made. I think this is unfortunate in case we had any votes prior to that time, as I would like to be able to support either my own amendment or the Mathias amendment if that should pass.

The Mathias amendment has a number of good features in it, because it refers specifically to the negotiations undertaken by the members of the North Atlantic Treaty Organization, trying to relax tensions in Europe and improving East-West relations. I think that is well said, and I think it is something that ought to be continued and encouraged.

The Presiding Officer may remember that on a number of occasions we have advocated a mutual withdrawal of troops, a mutual withdrawal whereby the Soviets would withdraw troops in the eastern section of Europe and we would in turn reduce NATO forces. On almost every occasion, with few significant changes, which they have done in order to bolster their forces along the Chinese border, the Soviets have totally ignored suggestions of this nature. So we might as well go ahead and try, anyhow. That is why I think the language the Senator has provided there is good.

Then he goes on to say that "In support of such negotiations, the Congress endorses the declared intention of the President to maintain the necessary level of U.S. Armed Forces in Europe," without saying what that level will be. Again, I think that is proper. The level might be 50,000 or it might be 100,000, depending on what the threat might be from time to time.

If the Congress reaffirms its support of the President's program to consult on a regular basis with American European allies, that is also good, because that is part of the whole problem of the question of how much of the burden of this defense is going to be taken by our NATO allies within that particular area of the world. I feel this is good.

I think the last portion of the amendment creates some problems. I noted that earlier today the distinguished majority leader obtained the yeas and nays on the Mathias amendment. I do not believe the author of that amendment was present when that happened. Under our procedure, as I understand it, in order to modify an amendment after the yeas and nays have been ordered on it, unanimous consent must be obtained. I pointed this out to the majority leader and said that I thought the distinguished Senator from Maryland might make some changes in that last phrase in order to have it read that no increase in the level of the U.S. forces in Europe shall be made without prior notice to Congress. That would be different from the way it is now worded.

The majority leader indicated to me, when I talked to him about it, that he would not object to a request for such modification. It would be my hope that no other Senator would object, either, because I think it gives us what we wanted; namely, the opportunity of reducing forces, but if we are going to increase them, at least Congress should be informed.

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

Mr. DOMINICK. I yield.

Mr. BYRD of West Virginia. The distinguished minority whip already has asked unanimous consent that it be in order for the Senator from Maryland to modify his amendment notwithstanding the fact that the yeas and nays had been ordered thereon, and that unanimous-consent request was not objected to.

Mr. DOMINICK. I thank the distinguished majority whip. It is going to be a great help along that line. I really appreciate it.

I made a speech on this very subject before the International Rotary Association in Denver, Colo. where a great number of our Commonwealth friends were present. I did that in 1965, if I recall correctly. A number of people from England, Australia, New Zealand, islands which were not then totally independent, and a number of people from other NATO countries were there, even though

it was a Commonwealth type of organizational meeting.

I am happy to tell my colleagues that, to use the vernacular, I turned the blast a little bit on our friends in Great Britain for their failure to meet their commitment under the NATO Alliance. They did not like it very much, but I am also very happy to report that the ones from our own country who were there thought it was time somebody said this and thought it had gone over quite well.

Since that time I have been in England once as a member of the Ditchley congressional delegation in the year that Mr. Churchill died, and second, a Ditchley congregation when I chaired the meeting at which we talked about some of these problems, at least informally, if not formally.

They were willing to admit at that time that they could not see, under their own economic situation, how they could possibly meet the force levels and the defense expenditures which were required under the NATO Alliance, and further negotiations were carried on to see what should be done about that.

Secondly, I received the rather disquieting news, in a current English publication which I read just today, that there are problems in the German armed services in connection with their fiber, their morale, their whole concept of whether or not they are performing their function properly in trying to assess and offset the threats which they see on their borders. This is indeed disquieting, because if the army officers themselves—and this is what the report was about; the army officers had protested publicly to their own defense minister—then it means that we have some problems there insofar as recognition of the threat is concerned.

Why is this so? Largely, I would suggest, it is because almost everyone has felt that, either by trade negotiations or by talks with the Soviets, we would be able to get them to reduce the size of their forces and the threat which any power level of that kind must necessarily have against any country.

What has happened? I was quite surprised the other day to read in the newspaper that our former roving Ambassador, Mr. Harriman, has suggested that the United States should try out a unilateral type of stoppage of arms defense within this country. I say it was a surprise because that is exactly what we did during the entire decade of the 1960's. It was based, as I understand it, at least—and as I was told over and over again in committee by the then Secretary of Defense, Mr. McNamara—on the premise that as soon as the Soviets had achieved parity with the United States in the nuclear situation, we would then have an offset, and they would then stop.

The fact of the matter is, as every bit of evidence has indicated, that they not only have not stopped, they are increasing their efforts. They are increasing the size of their forces. They are at least increasing their adventurism in a whole variety of areas; and by 1974 at the latest, and perhaps even now, the United States may find itself subject to an enormous number of pressures from a very great nation, with technical superiority in almost every area of weaponry there is.

Let me state some of the problems we face. Let us hope, and let us as a premise suggest, that there will be no nuclear war, but that there may be a confrontation with conventional forces, which would require us to do something about our commitments to our allies in a variety of areas throughout the world.

Surrounded as we are by two great oceans, there are only two ways that we can provide that support and do it rapidly. We can do it either by an extended and heavy airlift capability, such as would be supplied not only by the C–5A but also by our reserve air transport fleet, or we can do it by ship, and our shipping, as Senators know, has gone down and down and down.

As an example of what I am talking about, prior to World War II, Germany entered the war with—I am not sure of this figure, and would want to correct it for the RECORD later if it is incorrect—either 67 or 97 U-boats. Those boats almost cut off our ability to supply with the necessary petroleum reserves and equipment our allies who were on our side in that tremendous war.

We all remember the Murmansk run, and the dangers that were created there. We all remember the Liberty ships that were built with such great rapidity in order to provide the necessary transport capability. And we also all must remember that oil and gasoline were two of the most important items of supplies that had to be made available for our reinvasion of Europe, in order to overcome the German takeover.

Those 67 or 97 U-boats almost totally cut off our supply. At the present time, the Soviet Union has a fleet six times bigger than that, all of which have been built since World War II; and if you look at the sizes of the tankers which constitute the present-day mode of transportation of petroleum, you will find that each tanker that might be sent now would carry the equivalent of what 26 tankers were carrying in World War II. So you have got to multiply that 26 tanker figure by six in order to determine the damage that could be done if that Soviet underwater fleet were actually in operation in conventional warfare, trying to cut off our ability to supply our allies.

In other words, the threat is there, and every narrow waterway in the world at the present time is now either flanked by Soviet forces or has Soviet ships, both surface and underwater, patrolling the area. This is true whether we are talking about Gibraltar, whether we are talking about the Suez, whether we are talking about the Panama Canal, or whether we are talking about the Bering Straits; and at this point, the Soviets having injected their power into the Indian Ocean, it is also obvious that the Malacca Straits are in trouble.

I would say, therefore, that in order to be able to determine how to dispose of the overall forces which we will have in our own service, we must leave the tactical decisions to the Joint Chiefs of Staff, to the Department of Defense, and to the President as Commander in Chief, and that we should not undertake here in the Senate, as the Mansfield amendment attempts to do, to determine where those troops should be stationed and where those forces should be located.

We can and should, however, express our opinion on the fact that we believe we have had too many forces in Europe too long, and that is what both the Mathias amendment and my amendment would do.

Mr. President, I regret having taken as much time as I have on this matter, but I think it is worthwhile for colloquy to indicate, first of all, the problems that we face in the world today and those that we may face in 5 or 6 years, and at least to raise the very serious question as to whether Congress is qualified to be able to take over the tactical role of our military forces; and second, even assuming we are so qualified—which I do not think we are; I do not consider myself to be so qualified, and I do not think most Members are, at least not without very extensive briefing and training, which most of us do not have—I do not believe we have that power under the Constitution.

For those reasons, I would strongly urge that either the Mathias amendment or my amendment be adopted as a substitute for the Mansfield proposal as it has been submitted.

I have not asked and will not ask for the yeas and nays, because I may want to make some modifications in my own amendment in the event the Mathias amendment is not successful, and I hope nobody else will, because I want to take a look at it and see if the wording is exactly the way I want it. The problem is that I wrote it in quite a hurry yesterday, in the process of also trying to do something about one of the subcommittees of the Committee on Labor and Public Welfare on which I serve.

So it is my hope that I will have a chance to modify this amendment in the event it comes up after the Mathias amendment. I do intend, with the modifications which I hope the Senator from Maryland will make, to support his amendment if I am here. But if it is called up prior to Tuesday, I will not be able to be here, unfortunately, because of committee business.

The PRESIDING OFFICER. The question is on agreeing to the pending amendment to the Mansfield amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STENNIS. Mr. President, at this time, I will have only short remarks to make, but I do wish to point out with reference to the amendment offered by the distinguished majority leader, that the amendment was not before our com-

mittee when we wrote up the bill on the renewal of the Selective Service Act. That is a matter primarily for our committee in connection with a bill that has always been handled by the Armed Services Committee and, of course, the bill was referred to it.

We are prepared to debate that bill and any phase of it, but the amendment offered by the Senator from Montana—and I speak with the greatest deference to him, and he is of course within his rights to offer it—is another field, the activity of another committee, the Committee on Foreign Relations.

There have been no recent hearings on this matter and no indication, until I saw the Senator's statement in the press 2 or 3 days ago that he might offer the amendment; thus, the NATO Alliance, being out of our field although related to manpower, being primarily a matter of international policy and primarily a matter of post-World War II policy, frankly, we are not ready with the facts.

Since the amendment was offered, and since the Senator told me he was going to offer it early yesterday morning, I believe, I have been trying to get the facts, as have others.

For instance, the distinguished Senator from Kentucky (Mr. COOPER), a member of the Committee on Foreign Relations, is diligently preparing a speech in opposition to the amendment. He hopes to get to the Chamber this afternoon and deliver some of those points. Also, the distinguished Senator from Washington (Mr. JACKSON) is doing the same thing and will get here just as soon as he can.

I say this with emphasis: The Senate is blamed for delay, for filibustering, and all those things that go with those implications, but there is no intention to delay here on this amendment—not any—not one bit. There is no foot dragging or anything like that.

Everyone realizes the far-reaching impact of the amendment and the way it will unravel, to a degree, without any prior notice, major parts of our post-World War policy—foreign policy, as I said on yesterday, which has been outstanding in its success.

But, Mr. President, I am not running from anything or dodging anything. We are getting ready as fast as we can.

I am totally opposed to the amendment in its present form and the method it would employ. I want to expose that part of the amendment the very best I can.

Mr. President, I ask the Senator from Montana, now, as I have some additional remarks to make with reference to figures, does the Senator want me to give them right now, or I will be glad to yield to the Senator from Montana for any remarks he may care to make.

Mr. MANSFIELD. Will the distinguished Senator from Mississippi allow me to proceed for a few minutes?

Mr. STENNIS. Yes, of course.

ADDITIONAL COSPONSOR OF SENATE JOINT RESOLUTION 95

Mr. MANSFIELD. I was interested in the remarks of the distinguished chairman of the Armed Services Committee. Incidentally, may I ask most respectfully to be listed as a cosponsor of Senate Joint Resolution 95, I believe it is, the joint resolution which the Senator introduced on yesterday.

Mr. STENNIS. I am very glad and delighted to do so. I am happy that the Senator would join in cosponsorship of the joint resolution. I appreciate very much his action.

Mr. MANSFIELD. Mr. President, I make that unanimous consent request, that I be listed as cosponsor of Senate Resolution No. 95.

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

Mr. MANSFIELD. Mr. President, it is true that the Mansfield amendment—if I may be so modest—was not considered by the Senate Armed Services Committee but I would point out that 3 years ago the Senate established a subcommittee composed of the members of the Foreign Relations and Armed Services Committees to go into the matter. A number of hearings were held. I happened to be the chairman of the combined subcommittee and the distinguished Senator from Mississippi (Mr. STENNIS) happened to be the vice chairman of that combined subcommittee.

We did issue a report as a result of the hearings but did not take any action at that time.

For the information of the Senate, I have been interested in this particular proposal as a matter of principle. I want to emphasize that, because politicians have principles, as well as those in other walks of life.

I have been interested in this matter for over a decade, long before this most recent happening. What has occurred over the past several days, relative to the decrease in value of the American dollar, is only incidental to the basic tenet as it affects my feelings and my approach to this matter.

So, to repeat, there were hearings in 1969 and in 1970, I believe. There was a report issued and the membership of that combined subcommittee was—I repeat—made up of Senators from the Senate Armed Services Committee and the Senate Foreign Relations Committee.

May I say that there will be other amendments offered to the pending bill—the McGovern-Hatfield amendment, for example—which, like it or not, have had consideration by the Armed Services Committee.

It also happens that a few days ago I dispatched a letter to the Secretary of Defense, Melvin Laird, reminding him of my letter of last August 5, in which I raised certain pertinent questions. I have not received an answer to that letter, as yet, but I find no fault in this, because I understand the situation completely. I ask unanimous consent that I be permitted to have some letters containing those questions printed in the RECORD at this point.

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

APRIL 29, 1971.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MEL: On August 6, 1970, I addressed a letter to you in which I raised a number of questions. I am enclosing a copy of the covering personal letter dated August sixth as well as the letter dated August fifth which contained the questions I had in mind.

I would appreciate it now if you would furnish me with answers to these questions at your earliest convenience.

Must close now, but with best personal wishes, I am.

AUGUST 6, 1970.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MEL: I have recently had occasion to talk to a number of retired Army officers who have served with our forces in Europe. In the course of these discussions, they raise many questions about the need for maintaining large ground forces in Europe in the light of current NATO defense plans, the necessity of maintaining the present number of military commands and headquarters, and the disadvantages arising from the fact that large numbers of dependents accompany our forces in Europe. I had asked them to summarize their criticisms in a series of questions which I then included in a letter to you which I intended to send you.

On reflection, it seems to me that by sending the letter to the Department of Defense I would be causing a lot of unnecessary work. I, therefore, decided, instead, simply to send you the letter, unsigned, for your information. It indicates the kinds of questions that do concern me and other Members of the Senate. I thought that is might be helpful for you to see it.

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., May 3, 1971.

HON. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: Since Secretary Laird is still convalescing from his recent operation, I am acknowledging receipt of your letter of April 29 enclosing correspondence concerning the presence of military forces in Europe.

Your letter is receiving attention and you will be advised further as soon as possible.

Sincerely,

J. F. LAWRENCE,
Brigadier General, USMC, Deputy Assistant to the Secretary for Legislative Affairs.

AUGUST 5, 1970.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR SECRETARY LAIRD: I rcently noticed an Associated Press report stating that all facilities at the U.S. Army supply port of Leghorn, Italy will be returned to the Italian authorities this summer. This seems to me to be a welcome and appropriate first step in reducing our large and costly military presence in Western Europe.

This first step should now be followed by others that are equally appropriate. As you know, I continue to be concerned by the size and purpose of our large troop commitment to NATO. I am particularly doubtful of the value to our security of the numerous noncombatant administrative headquarters, support and housekeeping units that are maintained in Europe. Considering the number of our forces there that are not functioning in a combat or even combat support role I cannot help but wonder if current force levels are for defense of our national security, or if they are not more directed to maintaining themselves comfortably in Europe. Also, I am increasingly doubtful of the ability of our large conventional forces to offer any effective non-nuclear flexible response to Soviet conventional attack. If our conventional forces must in fact depend on early use of even low-yield nuclear weapons to carry out their mission and survive, I fail to see how this provides for any form of

flexibility in the manner of our response to aggression. Such early use of even tactical nuclear weapons would clearly open a nuclear war which could quickly escalate. Under these conditions our conventional forces would have performed no other function than to serve as a very large "tripwire" which would deny us any option other than resorting to nuclear war to protect U.S. troops.

To assist me in better evaluating the purpose and disposition of our forces in Europe, I would appreciate your answers to the following questions:

Do our European defense plans contemplate the early first use of tactical nuclear weapons by our forces?

Do U.S. Seventh Army conventional war plans envision the need for early first use of low-yield nuclear weapons as important to the successful accomplishment of their defensive mission?

If so, how many weapons do they contemplate using and how soon after they begin combat operations?

Is the use of tactical, low-yield nuclear weapons and CBW agents simulated in Seventh Army defense exercises?

How long is it estimated the Seventh Army can conduct a conventional non-nuclear defense east of the Rhine River?

Why is it necessary to maintain the U.S. European Command Element in Stuttgart, Germany, the U.S. Army Europe/Seventh Army in Heidelberg, Germany, the VII U.S. Army Corps in a suburb of Stuttgart and the V U.S. Army Corps in Frankfurt, Germany to command the equivalent of five reduced-strength Army divisions that are the heart of our force in Western Europe?

Is it not possible to eliminate some of these headquarters? I am told that Army doctrine indicates that a corps headquarters normally commands two or more divisions, why is it not possible to apply this doctrine in Europe and at least eliminate one of the corps headquarters?

Why must the U.S. element of the unified European Command continue to be located in Stuttgart? Why couldn't this element be stationed in the U.S., to be returned by air when needed to join the element stationed in Belgium?

How many Army troops stationed in the Federal Republic of Germany are combat troops in the sense of placing what I believe the military term is killing fire on the enemy?

How many are employed in combat support duties? How many are engaged in noncombatant administrative, support or housekeeping duties?

How many soldiers in the Army Infantry Division actually assigned the primary responsibility to fire at the enemy in combat? How many are employed in combat support and are not assigned primary responsibility normally to fire at the enemy? How many perform administrative and support duties which are chiefly noncombatant?

How many Army, Navy, and Air Force general/flag officers are on duty in Europe? How many of these are commanding combat elements? How many are serving in staff assignments? How many are serving in duties as commanders of noncombatant administrative or support elements? How many are serving in special assignments without command functions?

How many Colonels and Lt. Colonels are on duty with Army and Air Force forces in Europe? How many command with combat elements? How many serve on staff assignments? How many are assigned to administrative, advisory, support or noncombat housekeeping duties?

How many non-commissioned officers in grades E–5 through E–9 are assigned to Army forces in Europe? How many serve in combat command assignments? How many serve in combat support duties? How many serve in administrative or noncombat type support and housekeeping assignments?

Are U.S. divisions stationed in the most desirable locations to accomplish their combat missions or must they be moved before opening battle under existing plans?

What experience did the Seventh Army have in regard to difficulties in rapidly moving divisions from their 1950-garrison positions to possible battle positions during the Berlin Crisis of 1961–62?

What are the plans with respect to U.S. military dependents in the event of sudden war in Europe?

What is the justification for continuing to retain the Southern European Task Force in position in northern Italy?

What prevents U.S. Navy Europe headquarters from being withdrawn from central London and their responsibilities and activities assigned to a U.S. headquarters like the Atlantic Fleet commander, or an afloat command ship that would serve periodic tours in European waters?

How much time do European Command war plans envision will elapse from the issuance of the order for a reinforced alert and the actual opening of hostilities?

Where are nuclear weapons assigned to the U.S. Army Special Weapons Command stored? Are they stored in hardened sites? How many military and civilian personnel are assigned to this command?

How many foreign nationals are currently employed by U.S. forces stationed in Europe? What are the cost levels for retaining this work force?

Do our current military plans envision that the Air Force will initially have tactical air superiority over the battlefront in the event of war in Western Europe? If not, when do these plans envision that we will have tactical air superiority?

What is the justification for retaining the Sixteenth Air Force headquarters in Spain? How many military and civilian personnel are stationed on the U.S. portion of the base at Torrejon? How many combat operational aircraft does this command supervise or maintain on a monthly basis?

What is the need for the proliferation of U.S. Air Force headquarters and support commands that exist for example in the Wiesbaden, Prum, Spangdahlem, Rhine/Main, Bitburg complex, as well as the additional headquarters in Holland, England, Spain and Turkey? Is it not possible to consolidate or withdraw some of these administrative and support elements for later return by air when needed for wartime emergency?

What percentage of the time of these headquarters is devoted to supervision of combat operational aircraft and their crews?

What percentage is devoted to administration, support and internal housekeeping duties?

How many combat operational aircraft does U.S. Air Force Europe headquarters have under its command? How many base support aircraft? How many transport aircraft?

What percentage of our regular Army and Air Force commissioned and non-commissioned officer corps is normally stationed in Western Europe for periods of more than six months?

What is the justification for continuing to maintain the numerous military assistance advisory groups that we have stationed in Europe and the Middle East? Specifically why are these groups still required in the Federal Republic of Germany, Spain, Portugal, Italy, Greece, Turkey and Iran? How long have these groups been stationed in each of these countries? When is it anticipated their advisory duties will end?

How much of the time of these advisors is spent actively advising local military personnel?

On what type of equipment do they principally advise? Do they advise on any World War II vintage equipment?

How much of their time is devoted to internal administration and housekeeping duties?

How many U.S. military and civilian personnel are currently serving on advisory assignments in Europe, the Middle East Africa, and South America? How many of these personnel are rated at least "good" in their fluency in the local language?

Do any of our European Command war or contingency plans contemplate the first use of CBW agents in a defensive or offensive role in Western Europe?

What is the primary mission of the Army area and sub-area commands located throughout the Federal Republic of Germany where U.S. forces are stationed? How many military and U.S. civilian personnel are assigned to duty with these commands? What combat mission do these commands perform? How many German nationals do they employ? What are the cost levels for these German employees?

How many U.S. military and civilian personnel are assigned to duty with the European Exchange Service? How many local nationals are employed by this service? What are the cost levels for these local national employees?

How many U.S. military and civilian personnel are assigned to duty with the dependent school system? How many with Special Services facilities and activities? What are the cost levels for these personnel?

How many U.S. military and civilian personnel are currently serving on duty with NATO commands? What are their principal duties, i.e., how many serve as commanders, how many in multinational staff assignments, how many in administrative or logistical support duties? What are the cost levels for these personnel?

Your answer to these questions will be most beneficial in enabling me to further study our continuing force structure in Europe. I want these answers in an unclassified form to the extent possible. If further elaboration of any answer must be given with a classification, it should be done in a separate document. Reasons for classification should be indicated when any answer cannot be given in an unclassified way.

With warm personal best wishes, I am,

Sincerely yours,

MIKE MANSFIELD.

Mr. MANSFIELD. Mr. President, may I say that I find no fault with the fact that, as of yet, I have received no answer. I know how busy they are in the Department of Defense. And I have an idea how much time it will take in research and how much it will cost, I happen to believe, incidentally, that it will be worth it in future savings to the Government to come up with the answers. I only say, for the RECORD, that I did send the same questions to the Secretary of Defense a year or so ago. But at that time I requested no specific answers.

The purpose of sending the letter at that time and on that basis was to give the Department of Defense enough time to look into the questions, to carry on research and investigation and be aware of what was in the offing as far as U.S. troops in Europe were concerned.

May I say again—and I cannot repeat this too often—that this is not a Johnny-come-lately proposition as far as the Senator from Montana is concerned. I have been interested in this situation and in trying to do something about it for the last decade. I have tried through a sense of the Senate resolution, which would not be binding, to strengthen the hands of Presidents, both Democrats and Republican, so that they would be able to bring about a greater participa-

tion of others under the promises made by our NATO allies.

That sense of the Senate resolution would in effect have strengthened the hand of the President and, as far as "substantial reduction" of U.S. forces in Europe would be concerned, he would be the one who would make the definition of just how much a substantial reduction would entail.

There was no success under the preceding Democratic administration. There has been no success under the present administration. However, in the first year and a half of this administration's tenure in office and on the basis of statements made, it appeared to me that there would be a deadline of June 30, 1970, at which time a determination might be made by this administration which would bring about a substantial reduction of U.S. forces in Europe. Since that time in the state of the Union message and in various other Presidential speeches, it has been indicated that we will not only maintain our present strength, which amounts to 325,000 soldiers, sailors, airmen, and marines, but that if necessary, we would increase it.

The quid pro quo was, "We will reduce if you will reduce," meaning the satellite states and the Soviet Union.

That, in effect, in a limited way is part of a quid pro quo in Vietnam and in Southeast Asia today.

Mr. President, may I say that, according to a report as of a year ago last January, there are over 2,000 American bases scattered throughout the world, bases in every continent, 25 years after the end of Second World War.

Since that time, to my personal knowledge, we have put into, or are putting into, operation at least one new base and maybe more. On the basis of that report, 1,750,000 military personnel, military dependents, and indigenous workers are located on these 2,000-odd bases; some of them, incidentally, are being used or have been used until recently, I believe, as golf courses in Japan. They are scattered in 30 countries, if my memory serves me correctly. The figure could be 40. The cost, as I remember it, is about $4.5 billion a year. It appears to me that we look upon ourselves still as the world's policeman and that, in my opinion, goes contrary to the Nixon doctrine as it was enunciated in the declaration on Guam.

We are not the world's policemen. It is my belief that no Member of this body wishes to see us as the world's policemen. And it is my strong belief that the American people do not want us to presume to be so, either. Yes, I can hear the cry already, "isolationism" and "isolationist."

May I say to my colleagues that the days of isolationism are gone and gone forever, because the world is too small and is still shrinking. Means of communication and transportation are speeding up day by day, week by week, month by month, and year by year.

We are going to live with our neighbors on this globe whether we like it or not because we have no other choice. And even if one wanted to become an isolationist—and I do not—one could not do so.

So, I hope that the cry of isolationist, which has already been raised, neoisolationist, and the like, will be put in the trash bin where it belongs because that is not a part of the present debate.

That appellation has no meaning whatsoever. But this situation which confronts this country not only in Western Europe, but also in Vietnam and Southeast Asia and elsewhere, does. I would hope that we would keep our eyes on the basic question and not be diverted by slogans or by appellations.

I would hope that we would not remain ensnared by policies which were good a decade or two decades ago, but have little of the same relevance today.

While I cast no aspersions on any Member of this body—I never have and never will—I only wish to say that, speaking as a Senator from the State of Montana, as far as I am concerned there may exist a chronological gap with the upcoming generation; however, so far as I can help it there will be no credibility gap.

I am not living in the past. I want to do what has to be done today. I want to look forward to tomorrow. And I want to carry out my responsibilities in that fashion as a Senator from the State of Montana.

There are at the present time, as I have indicated, over 300,000 military personnel in Western Europe and 225,000 military dependents.

I want to repeat a statement I made earlier today. According to my information, of this number 128 are generals or flag officers; or to break it down, one general or flag officer for every 2,343 men.

When I was in the Army about 3,000 men comprised a regiment and a regiment was commanded by a colonel. I do not know how many colonels there are in Western Europe, or how many Navy captains or their equivalent there may be, but evidently if we have this many generals and flag officers we must have more colonels.

About 250,000 of the 325,000 troops in Western Europe are assigned to the triservice U.S. European Command. The Department of Defense indicated that one-half of these assigned forces are combat personnel and the rest are support. Over 170,000 of the EUCOM total are U.S. Army troops.

The major U.S. EUCOM combat elements are 4⅓ Army divisions deployed in West Germany.

According to Army Tables of Organization and Equipment, the aggregate full strength of each of these divisions would be about 16,300 men, at a cost of approximately $185 million to maintain one Army division on overseas peacetime active duty for a year.

There are about 113,500 Army and Air Force personnel stationed in the continental United States committed to NATO; that is, in this country committed to NATO. In Europe about 2,000 American personnel are engaged in maintaining and servicing prestocked equipment to be used by these committed forces.

There are now approximately 7,000 U.S. nuclear warheads stored in Europe.

During fiscal year 1971 it cost approximately $14 billion for the support of U.S. general forces in Europe and the forces in the United States committed to NATO. This is a figure which has been mentioned time and time again on the floor of the Senate, specifically by the distinguished Senator from Illinois (Mr. PERCY), and as yet that figure has not been controverted.

Mr. STENNIS. Mr. President, will the Senator yield to me briefly?

Mr. MANSFIELD. Yes, indeed.

Mr. STENNIS. I am sorry, but I am compelled to leave the Chamber temporarily, if the Senator from Montana will excuse me.

Mr. MANSFIELD. Surely.

Mr. STENNIS. I will respond in part to the Senator's statement later.

Technically I had the floor. Mr. President, I yield the floor.

Mr. MANSFIELD. That is understandable. I appreciate the courtesy of the Senator from Mississippi.

Mr. President, the annual operating cost to maintain U.S. forces in Western Europe is approximately $2.9 billion.

United States defense expenditures entering the international balance of payments in NATO countries, including Canada, in fiscal year 1970, are estimated at approximately $2 billion, with about $1.1 billion being spent in the Federal Republic of Germany.

For every soldier removed from Germany, an approximate saving of $1,650 in individual dollar expenditures in the European economy can be realized.

The withdrawal and deactivation of two mechanized divisions now stationed in Europe would result in an annual savings of about $1 billion.

United States forces in Europe have over 79 real property locations in seven countries that represent a total U.S. investment in excess of $204.5 million. Payment of land taxes in Great Britain and Western Germany, land taxes which we pay, amount to $2.9 million annually. In other words, we are paying them to stay there to defend them.

Approximately one-half of the European Command transportation needs must be accomplished by European commercial sources at a cost of $29 million in 1969. Expenditures for employment of European local nationals by U.S. forces amounted to $265 million from appropriated funds in calendar year 1969.

Until March 1971, a little over a month ago, U.S. citizens were, in most cases, excluded from filling local hire vacancies. Since that time the curtain has been lifted and now certain U.S. dependents are allowed to do KP work—kitchen police—in the areas in which Americans are stationed.

Total operating costs of U.S. Army, Navy and Air Force European Commands in fiscal year 1970 were approximately $87.33 million. During the same year, U.S. operating costs of NATO headquarters were $10,623,033. These operating costs represent only a fraction of the total cost of each command. For example, the headquarters operating cost for U.S. Army, Europe, was only 2.30 percent of the total fund it was provided of $1.761 billion.

In addition to these operating costs, the 9th U.S. Army Command headquarters, for example, contained 26 generals, 1,286 other officers, and 1,908 enlisted men, all drawing higher salaries

while performing command or staff duties.

While the percentage of the U.S. gross national product going to defense has increased over the past 20 years, that of our NATO allies has declined.

Major NATO ground forces presently available in the center region of Europe consist of 22 division equivalents. This total includes the 4⅓ U.S. divisions, but does not include two French divisions not committed to NATO but present in West Germany.

The Lisbon Conference of 1950 called for a total NATO force of between 90 and 95 divisions.

Few, if any, of the 22 NATO divisions are at full combat strength in men or equipment. For example, there are shortages of trained NCO's and junior officers in some of the West German divisions. If my memory serves me correctly, and a number of changes have been made recently, none of these divisions are anywhere near full strength.

Now, Mr. President, for at least 6 years I have been introducing sense-of-the-Senate resolutions, trying to be helpful to the administration in power, whether it be Democratic or Republican, trying to give the President, whoever he may have happened to be at the time, a degree of flexibility, trying to give the President the right to determine how he should define the words "substantial reduction" of U.S. forces in Europe.

But every time this resolution was introduced, the reply was that it was not the right time. There was a crisis coming up, they said. There was an election in West Germany, or Italy, or France, or Britain, and this would tend to hamper those elections, they said.

Well, I have never heard so many arguments against doing something which I think is long overdue as I have in relation to the sense of the Senate resolutions which have been introduced year after year, and held back deliberately to give the administrations downtown a chance to act or to react. But it was always the same old story—"We can't touch these forces. It means breaking faith with NATO."

Well, Mr. President, it does not mean breaking faith with NATO. I believe in NATO. I believe that it is necessary to our security. But, by the same token, I believe that a primary responsibility for the defense of Western Europe rests with the Western Europeans themselves. They have a greater population than we have. They are better off financially and economically than we are.

We have an unemployment rate in this country, according to the latest figures, of 6.1 percent, but in Germany, I understand, they have little unemployment and they have in fact imported 2,700,000 workers from other countries to keep the wheels of German industry going.

Oh, yes, our NATO partners are going to help us over the next 5 years by coming up with something in excess of $900 million, spread over that period, roughly $200 million a year.

But, because of the expenditures of this country abroad, in part in Europe, what happens when we come up against a crunch, when our economy is suffering, when we have problems of great import at home? The dollar is no longer as sound and, like the Canadian dollar a few years ago, it is decreasing in value. The mark and the guilder and the shilling and the Swiss franc are revalued upward. Some, of course, are revalued on a strict percentage basis. Others, like the guilder and the mark, are moving up on a floating basis.

Well, they can float their money. They can give us a run on the dollar. They can make it difficult for us by increasing prices on Americans products exported to Europe. They can increase the cost, for an American tourist taking a long planned vacation in Europe. But they cannot do anything about living up to their pledges as far as NATO is concerned.

Only two countries, to my knowledge, have lived up to their obligations in full, or almost in full, and they are Canada and the United States. Canada now is in the process of withdrawing half of its air complement and half of its brigade.

France has already withdrawn from NATO, although it still maintains its two divisions in southern Germany.

Luxembourg, I think, furnishes an armed complement of 800 men.

I do not know what Portugal has to offer to NATO, because most of its armed forces, in the tens of thousands, are now present in Guinea, Mozambique, and Angola.

Britain has done away with conscription. The low countries and Denmark have reduced their conscription periods.

That is the picture. But the United States is still paying the full bill. The United States is still paying the price of beneficence, because without the Marshall plan it would have taken years and years and years for Western Europe to be rehabilitated and reconstructed.

It is my understanding that Germany today has far more in the way of dollars than we have in gold in Fort Knox; the American dollar is vulnerable, and the reports indicate that is the case. This weakness in the dollar is predicated in part, on the expenditures which this Government has made in Western Europe for the defense of Western Europe.

I would hope that the Senate, this Congress, and the American people would be cognizant of the facts as they exist today and have existed for some time. I would hope that the administration would recognize, as I had hoped the previous Democratic administration would have recognized, the mood and the intent of the Congress and the people, relative to keeping American troops and their dependents in Western Europe a quarter of a century after the end of World War II. I would have hoped something could have been done about it. But it is hard for them, evidently, to understand and lend a helping hand. Perhaps because it was offered by a Democrat, it was viewed with suspicion. But let me say it was no different in the previous Democratic administration.

So the time has come, in my opinion, to face up to the situation and try to do something about it in the Senate. It is not in my hands to decide. All I can do is propose the amendment, but the judgment lies with my colleagues here in this body as to what they think should be done.

I have made my position clear. I am afraid I am repeating too many of the arguments which I made yesterday and early today, but to me the issue is clear. If the Mathias amendment is approved, we are going to be in a worse posture than we are in now. If the Mansfield amendment is approved, the Senate will have a clear-cut choice, after all these years, to decide, in its collective judgment, that it wants reduced by half the number of U.S. troops in Western Europe at the present time.

I think that every Senator understands the issue. I see no need for hearings, because hearings have been held. The issue has been with us for years and years. It is a simple, celar-cut proposition: Do you want to continue, at a cost of $14 billion each year out of the defense budget, to maintain in Europe 325,000 military personnel and 200,000 military dependents, or a total of 525,000 Americans? Do you want to continue to keep that number of military personnel in Europe into the indefinite future?

If I correctly recall some of the past arguments on this floor, it seems to me that some of my colleagues in this body do want to keep an American force in Europe of that size. Let me state once again that we have neither the manpower nor the resources to stay on the course which we have pursued so assiduously since the end of the Second World War. It is about time that we awaken to the realities of today. It is long past the time when we should have loosened the shackles of the past.

So far as the Senator from Montana is concerned, he is prepared to vote at any time, in 10 minutes, in an hour, in 2 hours, or tomorrow, not only on the Mathias substitute, not only on the amendment which I understand the distinguished Senator from Colorado (Mr. DOMINICK) will offer, but on my own amendment and other amendments as well. And what I say in relation to the pending business applies not only to this substitute, and other amendments to the amendment or the substitute, but to all amendments which may be offered, because I want to see the legislation now before us disposed of one way or the other in an orderly fashion. I do not want it to go down to its termination date of June 30, 1971, because we have failed to act in that fashion. I do not believe in filibusters, but I do believe in expeditious handling. It is my hope, therefore, that it may be possible—though I doubt it—that we will come to a vote today on an amendment to the substitute, or the substitute, or the Mansfield amendment; and it is my hope that the Senate will act expeditiously on all amendments relative to the pending legislation, because I think that is the way to face up to our responsibilities I want to make it absolutely clear that I am prepared at any time to vote on any amendment, any substitute, or any amendment to a substitute or an amendment.

Mr. DOMINICK. Mr. President, I wish to take just a few moments at this point. I am sorry the majority leader was not here when I made a fairly long statement just prior to his, to which I have listened with great interest. As he well knows, I have supported his position on the need for withdrawal of troops from Europe for a long time.

Mr. MANSFIELD. The Senator is ab-

solutely correct. He has been a consistent supporter.

Mr. DOMINICK. I thank the Senator. I still support that position.

My problem is, however, that I do not think that we can, as a body here, determine the tactical position of what troops we have in defense of our commitments to our allies, and also in defense of our own country. I think that must be left in the hands of the people who are properly in charge of it, and I pointed out these problems in my previous speech.

I also wish to point out to the Senator from Montana, for whom I have great affection as well as respect, that the Armed Services Committee, in the process of marking up this bill, has reduced the overall force level of our Armed Forces by 56,000 personnel.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. DOMINICK. I yield.

Mr. MANSFIELD. May I say that I am aware of the ceiling placed on the Armed Forces of this country by the Armed Services Committee, and I approve of it. May I say further that I had originally contemplated an amendment which would have reduced that recommended ceiling by 150,000, but after considering the matter and being aware of the fine work done by the Armed Services Committee, I decided, and I think justifiably, not to interfere with the ceiling, but, there again, to permit more flexibility.

Mr. DOMINICK. I thank the Senator for those comments. We did have the promise from the Chairman of the Armed Services Committee that he would hold personnel hearings at some length later on when we get through with the procurement bill, so that we can determine what other elements or support forces, at least, might be disposed of, so that we can get to a volunteer army just as soon as possible.

I do not want to take any more time at this point, because I know there are others who wish to speak. But at this time, Mr. President, I send to the desk a modification of my original substitute with the request that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. DOMINICK's amendment (No. 88, as modified) is as follows:

In lieu of the matter proposed by amendment numbered 86 (the Mansfield amendment), insert the following:

At the end of the bill add a new title as follows:

"TITLE IV—REDUCTION OF UNITED STATES MILITARY FORCES IN EUROPE

"SEC. 401. The Congress hereby finds that the amount of funds expended by the United States to support and maintain military forces of the United States and their dependents in Europe materially contributes to our unfavorable balance of payments, and has from time to time contributed to international monetary crises adversely affecting the value of the dollar and other currencies. It is therefore the sense of Congress that the President should continue consultations with our allies in the North Atlantic Treaty Organization relative to the organization and force levels required for the defense of Western Europe and in conjunction therewith to take action to withdraw from Europe a substantial portion of the military personnel of the United States and their dependents without denigrating our ultimate commitment to the NATO alliance."

Mr. DOMINICK. I must say to the distinguished Senator from Montana that unfortunately I have to leave today on official committee business, and will not be back until Tuesday. So far as I am concerned, I would be unable to carry my own amendment, or even offer it, until that time. I am not trying to filibuster. I am the last person in the world who would want to do that on this bill. I would like to get it to a vote as soon as possible. But unfortunately, because of official business, there is no way I can avoid it.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I appreciate his statement. I can understand the predicament in which he finds himself. I did hope that it might be possible to agree to vote on the substitute and the amendment to the substitute, and all amendments thereto at a time certain, and if that could be done, then it might be possible to take up other amendments in the meantime, serving ample notice on the Senate as to when the votes will take place.

Mr. DOMINICK. I would have no objection if we could have the vote next Tuesday or Wednesday, or whatever the Senator wants, but I just cannot do it in the next couple of days.

Mr. MANSFIELD. I appreciate the Senator's statement. I wish it could come today, tomorrow, or Friday at the latest, but the Senator from Montana will be guided in large degree by the wishes of the distinguished Senator from Maine (Mrs. SMITH), the ranking minority member of the committee, and the distinguished Senator from Mississippi (Mr. STENNIS), the chairman of the committee.

Mr. President, if I may be heard briefly further, the following news was reported over the wire:

Increasing demand for gold amid general monetary uncertainty drove the price of the metal to its highest level in 18 months today in European free bullion markets.

The price jump came as the Belgian National Bank announced it had cashed in $30 million for Ft. Knox gold. The bank said its internal policy barred taking in more dollars to add to its already swollen reserves of American money.

The Belgian move coming on the heels of last week's dollar crisis, could embarrass the U.S. Government. Any concerned move by other European National Banks to follow Belgium in cashing in dollars for gold could undermine the world monetary system.

The U.S. gold reserves stood at $10.9 billion at the end of March, $1 billion less than a year before. The United States has enough gold in stock to redeem less than one-third of the dollars held by foreign central banks.

I think that is interesting.

Mr. GURNEY. Mr. President, the distinguished majority leader has introduced an amendment which if enacted, would require the President forthwith to reduce by more than one-half—or 150,000 men—our current troop level in Europe. While I esteem our distinguished colleague from Montana (Mr. MANSFIELD) the majority leader, as all of us do, and I think I understand his sincere motivation, having listened to his most eloquent explanation of his amendment, it is my hope that his resolution will not carry. It is my intention to oppose it.

Last February, it was my privilege to be in Munich to attend a conference of military and political leaders from the NATO countries. The distinguished senior Senator from Texas (Mr. TOWER) was also in attendance. At that time, in private discussions with NATO country leaders—particularly with German leaders of both the Christian Democrat and the ruling Socialist parties—I stressed that, while I felt that American troop levels should remain at current levels, I also felt that a greater contribution to their maintenance should be made by the NATO countries, particularly by West Germany, where great numbers of American troops are now stationed. That continues to be my position.

I also stated that I thought it was the feeling of a majority of the Members of the Senate and in the House that the contribution of the NATO countries—at least the monetary contribution, as well as the troop level contribution—ought to be greater.

I, of course, recognize the validity of the assumption underlying the Mansfield resolution. We are experiencing a very serious balance of payments deficit. The deficit is large; it is continuing and it is threatening the stability of the dollar. We can agree on those facts. As the distinguished senior Senator from Mississippi (Mr. STENNIS) pointed out on the floor yesterday, there is some dispute as to the size of the balance of payments deficit caused by our NATO commitment; but whatever method we use in computing it, we can agree that it is large—too large.

The question is: How shall we address this problem? We can, I think, all agree on the long-run need to bring our international balance of payments to or at least close to equilibrium. This, as former Federal Reserve Board Chairman, William McChesney Martin said yesterday, is a "national and international responsibility of critical priority." There is no dispute about that. The question is: How and what means shall we use to achieve this necessary goal?

Mr. President, I do not think that a congressionally mandated troop withdrawal from Europe at this time is the route we should take.

This is a matter of great consequence. It is no small thing to cause a hasty withdrawal of 150,000 American troops from Europe. We have to consider the effect of such a move on our allies at this juncture in history. As a nation, we have an enormous responsibility in the world today. To a certain extent, we have not sought that responsibility; it has been thrust upon us. But it is ours, nonetheless. It is not a responsibility we can will away. Here, as in all our foreign policy concerns, we must proceed with caution and deliberation. Surface appraisals simply will not do. By hasty action, we can set off a chain of events which will have consequences for years to come. Let us not, in seeking the solution to one problem—the balance-of-payments deficit—precipitate a new or possibly greater crisis.

Congress most assuredly has an important role to play in seeking a solution to this problem. I think it entirely healthy and desirable that Congress is reasserting its historic role in the conduct of foreign relations—a role which we must candidly admit we have sometimes

neglected in the past—neglected, I might add, to the detriment of the Republic.

I think we took a healthy step forward last year during the Cambodian affair, when we discussed the Presidential powers, the constitutional powers of the President, as well as those of Congress, in warmaking and what we ought to do about it. I think it is healthy that we are discussing the balance-of-payments problem and the troop force leveling in Europe. That is a healthy thing, too, because we need, as Congress, to inject ourselves in foreign affairs.

But it seems to me that it is far more important to coordinate our actions in this vital area with the Chief Executive. It has been said in the recent past—with some justification—that the Chief Executive has plunged into situations and steered courses while disregarding Congress, without a proper concern for the will of Congress—and, on occasion, without even the courtesy of prior consultation. If that is so, let us not follow that mistaken lead. Let us not do what the Executive has been accused of doing—ignoring the coequal branch of Government, going off on excursions of our own. This, as I suggested before, is too important a matter to treat precipitately or in a hasty fashion.

Let us consider fully the consequences of our action. It has been suggested that enactment of the Mansfield resolution and immediate implementation thereof will cure our balance-of-payments difficulties. This is by no means certain. The distinguished chairman of the Armed Services Committee, the Senator from Mississippi, yesterday estimated that it would cost $1.2 billion extra for the transportation of those troops home and for the extra equipment and housing that would be necessary for the troops in the United States.

But, assuming, for the sake of argument, that if adopted the Mansfield resolution would relieve in part the balance-of-payments deficit, we still have to consider the effect that such a move at this time would have on our allies.

In my view, such a move would have very unfortunate consequences. We have been told that cold war is over and that this is an era of detente; we have been assured that the Russian bear is becoming domesticated, housebroken. Candidly, I do not find much satisfaction in those statements or arguments. I do not think the Czechs would find much consolation in those assurances—it was less than 3 years ago that their first brief flirtation with liberty was snuffed out by Russian tanks. I do not think the great mass of the Cuban people would agree—weighted down as they are with what amounts to a foreign military occupation.

I do not think the Israelis, looking down the barrels of Russian missiles on the Suez, would be much impressed by assurances of the peaceful intentions of the Soviet Union. The Soviets have in the last 3 years, it seems to me, embarked on a new offensive. They have set out systematically to woo the Arabs with guns and missiles and support against Israel—and regrettably, to a great extent, they have succeeded. They have set out to colonize the Mediterranean—to station substantial portions of their first-rate new fleet there. And they have done so with impunity. They now hope, with a reopening of the Suez Canal, to make the Indian Ocean into a Russian lake. Even with the Canal closed, the Russians' presence in the Indian Ocean is a reality. The Russians, operating out of their staging ground in Cuba, are, as we know, peddling their wares in Latin America, again with marked success.

While protesting their peaceful intentions, while making polite noises about disarmament at the SALT talks in Vienna and Helsinki, the Russians have been, as we know, perfecting their ICBM arsenal. What they apparently are working on is a new generation of missiles, updating the extremely powerful SS–9 class. In the last year, they have increased their submarine-launched ballistic missiles from 240 to 350.

It is abundantly clear that the Soviet Union is not ceasing its strategic deployment of ICBM's. The saber rattling of Kosygin at the recent party congress in Moscow makes that abundantly clear.

I suggest—and the comments about the Soviets is by way of preface—that NATO is a stumbling block to Soviet ambitions in Western Europe; more particularly, the presence of substantial numbers of American troops in Europe is the stumbling block. In my judgment, the new Soviet offensive is aimed at excluding the United States from Europe. That is, in my judgment, the real thrust behind the Soviet-West Germany draft nonaggression treaty. It is a calculated effort to destroy the alliance and to exclude the United States from Europe. We cannot and should not let that happen. It would be madness to help that scheme along by a congressionally mandated American troop withdrawal at this time. Our allies are already restive, publicly confessing that they are not sure of American intentions. If we now, at this critical juncture, decree a massive troop withdrawal, we will be making a tense situation that much worse. Even a minor withdrawal of our troops from Berlin at this time could be disastrous. The psychological consequences could be immense.

Mr. President, let us have full-fledged debate on this matter before acting. Let us hear from the Chief Executive, from the National Security Council, and from the Secretaries of State and Defense. Congress must play a role in the ultimate decision—we must be directly involved, there is no dispute about that. But the Mansfield resolution is, in my judgment, not the correct approach. It is, as the distinguished Senator from Mississippi (Mr. STENNIS) characterized it in yesterday's debate, a "hobbling amendment." It goes to essence of our foreign policy, our commitment to our allies. In matters of this consequence, we owe it to the Nation to act carefully and circumspectly. Haste now will come back to haunt us. Let us deliberate and consider every aspect of this very thorny question. It is not an "either-or" situation—either we pull back our troops or we destroy the dollar by continued balance-of-payments deficits. We can work on the balance of payments and improve it, and at the same time live up to our NATO responsibilities. Indeed we have to do both. As a start, I think it would be correct and desirable for the President immediately to open discussions with our allies with a view toward increasing the contributions of our NATO allies toward the support of our forces in Europe.

I agree with the distinguished majority leader that for too long the United States has borne too much of the financial burden of supporting NATO. It is time for our allies to assume a greater—and a fairer—share of the burden. I have spoken about our responsibilities—on more than one occasion. I would point out that our allies, too, have responsibilities—responsibilities which in many instances, we have not stressed or underscored enough. So let us explain the matter to our allies. As a matter of fact, I think this debate may do a lot to explain it.

I think—I hope—we would receive a sympathetic hearing. I agree that we have to reassess our relationship with NATO and our allies. But, by that, I do not mean mandating a major policy change by legislative enactment, with scanty debate without consultation with the executive branch, without consultation with our allies and, as I understand it, without even hearings, at least this year, before the Armed Services Committee or, for that matter, in the Committee on Foreign Relations. Thus, I think, after taking a close, hard look at this business, and considering it as a matter of foreign policy, I would hope we would vote down the Mansfield amendment.

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

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, in dealing with the Mansfield amendment, which the Senator from Montana (Mr. MANSFIELD) correctly stated has been here for a very long time, his main issue which has now been raised—is the issue of the balance of payments. The allegation was made that we are in a chronic imbalance of $3 billion to $4 billion a year. However, that imbalance was contributed to, according to the analysis of the Senator from Montana, to the extent of $2 billion by the stationing of our troops in Europe under NATO.

The Senator said that if we were to withdraw two mechanized divisions that would save us $1 billion. Even if the entire amount came out of the balance of payments, it would still leave attributable to European troop strength $1 billion in the balance of payments. Mr. President, the withdrawal according to the Mansfield amendment, would be made on December 31, 1971.

I respectfully submit that it would take some time to make any withdrawal and an even longer time to have it reflected in the balance of payments. So, even if we grant his figures, it would have no effect whatever upon the cur-

rent crises respecting the balance of payments. Moreover, the figures used by Senator MANSFIELD are not accepted by all.

The current question is not that we have to take this emergency action to deal with the balance of payments, because it will not do any good in that respect. The question is whether it is an appreciable and a proper element which we have to deal with in order to deal with the current balance-of-payments situation in the United States.

I respectfully submit that, if the consideration of this matter in terms of military expenditure is an improvident course, then it is not worth doing. But, if the consideration is not improvident, it is worth doing.

I believe it is a completely improvident course because, while the figures that have been used on the floor, such as $14 billion, which allegedly is the cost of the NATO to us, have to be compared with what our military preparation would cost us if the NATO structure were to unravel as a result of this precipitate withdrawal of half our troops.

Are we going to get rid of the fact that Europe is the security threshold of the United States or are we not? We cannot change geography and we cannot change the Soviet Union and its ambitions in Europe, and the Mediterranean and Mideast, the Russian fleet, the Russian missiles, and so forth.

So we have a choice not of simply withdrawing two divisions. Our choice is whether or not to dismantle NATO, which is what the Mansfield measure would do. It would bring the entire structure down around our ears. Then we will discover what it will cost us in additional military preparations, and the best estimate is 3 to 1. We say the cost now in NATO is $14 billion. It will cost us $42 billion in the absence of NATO.

This is how we have always looked at NATO: That it represented the most inexpensive way in which we could get greater assurances for our security and the world than we otherwise would have. That is why we went into NATO. Just when Europe is getting more prosperous and more unified, just when we have a partner who is reaching a position to help us bear the load in a material way, we should not break up the partnership. That would be the effect of the Mansfield amendment.

The Mansfield amendment is not going to affect our balance-of-payments situation. That should not be used as an excuse for a policy decision which could be so damaging.

What we should do is to put greater pressure on the President to put more pressure on our NATO partners to increase their troop commitments and do more in burden sharing.

The German Federal Republic says it is paying 80 percent of the cost. Perhaps they should pay 90 percent, 95 percent, or 98 percent. There is no law about it. That would be a more immediate way to get action than with the Mansfield proposal, in relieving pressure on the dollar.

If we signal to Europe that we are going to pull out, it may have to seek the best terms it can get from Moscow. Then, our bill would not be $14 billion. We would be lucky if it is not $42 billion or double.

That is the stake here, and whether the Senate, which wants its share in shaping the foreign policy of our country and establishing our foreign policy position, and sharing in the war policies, has the statesmanship, the longsightedness, and the understanding of the American situation to be entrusted with this power. We are going to know now whether we are longsighted or shortsighted in this particular vote.

It is for those reasons that I oppose the Mansfield amendment, and not because I do not want to put the arm on Europe to do more in the alliance. The Mansfield amendment is not the best way to accomplish the result we need to accomplish. All the Mansfield amendment will do will be to dismantle the entire NATO structure and change the entire security situation in the world. For what? For a theoretical savings of $1 billion in our balance of payments, which would be so long deferred we could get it by a new Bretton Woods or a revision of the gold situation, or 20 other ways, without running the perils that this measure would compel us to run.

The Senator from Montana was right the first time when he sought a sense of the Senate resolution respecting this matter, but now that his provision is one of mandatory fund cutoff, I think it would be inimical to our country.

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

Mr. JAVITS. I yield.

Mr. GRAVEL. It should be noted that the Senator from Montana (Mr. MANSFIELD) made that point and made it very clear. It was my interpretation that the Senator was expressing frustration; that six times he had introduced the resolution to act in an advisory capacity to both democratic and republican administrations.

I can certainly agree with the majority leader that after introducing it six times and nothing happening, that this amendment may serve, to use a word of the majority leader, as a "vessel" to carry forth this policy. It would seem the majority leader or anyone else in this body could introduce 1,000 sense of the Senate resolutions and nothing would budge.

Does my colleague share that view?

Mr. JAVITS. I do not share that view, for this reason. There is a big chasm between introducing a sense of the Senate resolution, and getting it passed. The important thing is that the Senator never got his resolution passed. He is a very distinguished Senator and a peer among peers. But he is still an equal to the rest of us and he still has to have his resolution voted on and have it carried, as much as I respect him. But it did not carry. In this matter we are talking about what we pass and not what we introduce.

If we are talking about some directive from the Senate to the President I would take a very different attitude. I would want to work on the terms, but I would take a different attitude. However, we are not talking about that now. We are talking about a mandatory provision of law.

The Senator from Montana is not only giving us a quick-death proposition but he is naming the figure.

However, what would any of these European countries do if the Senate decides to pull out one-half of our troops in Europe? I have been there. The logical outcome would be they would say, "The linchpin of NATO is gone. Let us find a European solution." The European solution the last time was something called a Western European pact, which failed because the Europeans, without American glue, could not agree among themselves. I think that is likely to be the next gambit, and it will fail again. What is left?

The specter haunting Europe—particularly Germany—is one of being left prematurely naked, in a military sense, before the awesome military might of the Soviet Union as a result of the swift and deep U.S. troop withdrawals. The fear is that in such an event there would be a swift unraveling of NATO; and that into this power vacuum the Soviet Union would move—not in the crude sense of military attack and occupation—but of intervening in the negotiations now going on regarding Europe's future shape and relationship with the United States.

It is feared that the Soviet Union would use suspicion, threats, pressures, and inducements to divide the nations of Europe before their own new institutions have taken effective shape and by stages to impose a Finland-type of dependent neutrality on Western Europe.

I believe that the fears I have just described in Europe are justified and present an equal danger to the security and future of the United States; and I believe that these very concerns are—or should be—shared at the highest levels of the administration—the White House, the State Department, and the Pentagon. Perhaps they are too little understood and considered in the country, but this is understandable too, for we have heard the cry of "wolf" too many times before to respond automatically.

While I feel there must be a greater American understanding of legitimate European concerns on the question of troop levels there and security, I feel strongly that a greater European understanding of American misgivings and concerns is needed also.

Mr. GRAVEL. I think my colleague paints an awful picture by speaking of the glue. The Senator from Montana made a very telling point when he spoke of glue. We should have some coming from Western Europe. Presently our Nation has economic difficulties. It has an unemployment rate of 6.1 percent. As the distinguished majority leader stated, West Germany, where we put many of our troops, where most of the economic benefits accrue, imports workers to the tune of 2.7 million. I say this ironically, but maybe they would be kind enough to import some Americans who are unemployed. We could send them over there for jobs.

I underscore what the majority leader said with respect to NATO. I am for NATO. I think NATO has a proper place, but I think our commitment can be decreased without losing all of Western Europe to the Warsaw Pact.

I think what we will have is an interesting test, the same kind of test we should have all around the world, because the underlying threat the Senator speaks of is that if we pull out, that means we have to have those forces met

by somebody else. Presumably, they should be met by West Germany.

I for one think Western Europe would be entirely secure with a decrease of 150,000 troops. My position is that if we now withdraw 150,000 troops, it will have very little effect on Europe; but the argument made is that if we withdraw our troops, obviously those troops will have to be replaced, and obviously by West Germany. I do not think that will be the case. I do not think West Germany will do that, because they know where the threat is better than we do, and they understand it better than we do. But even if that were the case, if West Germany had to meet that troop commitment, the implication would seem to be that we do not trust the German Government; that, obviously, these Germans must have some hereditary characteristic that would push them into a totally militaristic society, which would place society back on the track which led to the start of the Second World War.

I have been to Europe, not as frequently as my colleague, and not as frequently as the majority leader, but I am prepared to say I have more faith in the Government of West Germany, a government that has prospered through our generosity. I would hope it would acquit itself a good deal better than what it is being accused of, or what the innuendos seem to indicate would occur.

Mr. JAVITS. Mr. President, the Senator has attributed to me arguments which I have not made and which he has proceeded to knock down. I think it is completely irrelevant to the question whether or not, if the United States withdraws 150,000 troops, or half its strength there now, the Germans or somebody else will fill that in. I have no idea whether they will or not. I am not arguing that. Nor am I arguing that 150,000 is the tipping point for the security of the United States or Western Europe. I am not arguing that point.

Mr. GRAVEL. I did not say——

Mr. JAVITS. If the Senator will let me finish—I have been very patient—neither of those points is my argument at all. So, as far as I am concerned, the Senator has knocked down something that I have not argued.

My argument is—and if the Senator wishes to answer this, that is another matter—if we adopt a resolution cutting our forces in half by unilateral action, without consultation with the Europeans, we are giving them word which, in my judgment, will induce them to believe that the United States is no longer going to be the force in Europe which it has been for 25 years, but that, on the contrary, the United States is pulling out as the backup for the security of the Atlantic Alliance, and that they will have to look elsewhere. In my judgment, if they looked elsewhere—and in my judgment, it would be necessary for them to look elsewhere—they would have to look to the East. I see this written large on the wall. That is why, for myself, I could not support this particular amendment.

I am not arguing that 150,000 or 118,000 is the tipping point, or whether the Germans would put in 150,000 troops, or put in 400,000 troops, for that matter, to replace our troops if we withdrew them. I am not arguing that. I am arguing that, based on my very considerable experience in Europe, it will be notice to Europe that the United States is relinquishing its position in Europe, and we could certainly expect that Europe would then have less concern for U.S. trade investments and monetary interests.

It means there will no longer exist the balance, precisely because the NATO Alliance, which has allowed the peace which has enabled everybody to draw a secure breath and be prosperous, will be set aside. If it is going to be set aside, the balance of power will be with the Soviet Union. It is this that I fear for the future of the United States.

The Senator talks about solvency, but if we begin to think of the costs of garrisoning this country and what the defense cost for the security of this country will then be, even if it is defective and deficient, the cost will be greatly multiplied.

That is what the issue is all about. Surely, it is a matter of judgment, but when the Senator from Alaska says he does not think any such thing will happen, that is his judgment. I do not agree with him. Based on my experience, conscience, and expertise, I believe that is precisely what would happen. So we differ.

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

Mr. JAVITS. I yield.

Mr. GRAVEL. With respect to the point made on consultation, what would stop this Government from consulting in the next 6 months, as this amendment would provide? Those troops would not be withdrawn until 6 months hence. The officials in Europe could consult very adequately with this Government over that 6-month period. That, to my mind, satisfies any thought in that regard.

With reference to the second point the Senator from New York made, I still do not understand why he assumes that Western Europe, which is one of the healthiest economic areas of the world, and one of the wealthiest economic areas of the world, would look East.

Mr. JAVITS. Mr. President, I think I answered both arguments.

On the issue of negotiation, no nation—these European nations are all independent, strong nations, like our own—will negotiate under conditions where we have unilaterally made decisions before we negotiated. No administration could assure them, if a new ceiling were arrived at, that they could secure it. So they would not agree to it. Therefore, it would pull the rug right out from under the negotiations.

On the second point, why would Europe look east, Europe would look east because it could not match the Soviet Union. Europe knows there is only one Nation which can counterbalance the Soviet Union, and that is the United States of America.

I wish to tell my colleague that I deeply and sincerely feel this, and just as long as the Senator from Montana, for whom I have the most complete respect, has advocated this proposition, I have made this very same argument. We have been at it exactly the same length of time. I think that is very important, because I think the good faith element of deep conviction which is involved is critically important.

Mr. GRAVEL and Mr. GRIFFIN addressed the Chair.

Mr. JAVITS. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from New York. I had the opportunity to serve in the NATO Council of Parliamentarians on one occasion, and I know of the leadership that the distinguished Senator from New York has provided in that NATO alliance. I became familiar with the work he has done.

Indeed, he was chosen to the chairman of the Political Committee, as I recall, in this last session which was held at The Hague. I know of the brilliant advocacy which he displayed and used to try to convince—and he was successful, in some respects—our NATO allies that they should be assuming a greater burden in order that we might withdraw some of our troops from Europe. With his excellent statement, I think the Senator from New York has put this entire debate into very clear perspective.

It is one thing, of course, to reach an agreement within the NATO Council to do this. It is another thing to do it unilaterally, to do it without hearings, and without the opportunity for the Secretary of State to indicate what effect it might have on our negotiations with respect to SALT the talks or our situation with respect to the Middle East.

We must move in this direction, but we must do it as a nation and in concert with our NATO allies. It would be extremely unfortunate if the Senate and Congress were to take this responsibility without the benefit of up-to-date testimony by the administration and others as to the consequences.

Even though I realize that, politically speaking, it may be difficult to oppose this amendment, I am convinced it is the responsible thing to do—I associate myself with the remarks of the distinguished Senator from New York.

Mr. JAVITS. I am very grateful.

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

Mr. JAVITS. I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have been following the discussions of the Senator from New York for the last few minutes with a great deal of interest, and I must say that, although quite often he and I disagree on matters of the policies of this Government, he is so absolutely correct in this respect that his position simply does not even, in my judgment, brook an argument.

I would suggest to those who would be prone to support the main amendment now pending that a little study of the history of Europe would be very enlightening, particularly the history of this century.

The Senator from New York has expressed himself so well that I would merely like to point to one thing: Many of us have been interested and have participated in many conferences in Europe in the last few years, and some of us have many close friends in Europe from whom we get a sense of the feeling of the people there that it is impossible to get from the news media. And one

thing that occurs to me—and after I make my statement I would like to ask the Senator from New York to comment on it—is that at least while I have been present, one feature of this matter has not been discussed, and that is what happens to the satellite countries.

For example, what happens to West Germany vis-a-vis the so-called German Democratic Republic? What happens to Czechoslovakia, and what happens to Rumania? Those of us who have been to Yugoslavia have seen the benefits that have flowed to this country from what I think was an enlightened policy toward that country, while I have personally been taken to task many times by some constituents for the support that we have given Yugoslavia in the past, nevertheless, though it is not a democracy or a republic at all, it has shown a nationalistic form of communism which, to a great extent, has separated it from the dominance and influence of Russia. By the same token, I am sure the Senator will agree that in the last 10 years, he has seen the influence of Yugoslavia upon Rumania, and this is particularly useful where we are trying to develop a sort of insulation around those countries, and between them and Russia.

Thus we must consider the very fragile situation in the satellite states of Eastern Europe, and delicate relations between them and Russia. All this is of tremendous significance to this country and to every Western European country.

If, for example, we suddenly do a pullout in this situation, we may see Yugoslavia, Rumania, and what is left of Czechoslovakia and other satellite countries lose all of their heart, they will do exactly what the Senator warns about. They will enter into deeper accommodations with Russia than they have even now. Then the value of those states to us as buffer states—and they are of value to us, though not of as great value as they are to Russia, certainly—will suffer. And if we do this sort of pullout, we are signaling to the world that we think we can live in an armed garrison between the Atlantic and Pacific, when in fact no such life is possible.

I wonder if the Senator does not agree with me that, with regard the influence upon the buffer states—and particularly I am thinking of Yugoslavia and Rumania—the latter of which has not gone as far, as far as independent thought is concerned, as Yugoslavia, but the Yugoslavians say they have done a lot to bring Rumania along—then we would lose a great deal of strength in Europe as a result of a pullout.

Mr. JAVITS. There is no question about that. I point out, as I have pointed out before, that Europe could begin to lean in the Russian direction, and obviously, if it began to lean in the Russian direction, what hope is there for the satellites that have shown a little bit of independence? They are gone geese. That is the only possible thing in the world that they have to hope for, is that the pull of Western Europe, backed by the United States, represents some assurance to them that the Russians cannot go too far.

In that connection, another idea appeals to me which I think we should discuss in the Senate.

Many of our young people—I have young children—say, "What about all this tommyrot the oldsters talk about in regard to the Communist threat? What's so terrible about it? Suppose people live in a Communist society. That's all right, as long as they live in peace and don't try to tell you, Dad, the way you ought to run your show or the way we ought to live."

Well, that is true. But what is omitted in that argument is that we are not permitted to live in peace.

Look at the example of Czechoslovakia, when they dared to so much as pick up their heads a little. Were they permitted to live in peace, or did they get cracked by the Russian army?

So what will be expected of the 200 million people of the United States if the Warsaw pact extends to the shores of Britain and the shores of France? Are we going to assume that we will be permitted to live as we choose to live, whatever that may be? Of course not.

There is a great deal more at stake in what we are discussing than cutting troop strength to 150,000. If that is all there is to it, I would be with Senator MANSFIELD. But it is not all. It is the whole structure of security which the West has so painstakingly erected, which at this moment is in danger of collapsing around our ears.

Mr. ALLOTT. May I say to the Senator that I appreciate his words and I appreciate his permitting me to intervene in this matter. I agree with him.

I should like to point out that if anyone were to take the time to read the hearings of the Defense Subcommittee on Appropriations for the last 10 or 11 years, he would find that the subject of withdrawal has been raised repeatedly. It was violently opposed by the administration under President Kennedy, and was opposed by President Johnson.

We proposed many times to start a small withdrawal. I think the Senator agrees with my point of view that a modest withdrawal of troops or a withdrawal of troops after consultation with the Europeans might well be in order. But what we would do with this proposal under discussion would be to take a precipitate act which would jar the confidence of the Europeans and the European community. It would affect their own safekeeping in a way that would harm us forever. I cannot see any other result.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. I notice that the distinguished Senator from Colorado mentioned President Johnson and President Kennedy, but he forgot to mention President Eisenhower, probably the greatest general of our generation. If I recall correctly, President Eisenhower thought that two divisions of U.S. troops in Western Europe would be sufficient—in fact, more than sufficient. I think we ought to go back just a little further.

Mr. ALLOTT. I am happy to go back that far. I did not mention that because at that time I was not a member of that committee, and I do not know what the testimony on that subject was.

But I can assure the Senator that he will find the testimony before that committee replete with discussions of this subject.

I might add this: It really has not been until the last 3 years—and I will give my friend, the majority leader, the consolation of including 1 year of President Johnson's administration in that—that any clear effort, any hard effort, has been put into increasing the European contributions by way of manpower and increased quality of training. Only in the last 3 years has there been a substantial increase in the contribution by the Europeans.

I agree wholeheartedly with this. I do not think we ought to support NATO singlehandedly, particularly when at least half a dozen countries in Europe are doing very well so far as their own economies are concerned—in spite of the present money situation, which leaves them perturbed a little. The fact is that they are coming along and they are doing more. What this proposal would say to them is, "Regardless of what you say or do, we are coming out."

I respect the Senator from Montana, the majority leader, very highly—although I will say that many other people are students of this subject, also.

The problem is that if we accept this proposal, we are saying to our allies is that, without a resolution having been offered and referred to a committee, without taking any testimony on it, today or tomorrow or the next day, whenever we get to voting on this, we are suddenly deciding to pull out all our troops except for 150,000. They would see this as a complete subverting of the NATO structure, and in my opinion they would be right.

People may think that the Senator from New York is overstating his case. But I can assure the Senate that, from my personal contacts in Europe, I know that he is not overstating the case; that if we were to do such a thing, the psychological impact upon Europe and NATO would undoubtedly start, in the long run, the turn of Europe in the wrong direction.

We have seen two World Wars in this century, and many of the problems which created each war would be reestablished by this action. Then what would we pay? I would say that if we had a situation such as that, the ultimate price we would pay might be a third world war, and it would be a cost in money and men that I do not want to see this country pay.

I am sure the Senator feels as I do. The psychological impact on Europe would be horrible, and the long-term impact would be very great.

I thank the Senator for permitting me to intervene. I congratulate him, because he has expressed my own thoughts, and my own reasoning about this matter very well. He is entirely right. I hope the Senate will not take this precipitate action.

Mr. JAVITS. I devoutly hope that the Senate will not. The Senator certainly has buttressed the arguments I have sought to make here today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. SCOTT. Mr. President, for years, we have urged Europeans to do more in their own defense. We have pointed to the need for stronger defenses in NATO, for a better conventional capability so that we can have a better choice than nuclear holocaust or abject defeat. Now at long last the Europeans have clearly shown a new attitude toward this vital problem of a balanced defense posture in Western Europe. Last December they agreed on a special European defense improvement program designed specifically to correct some of the deficiencies we have seen in NATO's armed forces. This is a beginning—and an important beginning—of what we all must hope will be a more effective partnership between our European allies and ourselves. I might add that this partnership extends well beyond the military arena and that developments on the military side can have important effects on our political and economic interests in Europe.

Now, what would be the effect of the abrupt and dramatic reduction of the U.S. military presence in Europe? I think there is no room for doubt that the impact on the Europeans would be little short of disastrous. They would see this, inevitably, as an indication of diminishing U.S. interest in maintaining its commitments overseas. They would read this as an indication that they may increasingly have to go it alone and that NATO may no longer offer the balancing element against Soviet military and hence political power.

At this point, I think we must all recognize that when we speak of "Europe," we are not speaking of a unified national state. We are speaking of a series of individual countries which are bound together militarily only by NATO. If we remove the pivotal factor in the Alliance, which is essentially European confidence in the solidity of the American engagement, the result can only be a disintegration of the defense teamwork which has been built up with so much labor over the years since General Eisenhower took over as supreme commander of the Alliance.

I fear that European governments, who are under pressure to reduce defense spending just as we are, would find it more difficult not to yield to the temptation to call it a day so far as doing more for the common defense is concerned.

I ask whether this is what we want at this stage in history? I think not. The promise of an "era of negotiation" will not be realized if we and our Allies negotiate from weakness. The hope for a more mature and balanced partnership between Europe and America in all our interconnecting relationships will be dashed.

Let us rather show the world that we are a steadfast people, that we intend to build a peaceful order for generations to come, and that we intend to do this by keeping our commitments to our friends and not by tearing down the trust they have in us.

I ask unanimous consent to have printed in the RECORD the President's statement of December 3, 1970.

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

STATEMENT BY THE PRESIDENT DELIVERED TO THE NORTH ATLANTIC COUNCIL BY SECRETARY ROGERS, DECEMBER 3, 1970

The meeting of the North Atlantic Alliance will be one of the most important conferences in the history of the Alliance. This past year has witnessed the completion of a comprehensive review of Alliance defense that can serve as the basis for a common effort throughout this decade. This review testifies to the continuing value of candid consultations based on mutual respect and to the common recognition that the prospects for peace rest primarily on our ability and willingness to maintain an Alliance sufficiently strong to deter those who might threaten war.

After the most searching consultations, together we have arrived at several fundamental conclusions which will help us maintain NATO's strength while the Alliance seeks to translate the promise of detente into the reality of a just and lasting peace.

We have reaffirmed flexibility of response as the proper strategy for a defensive Alliance confronted by a formidable mix of potentially hostile force, which is constantly improving.

We have agreed that NATO's conventional forces must not only be maintained, but in certain key areas strengthened. Given a similar approach by our Allies, the United States will maintain and improve its own forces in Europe and will not reduce them unless there is reciprocal action from our adversaries. We will continue to talk with our NATO Allies with regard to how we can meet our responsibilities together.

The Allies have agreed to move to transform the recommendations of the study into fact. This should provide NATO with an enhanced capability sufficient to make the strategy of flexible response a more credible factor in the equation of deterrence.

In the process of this review we were heartened by the efforts of several of the Alliance's members to create a new and more equitable sharing of the burdens of the Alliance through a greater effort by our Allies to meet the challenges of NATO defense in the decade of the Seventies. This European initiative gives concrete testimony to the vitality and spirit of the European Allies. NATO has strong support among the American people. Successful efforts to improve European forces and absorb a greater share of the burden will insure continued support.

I welcome the achievements of the Alliance. I am certain we can move from agreed goals to practical action with the same seriousness of purpose.

WITHDRAWAL FROM EUROPE: A REBUTTAL

Mr. TOWER. Mr. President, earlier on the floor, remarks were presented regarding the maintenance of 525,000 military personnel and their dependents in Western Europe. It was stated that $14 billion of the defense budget were required to support these forces. An amendment was introduced which proposes to force the drawdown of our Armed Forces in Europe as a primary means to improve our balance-of-payments situation. Based on previous remarks, I believe this amendment is also aimed at reducing our defense costs, and to forcing our European allies to increase their support to NATO forces.

Mr. President, I believe there is a substantial misinterpretation of the costs of maintaining our forces in Europe, forces which protect our vital security interests. I consider it of the greatest importance to set the record straight so that the decision taken by the Senate will be based upon reasoned consideration of all aspects of this subject.

It must be clearly understood—even at the expense of being redundant—that the $14 billion in question provides for: First, the support of U.S. general purpose forces located in Europe; second, U.S. general purpose forces not in Europe but oriented toward use in Europe; third, forces located within the continental United States but dedicated to the support of our men in the European theater; and, fourth, those dependents accompanying personnel located in Europe.

The largest portion of this money is associated with the maintenance of additional forces in the United States, ready to support and reinforce those deployed in Europe.

This $14 billion represents the Defense Department's best estimate of those operating, procurement and construction costs which might be saved only if all these forces did not exist. These costs include about $200 million for the military assistance programs for Greece and Turkey and the NATO infrastructure program combined; the remaining $13.8 billion is divided relatively equally between our forces in or near Europe—$6.3 billion—or oriented toward Europe—$7.5 billion. Included in the $6.3 billion figure are the costs of all military and civilian personnel located in Western Europe and related areas—including the 6th Fleet—and the cost of operating and maintaining facilities in those locations.

Logically, the question is whether substantial savings can be effected by withdrawing all or part of these forces. It does not appear so. Because the German Government provides the facilities for these forces, the cost of their deployment in Europe is minimal. In the short term, to return these troops to the United States would generate extra expenditures, we would be forced to improve and expand facilities here, if not actually develop entirely new facilities, to provide adequate housing, training, and administrative support for these forces. We would also be required to increase airlift and sealift capability, which would mean additional expenditures.

Let us take a look specifically at that portion of the President's budget related only to the Army: $2.5 billion is allocated for direct support of the Army forces deployed in Europe. The major portion, $1.18 billion, goes for military pay and allowances; $701 million for operations and maintenance costs; $606 million for procurement of equipment and missiles; and $33 million for military construction.

To redeploy these forces would not result in substantial savings, for it would still cost us close to $2.5 billion to station these same forces in the United States. A more precise estimate furnished by the Army during previous hearings reflects an estimated $52 million savings. But this excludes the substantial increase in sea and airlift capacity

that would be required to use these forces in support of NATO. It also should be noted that this cost comparison assumes complete withdrawal of Army forces from Europe. It does not consider the realistic fact that some NATO facilities would be maintained to allow for deployment of our forces to Europe if reinforcement were needed.

Whatever the nature of the forces withdrawn, I am certain that cost estimates will reveal no real savings. Very little of the $14 billion could be cut from the defense budget unless those forces withdrawn to the United States were inactivated and personnel assigned to those units released. I reject this step as an imprudent, unacceptable risk to our Nation's security. To maintain the present balance in miiltary capability between the NATO Alliance and the Warsaw pact, we cannot reasonably consider inactivating any forces wtihdrawn from Europe. They must be maintained in active status and in a poised, ready posture to reinforce our NATO allies in times of crisis.

I am not in favor of a decision to return to the United States a substantial number of our forces from Europe without a commensurate reduction in Soviet forces. It is my firm conviction that we can rely only to a limited extent on strategic movement of our land forces from this country to Europe to meet an initial enemy attack. In times of political tension but in the absence of actual hostilities, we undoubtedly would be reluctant to increase tension by the movement of large reinforcements. On the other hand, should the situation escalate into overt hostilities, the time required to prepare our U.S.-based forces for deployment, to transport them to Europe, and to move them to their combat positions would preclude their being available to NATO in the critical first days of combat.

The Secretary of Defense has made an important point regarding unilateral withdrawal of our forces from Europe which is very material to the consideration of the present amendments. The Secretary stated that it would be destabilizing to make unilateral reductions in our forces in Europe at a time when our adversaries continue to maintain and improve their forces, and when we are seriously seeking mutual reductions with the Warsaw pact. To protect our mutual security objectives, we must mainain the strongest possible ties with our NATO allies and continue to cooperate on a regional basis.

I support the President's efforts to achieve mutual and balanced force reductions with the Warsaw pact. The Soviet Union is unlikely to seriously negotiate if they believe that by simply delaying, U.S. force levels and NATO capabilities will erode. The objective of mutual and balanced force reduction—to achieve a more stable balance at lower levels of forces and costs—is congruous with congressional interest in reducing U.S. defense costs and our equally important interest in stabilizing the military and political balance in Europe. To reduce our NATO forces unilaterally would be inconsistent with these goals.

I would make one last comment, Mr. President, it has been and continues to be in our best interest to deter aggression in Europe. The deployment of our conventional and nuclear forces in the European theater will contribute to that deterrence. By unilateral reduction of our forces in Europe, it might be inferred that we have weakened in our resolve to defend our allies. This would weaken deterrence and increase the likelihood of a European war, which we have avoided for a quarter of a century. To withdraw from NATO might force escalation of even minor hostilities to the nuclear level. I find this possibility totally unacceptable and, therefore, urge that we maintain the capability of a flexible response by maintaining our troop commitments in Europe.

Mr. President, I should like to quote from a statement made by President John F. Kennedy in his state of the Union address to a joint session of Congress in 1963.

He stated:

> Nuclear defense is not enough . . . the agreed NATO levels of conventional strength must be met. . . . The alliance cannot afford to be in a position of having to answer every threat with nuclear weapons or nothing.

Mr. President, I submit there is no psychological or political substitute for the American presence in Europe. The maintenance of any degree of American influence in Western Europe depends upon that threat.

AMENDMENT NO. 90

Mr. TAFT. Mr. President, I take this time today to submit an amendment and ask that it be printed, and to comment briefly on the amendment.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. TAFT. Mr. President, America has had an historic antipathy to peacetime miiltary conscription. With the phasing out of Vietnam manpower requirements, this is no less true today. Since 1963, I have voiced the belief that we could and should abandon the draft, that we should be willing to pay for it and that it can be done effectively if we are willing to pay for it.

Although we have not experienced any draft riots such as swept through New York City during the Civil War, our country has been torn internally by the use of the military service to undertake foreign military commitments and the war in Vietnam.

In peacetime, the whole concept of choosing from a very large manpower pool the comparatively small number of men required to fill out the Armed Forces in itself implies that there is going to be discrimination and unfairness, unfairness such as mentioned in the Gates Commission report with respect to those called upon to serve, unfairness also in the actual selection of the men. Inevitably there will be adverse selection, no matter how much we do to eliminate the particular methods of deferment.

I think also that as we have a problem of American commitments worldwide, we have to recognize that the draft has really been a detriment rather than an asset insofar as readiness and the actual meeting of the American commitments are concerned.

In the words of Walter Lippmann in an article published last year in the Columbia Journalism Review which I would like to read, set this out very clearly, Mr. Lippmann was quoted in that article as having said:

> Now drafting men to fight a war ten thousand miles away is something that no sensible great power has ever attempted . . .
>
> The British, in all their period of imperial rule in the Nineteenth Century, never conscripted Englishmen to fight in Asia. They always relied on volunteers, professional soldiers, and on mercenaries. . . .

Then Lipmann went on to comment on President Johnson. I might say the comments are his and not mine. He said:

> Johnson, who knows no history, didn't realize what a thing he was doing when he began to conscript an army to fight a war that nobody believed in particularly anyway—nobody had ever had it explained to them, nobody could explain the reason for it—ten thousand miles away. . . .

I would comment further that it seems to me that this makes very clearly the point that a volunteer armed force, a professional armed force, is a far better system by which to meet the needs we have around the world from time to time.

I hope we never find ourselves in another land war such as we find ourselves today in Vietnam. But to eliminate the possibility that we could find ourselves involved in such a war, since it seems to me that it would be detrimental to world peace rather than helpful in view of our Vietnam experience and our historic opposition to the draft, I enthusiastically support the Gates Commission Report.

In my judgment it means we can achieve the goal of an all volunteer army. I do not believe, however, that it is advisable to abolish the Selective Service System at this time until the recommendations of the Gates Commission have been implemented in an orderly way and the Reserves have been strengthened.

The best approach, it seems to me, is to phase out the draft during the next 2-year period and to require a rapid phaseout of conscription. Therefore, I believe we should impose meaningful limitations upon the number of men who can be inducted during the next 2 years. I do not believe the 150,000 limitation included in the committee bill is meaningful. Consequently, the amendment I have submitted today provides that not more than 100,000 persons could be inducted during the fiscal year ending June 30, 1972, and that not more than 60,000 persons could be inducted during the fiscal year ending June 30, 1973.

These figures compare with the 162,-746 men who were inducted during 1970.

The amendment is aimed purely at the matter of bringing about a volunteer army in an orderly way with some assurance that it will be carried out and that we will not, 2 years hence, face the same situation we face at this time.

I cannot go along with agreeing to a number of amendments offered on the floor today, including the one pending before us. We should be debating our overall policy of manpower. I do not believe it is sound to make that decision dependent upon what we may think of the particular aspect of the American military or the foreign policy or independent bases around the world based upon the requirements of NATO or the matter of

the presence of troops in Europe or the adverse balance-of-payments aspect or the presence of troops in Europe or on the Vietnam war, whether we approve of the Vietnam war or not.

It seems to me these are not questions which ought to determine whether or not we extend the draft and whether or not the current method of approaching the matter of providing military manpower is incorrect.

On the other side of the issue, I do not believe we should confuse the situation. I believe that we should consider this Nation's manpower problems in their own context and commit ourselves at this time to the orderly attainment of the all-volunteer army.

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 clerk called 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.

UNANIMOUS CONSENT AGREEMENT—ORDER TO CONVENE AT 10 A.M. ON WEDNESDAY, MAY 19, 1971

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request which, hopefully, may meet with the approval of the Senate.

Mr. President, I ask unanimous consent that on Wednesday morning next, the Senate convene at 9 a.m.

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

[The order was subsequently modified to provide that the Senate convene at 10 a.m., on Wednesday next.]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Wednesday next, after the prayer and the disposition of the reading of the Journal, there be a period of not to exceed one-half hour for the transaction of routine morning business.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the transaction of routine morning business on Wednesday next there be a time limitation of 1 hour on the Mathias amendment in the nature of a substitute, the time to be equally divided between the distinguished Senator from Maryland (Mr. MATHIAS) and the distinguished chairman of the committee (Mr. STENNIS); that there be 1 hour each on amendments offered by the distinguished Senator from Colorado (Mr. DOMINICK), or other Senators, the time to be equally divided between the sponsors of the amendment and the manager of the bill; that there be 3 hours on the Mansfield amendment, if it is still intact and in the clear; that at the conclusion of the time used up to 3 hours there be a vote on the Mansfield amendment as it exists at that time, as amended, if amended; that immediately following the disposal of the pending amendment and all amendments thereto the Schweiker amendment, which was laid aside temporarily, be laid before the Senate and made the pending business; and that amendments not germane not be considered in relation to this request—and not received either.

Mr. GRAVEL. Mr. President, reserving the right to object—and I shall not object—I want to make abundantly clear that this time limit, I think, is fairly adequate. It is 1 week in length to touch upon such a subject.

I think, as do many other Members of this body, that determining the foreign policy trajectory of this Nation in Europe is a subject that could bring about deliberation in this body in excess of 1 month, but because we have constraints on time it can be done in 1 week. But this time limitation goes only to this subject area.

I reserve my right to object to any time limitation on any future amendment that may be put forward. I do not want it to be construed by my colleagues that this is an acquiescence on my part to other time limitations because matters may come forward which need longer time, perhaps 2 or 3 weeks.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not, the majority leader referred to the Dominick amendment and the 1 hour allotted thereto.

I know the Senator from New York (Mr. JAVITS) may have an amendment, and I understood the request referred to the possibility there could be other amendments to the Mansfield amendment, in which event there would be 1 hour for each one.

Mr. MANSFIELD. Yes.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. One hour on the Dominick amendment and any other amendment to the amendment.

Mr. STENNIS. Mr. President, reserving the right to object, the Senator from Colorado (Mr. ALLOTT) had reserved the right to object and had addressed the Chair before I did.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLOTT. Mr. President, I was trying to get recognition from the Chair.

I realize there is no time for any situation which will accommodate every Senator. I had hoped that, somehow, we could work out an arrangement in which perhaps we would not have to vote on this matter until the latter part of the afternoon on Wednesday. I have to be in Colorado on that day for an official matter in the morning, and will therefore not be able to be back here for this matter should it come to a vote early in the afternoon.

I have talked about this with the distinguished majority leader and the distinguished Senator from Mississippi (Mr. STENNIS), and the assistant minority leader is aware of my situation. I would hope to get back not too late in the afternoon. Could we perhaps have the vote late in the afternoon?

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. ALLOTT. I yield.

Mr. GRIFFIN. Mr. President, I wonder if the distinguished majority leader might consider incorporating in his request a provision that the final vote on the Mansfield amendment, as it may or may not be amended, would not come earlier than 5 o'clock. I suspect, depending on how many other amendments may be offered, it may very well be 5 o'clock before we could get to a vote on it on Wednesday, or conceivably it might be on Thursday, although not likely.

Mr. MANSFIELD. Mr. President, that is a not unreasonable request. Suppose we say that the vote come not later than 5 o'clock.

Mr. GRIFFIN. Not earlier than that.

Mr. MANSFIELD. Not earlier than 5 o'clock, and I would change my request for the time for convening on that day from 9 to 10 o'clock.

Mr. ALLOTT. I think that is wholly reasonable, and I do appreciate the consideration given me. I had in mind that the vote probably would not come before 5 o'clock, anyway.

Mr. GRIFFIN. And there is a likelihood that we would not be able to do much on any other matter.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—I want to be certain I understand correctly, and that the record is clear, that as a part of that agreement the Schweiker amendment, even though now withdrawn, will be reoffered in the form in which it was when it was withdrawn, and that immediately after the disposition of the Mansfield amendment, the Schweiker amendment will become the pending order of business.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. The question is, Is that a correct understanding of the agreement?

The PRESIDING OFFICER. The Chair understands that that is now a part of the agreement.

Mr. STENNIS. I did not hear the Chair.

The PRESIDING OFFICER. The Chair understands that that is now a part of the agreement.

Mr. STENNIS. Mr. President, further reserving the right to object—and I shall not object—let me thank those Senators who have made these concessions and arrangements. I thank them as floor manager.

I want to say, further, that there are many major amendments pending to this highly important bill, and with all the other duties Senators have, and with as much travel as is involved for some of them, it is going to be very difficult to dispose of this legislation or any other legislation that has many amendments unless we can reach these agreements, which bring into focus the issues so the membership will know what to expect.

So I express the hope, and say it is almost necessary, under present, modern conditions, to have these agreements worked out.

Incidentally, we have been in conference a greater part of the day, and for the last 2 hours or more, and are in a position to propose further agreements, but I understand there would be some objections made.

I understand that, even though we could not get a unanimous consent agreement to a limitation of time now

on the Schweiker amendment, it is agreeable to the Senator from Pennsylvania, as it is agreeable to me, and that there may be an opportunity later to get that one, too, into focus and get an agreement on a limitation of time.

Mr. STEVENS. Mr. President, reserving the right to object, am I to understand there is no agreement that comes into effect before next Wednesday pertaining to a limitation of time?

Mr. MANSFIELD. That is correct.

Mr. GRIFFIN. Mr. President, further reserving the right to object, may it be understood—though I do not contemplate any Senator is going to try to table the amendment or any of the amendments to it—that motions to table and other procedural motions and the right to make them are preserved, provided there is no additional time for debate?

Mr. MANSFIELD. Mr. President, I worded the unanimous consent request so that there would be no tabling motions made. That was the understanding—at least, that is the way I interpret it—and I would hope that understanding would be honored.

Mr. ALLOTT. Mr. President, reserving the right to object, if I may propose a parliamentary inquiry, can a unanimous consent forfeit the right—and I have no intention of making such a motion—of offering a motion to table? Can a unanimous consent shut off the right to make a motion to table an amendment?

The PRESIDING OFFICER. It can, provided the Senate agrees unanimously to the agreement.

Mr. ALLOTT. I cannot hear the Chair.

The PRESIDING OFFICER. If the Senate, by unanimous consent, agrees to have a vote on a given amendment, a motion to table may be foreclosed.

Mr. ALLOTT. I cannot hear the Chair, but the answer is that a unanimous consent would foreclose the right to make a motion to table?

The PRESIDING OFFICER. That is correct.

Mr. ALLOTT. Mr. President, that can be a very dangerous precedent.

Mr. MANSFIELD. Mr. President, if the Senator will yield, this is not an unusual precedent. It has been done before, many, many times, and the purpose is, after a reasonable amount of debate, arranged for ahead of time, to allow an up or down vote on the amendment offered.

As a matter of fact, it is applicable only to the Mansfield amendment, but I would be glad to make the same application to all amendments to the Mansfield amendment.

Mr. ALLOTT. I should not have used the word "precedent." I should have used the word "practice," because there are 12 or 13 Senators present at the moment, and what we are doing, in effect, is determining the right of the remainder of the membership.

Since I have no personal interest in making such a motion to table any of the pending amendments, I do not object, but I wanted to call the attention of the Senate to it. I think, if we are going to do this as a practice, perhaps a quorum call and notice to the offices of Senators might be in order, so that if they had in mind filing or making motions to table, they would be informed.

This is not in any sense critical of the majority leader. He is entirely right. I know it has been done, but it is also considered a matter of procedure as far as Senate practice is concerned.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, may I ask the majority leader what provision he would like to make in the unanimous-consent agreement for any time remaining before 5 o'clock if all time on all amendments has previously expired.

Mr. MANSFIELD. I am glad that the deputy majority leader has raised that question. I ask unaimous consent that any unexpended time prior to 5 o'clock be equally divided between the distinguished Senator from Mississippi, the manager of the bill, and the Senator from Montana, and applied to the so-called Mansfield amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, may I inquire of the majority leader, is my understanding correct that now the Senator has included all the other amendments in the concept that there will be no motion to lay on the table, and that those amendments were under this unanimous consent agreement?

Mr. MANSFIELD. That is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous consent agreement was subsequently reduced to writing, as follows:

Ordered, That, at the conclusion of routine morning business on Wednesday, May 19, 1971, during the further consideration of the 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, debate on the amendment of the Senator from Maryland (Mr. Mathias), Numbered 87, shall be limited to one hour to be equally divided and controlled respectively by the Senator from Maryland and the Senator from Mississippi (Mr. Stennis).

Provided further, That, debate on any other amendment to the amendment of the Senator from Montana (Mr. Mansfield), Numbered 86, be limited to one hour to be equally divided and controlled respectively by the mover of such amendment and the Senator from Montana or his designee.

Ordered further, That, the vote on the amendment of the Senator from Montana (Mr. Mansfield) shall occur not earlier than 5 o'clock p.m. on Wednesday next, and that all time for debate on that amendment not utilized on any other amendment, be equally divided and controlled respectively by the Senator from Montana (Mr. Mansfield) and the Senator from Mississippi (Mr. Stennis).

Ordered further, That, no motion to table any amendments considered under this agreement shall be in order, and all amendments offered under this agreement must be germane.

Provided further, That, following the vote on the amendment of the Senator from Montana (Mr. Mansfield), Numbered 86, the amendment of the Senator from Pennsylvania (Mr. Schweiker), Numbered 76, shall be made the pending business of the Senate.

Mr. STENNIS. Mr. President, I just want to make an observation, and if the Senator from West Virginia wishes me to yield to him first, I will do it. I do not intend to hold the floor.

Mr. BYRD of West Virginia. No, Mr. President. I thank the Senator for yielding. I just wanted to make sure that all Senators understood that the unanimous-consent request, as finally agreed to, would not allow a motion to table any of the amendments, including the Mansfield amendment.

Mr. MANSFIELD. That is right. The question was raised by the distinguished Senator from Alaska, and the answer was in the affirmative.

Mr. STENNIS. Mr. President, my observation is merely this: This gives time to debate the Mansfield amendment, and those who are interested in debating it will have ample opportunity to do so. It is the pending matter.

But there can be debate on other matters also, and there are many other amendments here. As manager of the bill, and as a member of the committee, I would like the freedom, during this time, to discuss some of these other amendments on their merits, even though they were not pending, and I give notice to the authors to that effect. I would always notify the author of the amendment before I did so, but I think some phases of them ought to be discussed.

Mr. SYMINGTON. Mr. President——

Mr. GRIFFIN. Mr. President, would the Senator from Missouri yield to me to ask a question of the majority leader concerning the program?

Mr. SYMINGTON. Of course.

Mr. GRIFFIN. I wonder if I might inquire of the distinguished majority leader, although it was not specified in the unanimous-consent agreement, whether or not Senators can expect that there will be no rollcall votes between now and next Wednesday.

Mr. MANSFIELD. Mr. President, I would be unable to give that assurance, though I think it is highly unlikely. The acting minority leader is aware of the fact that the Senate Appropriations Committee will very likely report the supplemental appropriation tomorrow, and that could be taken up on Friday or Monday or Tuesday; but the action of the House of Representatives in reinserting funds for the SST has raised an issue which is fraught with questions, and it is not the intention of the joint leadership to take up matters which will take up too much time or engender too much debate, because the important factor is the pending legislation.

I am sure that the acting minority leader, who has discussed this matter with me in some detail, is aware of the situation which confronts us at this time; and regardless of our personal feelings on the matter of the SST, it does appear, at the moment—that is subject to change—that a good debate might be engendered by the supplemental appropriation bill.

There is also the matter of the girl pages; I hope we can bring that up and dispose of it favorably. There is not much legislation on the calendar, but there is a good deal of subject matter to discuss relative to the pending business.

Mr. GRIFFIN. I appreciate that advice, because I think that if it had not been stated, many Senators might just assume that there would be no other business unrelated to this between now and next Wednesday, and I take it that there is at least a possibility that we will take up other measures and there could be votes.

Mr. MANSFIELD. If any are available and would not cause too much controversy, we will.

Frankly, I deplore the delay, because I think we could have spent the time in better fashion. This is a most important bill, and there is a termination date to it. But, as the Senator knows in his capacity, we are confronted with these situations now and again, and we just have to make the best of the circumstances as they develop.

Mr. GRIFFIN. I thank the Senator from Missouri for yielding.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Missouri yield briefly to me?

Mr. SYMINGTON. I yield.

Mr. BYRD of West Virginia. Mr. President, as I understand the unanimous-consent agreement, no Senators are precluded from offering amendments between now and next Wednesday. The unanimous-consent agreement deals only with the Mansfield amendment, amendments thereto, et cetera, and the Schweiker amendment. Other Senators may wish to offer other amendments in the meantime, am I correct, and tabling motions could be made at any time and votes thereon would be had?

Mr. MANSFIELD. The Senator is correct. All I can say is that I do not know at the moment of any amendments which might be offered.

Mr. GRIFFIN. Is it not a fact, however, that the Mathias amendment is the pending business when this bill is before the Senate, and it would have to be displaced by unanimous consent before another amendment could be taken up?

Mr. MANSFIELD. That is right.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. SYMINGTON. I address myself to the Mansfield amendment.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMINGTON. With respect to the current Mansfield amendment to reduce substantially U.S. military forces in Europe, which I fully support, it would appear to be increasingly clear that politically we are following the often criticized military policy of victorious countries in the past; namely, we are following tradition as against modernity.

One of the reasons I support wholeheartedly this amendment is that we do not seem yet to recognize in any practical fashion the growing obvious difference between the former concept of "balance of power" and the present actuality of a "balance of terror."

It has been reliably reported that today over 50,000 megatons are stored for the possible ultimate destruction of civilization. That is over 10 tons of TNT for every man, woman, and child on earth.

As the result of this quantum growth in destructive power, it would appear that military alliances may no longer add to a nation's security; in fact, in this nuclear age such alliances may decrease our security.

This is also becoming more apparent in the defense procurement field. New weapons, new ships, new planes, may end up by decreasing instead of increasing the security of a nation confronted with another nuclear superpower.

The above thinking is basic to those of us who oppose what would appear to be an incredibly wasteful utilization of our increasingly limited resources—the Safeguard antiballistic missile system.

This system would create a false sense of security among our people, and that false sense of security could in turn lead to reactions which could bring on a full nuclear exchange.

With respect to sense of the Senate resolutions, may I say with respect but sincerity that they remind me of the man who said to his lawyer, "When I die I leave my wife $500,000"; to which his lawyer replied, "Don't be silly, you haven't got $500,000." "I know," he said, "but it will look great in the papers."

In any case, it would seem these resolutions are having little or no effect on the executive branch. What would have a significant effect, however, and would be of great benefit to the already overburdened American taxpayer, are amendments similar to that just introduced by the distinguished majority leader so as to reduce the continuing and often inadvisable gigantic amount of money based on false premises about what is actually needed for our national security.

Let us have a better political relationship with our friends, and a better economic relationship with our friends; and of course maintain what we need militarily for our security. But let us eliminate all the unnecessary waste that is breaking the back of the American taxpayer. That is the thrust of this amendment.

MESSAGE FROM THE HOUSE

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

H.J. Res. 633. A joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred to the Committee on Appropriations:

H.J. Res. 633. A joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes.

LEAVE OF ABSENCE

Mr. METCALF. Mr. President, I am going to be with a group of Representatives and Senators attending an interparliamentary conference of Japanese parliamentarians in Tokyo. I am leaving tomorrow. I therefore ask unanimous consent that I be excused from attendance on the Senate from tomorrow until the end of the Memorial Day recess on account of official business.

The PRESIDING OFFICER (Mr. BUCKLEY). 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESCISSION OF ORDER FOR SENATOR GRAVEL TO SPEAK AT EXPIRATION OF TIME UNDER THE RULE OF GERMANENESS TODAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order, recognizing the distinguished Senator from Alaska (Mr. GRAVEL) to speak at the expiration of the running of the Pastore rule of germaneness today, be vacated.

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

ORDER FOR ADJOURNMENT TO 11 A.M. 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 11 a.m. tomorrow.

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

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the 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.

Mr. STENNIS. Mr. President, I want to speak briefly about some of the issues raised by the distinguished Senator from Montana when he proposed his amendment to the Selective Service Act requiring that we cut in half the number of troops stationed in Europe. The Senator from Montana has relied heavily on arguments about the current financial crisis, which now—fortunately—seems to be abating. It is important that we not let ourselves be bolted by this crisis into unwise and precipitate military policies which could split our most important and useful alliance.

In the first place, the current flurry over interest rates has very little to do

with our troops in Europe. It is primarily a problem of money invested by speculators for a short time—what is called hot money in the monetary community—seeking higher interest rates in Europe as our interest rates go down in this country. In the long run, I might add, it is a problem which is highly influenced by the confidence the Europeans have in us—a confidence which will not be increased by our shattering the NATO alliance.

Mr. President, it is true that keeping our troops in Europe does add something to our balance-of-payments deficit. But the figure is not even close to the $14 billion which has been mentioned. In fact it is less than $1 billion a year—about one-fifteenth of the grand total of $14 billion. Mr. President, some members I know will not want to follow me into an intricate discussion of high finance, and I do not plan to attempt to try to lead them there. But this simple fact is very important. The portion of the balance-of-payments deficit resulting from our military expenses in Europe is less than $1 billion annually, not $14 billion.

Confusion has been caused on this point by a very loose use of figures without even an elementary understanding of their meaning and importance. I am reminded, Mr. President, that it was once said of the late flamboyant British Prime Minister David Lloyd George "He uses figures as adjectives." That is what is being done in this debate over our balance of payments and military expenditures.

Here are the facts. U.S. forces which might be used to support NATO in one or another type of contingency cost about $14 billion a year. Many of these forces are in the United States and on the high seas. In fact, about 80 to 90 percent of this $14 billion is spent in the United States. The forces which we have stationed in Europe cost about $3 billion annually, but only about $1.7 billion of this is spent in Europe. Under agreements our allies make certain offsetting payments to us and purchases from us which bring this deficit down to less than $1 billion. The bulk of our deficit is caused by oversea investment, tourism, and short-term capital flows—not by the military.

As I said yesterday, I believe the appropriate way to reduce the military portion of the deficit is to get our allies to increase their offsetting payments or to begin to trim some of the support personnel in Europe, as our committee has recommended. It would be rash and extremely unwise to make drastic cuts in NATO's combat capabilities in order to solve a relatively small portion of our balance-of-payments problems.

Many will agree that the balance of payments is not so important—that they are chiefly interested in cutting Defense Department expenditures. By withdrawing troops from Europe they will, I am afraid, only succeed in increasing them.

Here is why. Although our troops stationed in Europe cost about $3 billion per year, only about 10 percent of this cost—roughly $300 million—is an added expense because the forces are in Europe. Most of this small added expense is in transportation costs.

Now, if we brought half of these men back from Europe and kept them in the United States as the Senator from Montana proposes, it might appear to some that we could save half of this $300 million per year, or about $150 million. But not even this small saving would actualy be possible. The reason is simple. There are significant one-time costs which we will have to pay to return these men to the United States and equip them. It is obvious, Mr. President, that if we bring these men back we will have to leave their heavy equipment, such as tanks and trucks, in Europe as stockpiles, so that it would be there if the troops needed to be returned to Europe in a crisis. So some additional equipment would have to be purchased for the units to train with in the United States. These one-time costs have been estimated to be about $1.2 billion to return one-half of our men in Europe, and this does not include any of the costs of new facilities, barracks, and so forth. But let me emphasize, Mr. President, that even if we did something very unwise and did not leave the heavy equipment stockpiled for these troops in Europe, we are still only talking about savings of—at most—$150 million annually in bringing these men home.

The distinguished Senator from Montana suggested yesterday that we should perhaps not only withdraw these 150,000 men from Europe but also cut them out of the Armed Forces altogether. Mr. President, I would regard that as being an extremely unwise and dangerous step which could seriously endanger our national security. I do not use that phrase lightly. Our committee has begun a thorough study of manpower requirements and this year, for the first time, the Congress is required to authorize specific manpower levels. In our initial review we were able to recommend a reduction of 56,000 men below what the President recommended. This reduction of 56,000 in average strength will result in a total cut in the Armed Forces of about 100,000 men in end strength, for reasons I have described, several times. But these reductions should be carefully made. We should not consider ourselves to be generals sitting here in this Chamber. The only responsible path to take is one of study and assessment which fixes overall manpower levels and leaves to the President the discretion, as Commander in Chief, to deploy them to best defend our national security.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, for the benefit of the cloak rooms, I now suggest the final quorum for today.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11 o'clock tomorrow morning. Immediately following the recognition of the two leaders under the standing order, the distinguished junior Senator from Alaska (Mr. GRAVEL) will be recognized for not to exceed 15 minutes, upon the conclusion of which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the close of the period for the transaction of routine morning business, the unfinished business, H.R. 6531, will be laid before the Senate.

Under the previous order the rule of germaneness, paragraph 3 of rule 8 of the Standing Rules of the Senate, will extend for a period of 5 hours, beginning with the laying before the Senate of the unfinished business.

Of course, unanimous consent would have to be obtained in order to lay aside the pending amendment. But that is not beyond the realm of possibility. I hope that other amendments might be offered and votes had thereon, in the interim between now and Wednesday next, at which time the consent agreement entered this afternoon will become effective.

So, I trust that Senators would not interpret the unanimous-consent agreement for next Wednesday as precluding rollcall votes in the meantime. I think it would be a discouraging matter if the Senate were to delay making progress and doing business for a full week on such an important bill as the one pending before the Senate. But unless we can lay aside the pending amendment to take up other amendments, or lay aside the pending business to take up other business, that is just what it would amount to.

Mr. President, if the distinguished assistant minority leader does not wish to say anything at this time, I will proceed to move that the Senate adjourn.

ADJOURNMENT TO 11 A.M.

Mr. BYRD of West Virginia. Mr. President, I move, in accordance with the previous order, if there be no further business to come before the Senate, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 13 minutes p.m.) the Senate adjourned until tomorrow, Thursday, May 13, 1971, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate May 12, 1971:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Norman Vickers Watson, of Florida, to be an Assistant Secretary of Housing and Urban Development.